HOUSE OF ASSEMBLY

Wednesday 2 March 2005

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

MATTER OF PRIVILEGE

Ms RANKINE (Wright): Mr Deputy Speaker, I rise on a matter of privilege. On Monday 13 May 2002 the member for Mawson, in the course of a grievance debate on the subject of the McLaren Vale Ambulance Centre, told the house (and honourable members will find his comments commencing at page 132 of *Hansard*), first:

> I simply asked the CEO whether or not he was happy with the response times for the ambulance service in that area.

Secondly, he stated:

> With the approval of the executive it was agreed that the money could be utilised to assist the ambulance budget.

Finally, and thirdly, he said:

> The matter was independent of me.

In his report dated 16 February 2005 entitled 'Report pursuant to sections 32 and 36 of the Public Finance and Audit Act 1987—matters associated with the 2001-02 proposal concerning the establishment of an ambulance station at McLaren Vale', the Auditor-General makes findings that contradict these three statements to the house by the member for Mawson. On the first point, on page 29 under the heading 'Consideration by the South Australian Ambulance Service of a new station', the Auditor-General states:

> On 12 October 2000 the South Australian Ambulance Service executive met. The minutes of that meeting indicate that the previous day, 11 October 2000, the minister met with Mr Pickering. At that meeting the minister asked that SAAS look into a possible ambulance station at McLaren Vale.

In relation to point 2, on page 34 of the Auditor General's report, he states:

> The formal written offer from the Adelaide Bank was sent to the sponsorship committee on 26 June and the SAAS board met later in the evening. No witness gave evidence that the matter of sponsorship moneys was discussed at the SAAS board meeting in the evening of 26 June, nor do the minutes record that the helicopter sponsorship was discussed. Mr Pickering submitted that the reason for this was that the SRHS business was not discussed at SAAS board meetings.

In relation to point 3, on page 6 of his report the Auditor-General continues:

> It follows that the minister's decision was material in the process of the SAAS board in the latter deciding to proceed with the establishment of the McLaren Vale ambulance station.

The relevant footnote states:

> Had it not been for the threshold decision by the then minister regarding the use of sponsorship funding to meet recurrent costs, the SAAS board would not have proceeded with the McLaren Vale proposal in the 2001-02 financial year.

At page 9 of his report the Auditor-General says:

> On 16 August 2001 a formal ceremony for handing over the sponsorship cheque was held at the Adelaide Airport, attended by the minister, the Managing Director of the Adelaide Bank and others. It was not known to the sponsor at the time of passing over the cheque, that on the previous day, the moneys being paid over had already been authorised to be redirected to the use of SAAS for the purpose of the recurrent funding of the proposed McLaren Vale Ambulance Station.

The Auditor-General goes on to say:

> In my opinion, for a minister to publicly receive moneys by way of sponsorship for a stated purpose that had been the subject of a government advertisement in the knowledge that the money was already committed to be used for another different purpose, raises questions as to the propriety of the conduct involved.

On page 36 of the report, it states:

> It was the minister's advisor Ms Moncrieff who actually sought the advice from within the Justice Department as to whether the funds from the Adelaide Bank could be redirected and used for a part of the recurrent funding for the then proposed McLaren Vale Ambulance Station.

I ask, sir, that you consider whether there is a prima facie case that the member for Mawson has breached privilege in his grievance speech of 13 May 2002 and, upon making your determination, report to the house. I respectfully request that debate on your determination occur as a matter of urgency upon your bringing your report back to the house.

The Hon. G.M. GUNN: I rise on a point of order, Mr Deputy Speaker. In view of the fact that an election has taken place, the matter is no longer a matter of privilege.

Members interjecting:

The Hon. G.M. GUNN: No. The alleged action took place prior to the last election. We have a new parliament, and therefore it cannot be dealt with as a matter of privilege.

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Stuart will resume his seat.

The Hon. G.M. GUNN: Mr Deputy Speaker, the Minister for Environment and Conservation has implied that—

The DEPUTY SPEAKER: Order! I take it that the member for Stuart is taking a second point of order. The matter will be referred to the Speaker for his consideration, and the matter raised by the member for Stuart will be taken into account.

Members interjecting:

The DEPUTY SPEAKER: Order! The house will come to order.

The Hon. G.M. GUNN: Prior to your resuming the chair, Mr Speaker, I rose on a second point of order in relation to the comments made across the chamber by the Minister for Environment and Conservation indicating that I and others were not telling the truth.

The Hon. J.D. Hill: I did not say that.

The SPEAKER: Order!

The Hon. G.M. GUNN: I object to having those comments made in relation to me, and I ask the minister to withdraw them.

The SPEAKER: I ask the member for Stuart whether the remarks were made in the course of formal statements to the house or by way of interjection.

The Hon. G.M. GUNN: Interjection.

The SPEAKER: Did the minister make such a remark?

The Hon. J.D. HILL: I will tell the Speaker and the house what I actually said. The member for Stuart was arguing that, because an election had fallen between actions that had occurred and remarks that had been made subsequently, I raised a general point and said, 'Is it okay to have a lie if an election falls in between?' It was not about a particular matter: it was a general point I was making to the member.

Members interjecting:

The SPEAKER: Order! The word 'lie' is unparliamentary at any time.

The Hon. J.D. HILL: Mr Speaker, you have just used the word yourself. Clearly, it is not unparliamentary on every occasion.

Members interjecting:

The SPEAKER: Order! Let me remind the—

Members interjecting:

The SPEAKER: Order! And that includes the Deputy Premier. The word 'lie' is always unparliamentary in the context of a sentence in which it ascribes adverse credibility to a remark made by another member. When I refer to it as the word 'lie', it is used as a noun. The honourable minister knows that; he is no dill.

In addition to the fact, I am not across the question of privilege that has been raised other than a short briefing given by the honourable Deputy Speaker. Notwithstanding that, I understand from the member for Stuart that his point of order to the Deputy Speaker in the chair was that because, apparently, some remarks to the chamber were made before an election and subsequently those remarks after an election have, I think, ostensibly been claimed to be untrue or inaccurate, the fact that there has been an election exonerates an honourable member. That is not the case.

Members interjecting:

Mr BRINDAL: I have a point of clarification. The Premier referred the house to Erskine May at 1607. It does not go up to 1607, it only goes up to 1095.

The Hon. M.D. RANN: I was referring, of course, to our late king, James I, who was king in 1607 and who was also James VI of Scotland and the stuff of the Stuart succession. I suggest that the former Speaker do a little bit of homework for once.

Members interjecting:

The SPEAKER: Order! And that was shortly before Charles I who lost his head!

ECONOMIC AND FINANCE COMMITTEE

Ms THOMPSON (Reynell): I bring up the 51st report of the committee, being the annual report for 2003-04.

Report received and ordered to be published.

LEGISLATIVE REVIEW COMMITTEE

Mr HANNA (Mitchell): I bring up the 15th report of the committee.

Report received.

Mr HANNA: I bring up the 16th report of the committee.

Report received and read.

QUESTION TIME

PORT RIVER BRIDGES

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Infrastructure commit to work commencing on building bridges over the Port River this financial year? Grain industry sources have advised the opposition of their concern that the building of a new grain terminal has been put on hold until the completion date of the bridges is certain. They have also said that, if the bridges are not completed in time for the 2006 harvest, South Australia will lose significant trade to Victoria.

The Hon. P.F. CONLON (Minister for Infrastructure): What I will commit to is finalising the tender as soon as we can get an answer from the commonwealth. So, could you, please, support South Australia and ask your colleagues?

Mr Brokenshire: What do you need from them?

The Hon. P.F. CONLON: The member for Mawson has not been here a lot, so I will explain. What we have said is that we want to keep faith with the people of Port Adelaide, and we want them to keep their naval visits.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: The Navy has indicated it will not do that. We have asked the Navy to do that. As soon as we can get an answer from the Navy—

Members interjecting:

The SPEAKER: Order, the member for Hartley!

The Hon. P.F. CONLON: Given that it was originally your promise, perhaps you would like to keep faith as well.

The SPEAKER: Order! The Minister for Infrastructure knows that I made no such promise.

The Hon. P.F. CONLON: I apologise, sir. The Leader of the Opposition made the original promise of opening bridges so that they would keep naval visits. He has insisted that they should be opening bridges. Perhaps he would like to try to keep faith with the people of Port Adelaide also. What I say to you is that—

Members interjecting:

The SPEAKER: Order, the members for Bright and Davenport!

The Hon. P.F. CONLON: —I will give you a commitment that, as soon as we can get an answer from your federal colleague, we will proceed with the tender. Why does he not try helping the people of Port Adelaide? Why doesn't the Leader of the Opposition try helping them, instead of helping himself, for a change?

HIGHER EDUCATION REFORMS

Mr O'BRIEN (Napier): Will the Premier explain how the proposed reforms of the higher education sector, announced by the commonwealth government today, will impact on the proposed Carnegie Mellon involvement in Adelaide?

The Hon. M.D. RANN (Premier): I know that what I am about to say is controversial, but I thank the honourable member for the question, because it is an important and timely one, as those who read the front page of *The Australian* today will know. As the house is aware, one of the key targets for the South Australian state plan is to double South Australia's share of overseas students within 10 years. As members are aware, the Department of the Premier and Cabinet is working on a proposal with the prestigious Pittsburgh-based Carnegie Mellon University to establish a fourth university here in Adelaide. I can inform the house that discussions with Carnegie Mellon are now in an advanced stage. I have been working closely on this proposal with the Chair of the Economic Development Board, Mr Robert Champion de Crespigny, and with the Foreign Minister, the Hon. Alexander Downer, so it is timely that today the Hon. Dr Brendan Nelson MP, federal Minister for Education, Science and Training, released the discussion paper entitled 'Building University Diversity'.

This paper is a first step in consultation on Australia's future higher education accreditation and approval arrangements. The paper calls for a debate on the definition of universities in Australia in response to the changes occurring in higher education around the world, and which underpin our

share of the international education export market. It proposes that universities in Australia may be defined in the future more by function and quality than by form and structure. Underpinning these proposed higher education reforms are four principles of sustainability, quality, equity and diversity. The discussion paper argues that it is not necessary or desirable for all universities to be the same. The discussion paper identifies Carnegie Mellon University's interest in operating in South Australia as an example of increasing the diversity of universities in this country. It also recognises the commonwealth government's commitment to free trade internationally, which permits universities based in other countries to operate in Australia, as long as they meet appropriate standards of quality.

While I have not yet seen the detail of the proposed commonwealth reforms, I certainly support change where it: makes it easier for Carnegie Mellon and other foreign universities to establish real brands and operations of value in Adelaide; helps increase the number of overseas students coming to South Australia; results in creation of new teaching, research and educational areas of expertise, particularly where it fills gaps in existing teaching and is in areas consistent with South Australia's Strategic Plan; does not diminish the capacity or quality of the existing three public universities; and where it does not lower the standard of what we expect from a university. I do not want fly-by-nighters setting up low-cost, low-value enterprises.

The state government is very supportive of Carnegie Mellon's proposed plans for Adelaide. In fact, I have written to the Foreign Minister and the federal Education Minister about Carnegie Mellon, highlighting a number of matters in commonwealth education policy which I thought were now inconsistent with the federal government's desire to allow overseas institutions to operate in Australia, and the new free trade agreement with the United States. Specifically, I raised matters of commercial trade issues and corporate residency requirements which I believed needed to be addressed. I look forward to working with the commonwealth government and participating productively in developing improved solutions to this important area as we pursue a long-term objective to have South Australia become a world-renowned provider of quality international education.

I saw some criticism that this would end up with the 'McUniversities'. Well, Carnegie Mellon is one of the great universities of the world and, indeed, in areas like computer science, management and others, is regarded as being number one in the United States. We look forward to Carnegie Mellon coming here and I appreciate the assistance that I am getting from the federal government.

OUTER HARBOR

Mr VENNING (Schubert): Will the Minister for Infrastructure inform the house when work will commence to deepen Outer Harbor enabling next generation transport ships to load at Port Adelaide? Grain industry sources have advised the opposition that the inability of Port Adelaide to handle Panamax-size grain ships means South Australia will soon be losing trade to Victoria.

The Hon. P.F. CONLON (Minister for Infrastructure): I thank the member for Schubert for his question. It is a very good initiative of this government to achieve the deepening of Outer Harbor.

Members interjecting:

The Hon. P.F. CONLON: Listen to them. Since they all giggle, let me explain why it is an initiative, because even if they will not accept it, the member for Schubert knows that the previous government in its privatisation bill with Flinders Ports put the grain terminal in the wrong place. It put the grain terminal in the wrong place. That's right, member for Schubert, isn't it? What this government did was to move the new grain terminal to Outer Harbor. That allowed us to explore with Flinders Ports the deepening of the channel to allow for the vessels to which the member for Schubert refers.

An honourable member: We are still waiting.

The Hon. P.F. CONLON: He says they are still waiting. It would never have been possible without this government fixing the mistakes of the previous government. I fully expect that work to start this year because of the very good work of the Labor government. I thank the member for Schubert for his question, and I know that he knows how much we have done for he and his colleagues who ship grain.

The SPEAKER: The member for Enfield.

Members interjecting:

The SPEAKER: The member for Enfield has the call, not the member for Mawson, nor the Minister for Infrastructure.

ALLEN CONSULTING GROUP

Mr RAU (Enfield): Will the Premier advise the house of the government's response to the report by the Allen Consulting Group, released today by Victoria's Premier Steve Bracks, about the bid for the air warfare destroyers?

The Hon. M.D. RANN (Premier): Last night I was telephoned by a couple of journalists. It was put to me that the Victorian government had released an independent report, which had found in favour of the Victorian bid compared with the South Australian bid. Apparently, this independent report by Allen Consulting Group was commissioned by the Victorian government—but it was an independent report. It compared these various items and Williamstown, Victoria, miraculously came out as number one.

The Hon. I.F. Evans interjecting:

The SPEAKER: Order, the member for Davenport for the third and final time!

The Hon. M.D. RANN: I hope that the honourable member is supporting South Australia's bid.

The SPEAKER: Order! The Premier will come back to the substance of the inquiry of the member for Enfield.

The Hon. M.D. RANN: It is interesting because I have done a little work today. Did Allen Consulting Group, in comparing the bids, look at South Australia's bid? No; they did not have access to it. Did they look at the ASC's bid? No; they did not have access to it. Did they visit the Defence Industry Unit in South Australia? No; they did not bother to contact them. Did they talk to Admiral Scarce, head of the unit? No; they did not bother to contact him. Did they speak to me, Ian McLachlan, Robert de Crespigny or other members of the Defence Advisory Board? No; apparently not. I am not quite sure how expert the Allen Consulting Group is on this matter of comparing the bids between the two states, but let me say that I have heard today from someone who has looked at it that it was Mills and Boon in tone and Pythonesque in conclusion. The bottom line is that—

Members interjecting:

The Hon. M.D. RANN: Pardon me! I offended readers of Mills and Boon on the other side of the chamber. I knew they were literate. I have seen them hanging around Writers

Week. I'm sorry, I apologise to Mills and Boon. The key point is how can you compare two bids and profess to be independent when you look only at one side. It is total lunacy. We look forward to reading the report of the Allen Consulting Group. Clearly, when the opposition comes up with its land tax plans by the end of this week, because Nigel Smart—he might need a map to find Norwood—says that it is very easy to fix land tax, maybe the Leader of the Opposition can telephone the Allen Consulting Group.

The SPEAKER: Order! It is my certain recollection there was nothing in the inquiry made by the member for Enfield about land tax.

PORT RIVER BRIDGES

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Transport confirm that all Australian ports, including Port Adelaide, are bound by the International Ship and Port Security Code, which came into effect globally in July 2004 and which stipulates exactly where large ships, including naval ships, can berth in harbors around the world? The South Australian government agreed at the commonwealth transport ministers' meeting in May 2003 to this code being legislated, effectively limiting entry to Port Adelaide by naval ships.

Members interjecting:

The SPEAKER: Order! The members for Davenport and Mawson both have their guns out of their holsters.

The Hon. P.F. CONLON (Minister for Infrastructure): Given that the Leader of the Opposition does not know this, I will undertake to find out that information and bring it back to him, but I am struggling to understand the relevance of his question. I know that I cannot put words in the leader's mouth, but if instead he is asking about something else, perhaps he could be clear about what he is asking. I will find out what other ports have signed up. It is not a matter of enormous importance to us what other ports sign up to: it is what happens here. We will find out that information for the leader, unless he already knows.

The Hon. R.G. Kerin: Well, I do.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The inquiry was whether the minister was aware of those conditions, not what they were nor whether the leader knew about them; that was irrelevant.

SKILLS TRAINING

Mr O'BRIEN (Napier): Will the Minister for Education and Children's Services further outline developments in the northern metropolitan area that are taking place to boost skills for young people and meet the need for school employees' industries that are growing in this region?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): A number of initiatives are being enacted in the northern suburbs to help match the number of young people with skills with the available jobs. These strategies enmesh with our policy on school retention and engagement. They link in with our raising of the school leaving age, and aim to offer young people opportunities for employment and employability. The schools involved in a major program in the north are 10 in number. They include Craigmore High and Fremont-Elizabeth, Para West (from the honourable member's electorate), as well as Gawler High, Smithfield Plains, Salisbury High, Salisbury East High, Paralowie R-12, Parafield Gardens and Parafield High School.

Within these schools now—in a partnership with local industries, TAFE and schools showing centres of excellence for particular vocational courses—500 high school students are undertaking training, are part time in employment and are developing skills that particularly mesh with those number of opportunities in local industries. In fact, it has been such a successful series of activities that there has been a tenfold increase in student participation after last year's initial response. The program is supported by NASSA, with a Career Pathways industry package which links each of the 10 schools with the opportunities in various industries.

It includes, of course, construction, automotive engineering, engineering, financial services, horticulture, electrotechnology, community services and many others. The reason that this program is so successful is that it allows young people, who otherwise might be at risk of dropping out of school, to become re-engaged and get not only a SACE certificate but also a nationally accredited industry certificate that allows them to go into a future career. The tragedy of the northern suburbs to date has been that many jobs have been available but only unskilled and unready young people to take them.

The program reflects our need to have young people in work, in training or in school. Many of the young people engaged spend a whole day at one of the other campuses each week. They may spend another day in part-time employment and, at the end of their 12 years of schooling, still end up with SACE and a certificate. The teams work with local TAFE campuses as well and are particularly targeted towards shortages. Certainly, they are the technical schools of the future because they allow excellence and engagement, and allow young people to target those careers for their future.

In fact, the whole program meshes perfectly with the $28.4 million invested in student retention, our $13.5 million in Futures Connection into Careers Pathways, the $2 million into our student attendance packages over two years and our $5.6 million in student mentors.

The school retention endeavours we have engaged in also link into this area because, clearly, those young people most at risk of dropping out of school happen to be the ones who have not been engaged. It is a pity that the member for Bragg is so negative about some of these sorts of programs. She has labelled them a failure. She has been quite derogatory about some of these southern vocational colleges courses, and it is a great disappointment to me that she would talk down the achievements of our public schools and of our young people. Perhaps she would like to discuss it with the member for Light who, I thought, was supportive of these programs.

The SPEAKER: Order! The question was not about the member for Bragg. It was about the Northern Adelaide Plains provision of skills.

Mr Scalzi interjecting:

The SPEAKER: The chair does not need the assistance of the member for Hartley.

PORT RIVER BRIDGES

The Hon. R.G. KERIN (Leader of the Opposition): Did the Treasurer have cabinet approval for the extra funding required to build opening bridges over the Port River before making his promise to build those opening bridges in April 2003?

The Hon. K.O. FOLEY (Treasurer): The decision to make opening bridges was a commitment of the former government, which this government reaffirmed.

The Hon. DEAN BROWN: On a point of order, the question was a very specific question and there was no attempt whatsoever by the minister to answer it.

The Hon. K.O. FOLEY: If the inference was that I made that announcement in Port Adelaide without the support of cabinet, that is absolutely wrong.

DOMESTIC WATER TANKS

Ms CICCARELLO (Norwood): My question is to the Minister for Environment and Conservation. Given that the government has announced that the installation of plumbed rainwater tanks will be mandatory for all new houses from July 2006, will the minister advise whether the government has a policy on the types of rainwater tanks that are suitable for metropolitan households?

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the member for Norwood who, I know, is a very keen environmentalist and who is, I understand, between rainwater tanks at the moment, so the advice I can give the house I hope will be of use to her. The value of rainwater tanks depends not so much on the presence of the tank itself but on how that tank is used. That is why the Premier announced earlier that rainwater tanks would be plumbed into new homes in South Australia from July next year. Plumbing rainwater tanks into houses for uses such as toilet flushing and clothes washing encourages its year-round use while ensuring that mains water is available when rainwater is not.

The government has released a discussion paper about how this policy could be implemented, including the sorts of tanks that can be used to get the best outcomes in a way that is cost effective for the community. Contrary to popular belief, when it comes to rainwater tanks, big is not always best. Research shows that smaller rainwater tanks of about one kilolitre capacity can be very effective when the tanks are plumbed into both toilets and clothes washing. Tanks of this size can capture almost as much runoff as much larger tanks.

A one-kilolitre tank with a roof area of 50 square metres (which is a relatively small house), with average water use by a family in Adelaide, will capture 19 kilolitres a year. So, a one-kilolitre tank will provide 19 kilolitres of water a year. If you were to invest in a 20-kilolitre tank, in other words 20 times as much, you would capture only 21 kilolitres a year if it was plumbed into the household. So, the massive increase in capacity is not used. Obviously, if the house is bigger you would capture more. In 100 square metres, one kilolitre will capture 32 kilolitres of water whereas, if you had a 20-kilolitre on a 100-metre square roof, you would capture 41 kilolitres.

There is not a direct correlation between the size of the tank and the amount of water captured. That means that for a relatively small investment in a one-kilolitre tank you can actually capture 19 or 20 kilolitres a year. It depends on a range of factors, but a small tank will actually satisfy the needs in that way. We will be putting out this paper and I invite members to look at it, because it is quite interesting and it means that, for a small investment, rainwater can be used in most households.

ADOPTION SERVICES

Mrs REDMOND (Heysen): Will the Minister for Families and Communities table or release the reports into the Australians Aiding Children Adoption Agency that were prepared by KPMG in 2003 and 2004 and the report by the Crown Solicitor's Office between those two reports? The minister has made various claims, both in this house and elsewhere, regarding his reasons for withholding the licence of the Australians Aiding Children Adoption Agency but has not made those reports available to parents who have requested them.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): The question proceeds on a false premise. There are three reports, two of which have been prepared by KPMG, and they have been provided to parents and, indeed, the honourable member, on request. I am sure I signed a letter to her the other day that enclosed copies of those two reports. So, they are freely available. In fact, I have sought to expedite the provision of those reports ahead of the FOI process so that people can have access to them.

The second report, though, is a Crown Solicitor's report into a particular complaint in relation to a particular family. The advice I have received is that not only is it a matter about which there is legal professional privilege, and so there would be a proper claim for not releasing the report, it would be undesirable to release the report because it would tend to identify the family, but also the family involved has suffered enormously as a consequence of the adoption process. Further burdening them, through the public release of this report, would be appalling for both them and the adoptive children. I must say that the way in which this campaign has been run by some people leaves a lot to be desired in terms of privacy.

It alarmed me to receive a number of complaints from former adoptive parents saying that their names had been released by the adoption agency that we are now no longer going to be using for outsourced services. The agency has released information about those former adoptive parents in a public campaign, and they have been receiving propaganda about going to a rally and, in particular, a very handy running sheet about the protest rally, including the various tactics it was going to be using at that rally. That breach of privacy, which is being regarded very seriously by a number of former adoptive parents, does not say very much about the agency we had formerly entrusted to run adoption services in this state.

WORLD POLICE AND FIRE GAMES

Mr CAICA (Colton): My question is to the Minister for Tourism. What are the latest developments in the lead-up to the World Police and Fire Games in 2007?

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I thank the member for Colton for that question. He has chosen a good week to discuss this, because it is just two years this week until the 2007 World Police and Fire Games are held in South Australia. We are on track and on the way to a very successful games. I firstly mention the member opposite, the member for Morialta, who has been involved in this great AME-sponsored event for the last eight years.

This event has been supported with a large investment from the state government of $5.7 million, and it is anticipated to generate $30 million in economic benefit. Part of its economic drive will be the fact that the people coming will be staying perhaps two weeks, if not longer. Ninety per cent

of the events will be held within 30 minutes of the centre of Adelaide; there will be between 15 000 and 20 000 visitors, including around 11 000 competitors; and there will be elite athletes from the police and fire services around the world. The games will have a profound impact on the city during the weeks it is held. The event is one which is centred on the city of Adelaide and the Convention Centre. There will be tugs of war, dragon boat racing, horseriding, hockey and shooting—a whole range of events. It will be bigger than Ben Hur, in fact. The streets will be abuzz.

The sponsorship has been very pleasing. We initially announced last year that Malaysian Airlines would be the team sponsors, bringing the competitors and particularly the secretariats from around the world. I am very pleased to announce that our own iconic beer-maker, Coopers, will be one of the gold-listed sponsors, providing sponsorship starting in Quebec in only two months' time because, of course, Canada and the USA are very strong markets for export home beer packages which are marketed around the world by Coopers Brewery. I am very pleased with this sponsorship because, in a way, it will enhance the event. There will be a major village with a beer garden outside the Convention Centre and anyone can drop in to have some of our premier beer, our South Australian icon. The Hyatt Hotel will be the official host hotel, and this will be an extraordinary event.

I encourage everyone to become involved. It will not be just about tourism, it will also be a chance for our firefighters and police to be engaged in internationalisation, to meet people from around the world, and to support those people who, like themselves, put their lives on the line every day of the year.

WORKCOVER

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Industrial Relations confirm to the house that the Department of Health has not undergone a WorkCover audit since 1 July 2002? The opposition has been informed that between June 2002 and June 2004 the costs of all claims in the department, including lump sums, have doubled.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I will check the accuracy of the accusation made by the Leader of the Opposition and get back to the house.

MENTAL HEALTH SERVICES

Ms RANKINE (Wright): Can the Minister for Health provide an example as to how the government is delivering better mental health services to the community?

The Hon. L. STEVENS (Minister for Health): I thank the member for Wright for her question. One of the recommendations of the generational health review was to put more mental health services in the community where they were most needed, and that is exactly what this government is doing. I had the pleasure of attending a community mental health event in the Elizabeth area last week to present awards at a place called Club 84. Club 84 is a community facility for people with a mental illness. It offers a progressive and effective mental health support service run by the very people it is designed to help and is a place where they can go for support, to develop confidence and learn new skills.

This group is a good example of this government's approach to the provision of health care services. The facility is out in the community close to where the people who need the services are, and the program is all about participation and partnership where people are central. With the support of peer workers, people with a mental illness can gain confidence about what does and does not work for them. Programs like this increase confidence and hope and this is critical to recovery. What I really like about the program is that the support offered is really practical. At Club 84 they help people to become more connected to their local community, and help foster important links to employment, training and stable housing—all things that help recovery.

It is also important to acknowledge the benefits that this program has for the wider community—after all, it is about community building. It is about learning that none of us can live in isolation and that none of us can survive without the help, companionship, friendship and support of other people, and that is what healthy communities are all about. The program at Club 84 makes an important contribution to building a healthier, connected and supportive community, and I congratulate all those involved at Club 84. I also congratulate Barbara Wieland, the mental health director in the northern area. I was very pleased to be able to support this program with a small seeding grant.

MENTAL HEALTH SERVICES, NORTHERN REGION

The Hon. G.M. GUNN (Stuart): My question is to the Minister for Health and is along the same lines as the previous question. Can the minister guarantee that funds will be provided so that the mental health worker position based in the northern part of the state will be able to continue for at least another 12 months, due to the demand for the services and the need to ensure that people who are suffering mental health disease are adequately counselled?

The Hon. L. STEVENS (Minister for Health): The issue raised by the member for Stuart came to my attention through him and others in relation to the mental health needs of people in the Far North, where the effects of drought often bring stress and emotional trauma to individuals and families. As a result of the honourable member's concerns, we provided some money to two health regions for work in relation to defining those needs and working out a way forward. I have received a number of letters from people in relation to the issue, and I obtained advice from the department on where it had got to and what the future held. I was not at all happy with that advice; that has been returned to them. I will be taking a personal interest in the matter and hope to be able to talk very soon to the member for Stuart, and those who have raised this issue with me, in relation to the future.

The Hon. DEAN BROWN (Deputy Leader of the Opposition): I have a supplementary question. In light of that answer, and the answer to her previous question, I ask: will the minister reinstate the third mental health nurse at the Mount Gambier Hospital, who has been removed?

The Hon. L. STEVENS: I was not aware that a mental health nurse had been removed from Mount Gambier Hospital. I will look into that matter. What I will say to the house is that the commitment of this government is so far ahead of that of the previous government in relation to mental health services that I cannot understand how the honourable member has the nerve to stand in this place and make his remarks.

DISABILITY SERVICES, LOWER NORTH

Ms THOMPSON (Reynell): My question is to the Minister for Disability.

Members interjecting:

The SPEAKER: Order! If the member for Bright and the Deputy Premier wish to have a conversation, they may choose to sit beside each other and converse in more civil terms, where they will not disrupt the member for Reynell, me and other honourable members who want to hear her inquiry.

Ms THOMPSON: Sir, in case you did not hear, my question is to the Minister for Disability. How is the government addressing the needs of people with a disability in the state's Lower North?

The Hon. J.W. WEATHERILL (Minister for Disability): I had the opportunity to meet with members of the Lower North Special Needs Group just a week ago at Parliament House. Members of that delegation comprised a number of parents, including Judith Dawson and Kerri Ireland (who both have children with intellectual disabilities), and Kate Jenkins from the organisation Leisure Options, which is based in the Lower North Health Service. I was very impressed with their excellent presentation on their concerns about disability services in their region.

As people in this house know well, it is very easy to make a complaint to a minister but somewhat harder to propose a solution. These women did much more than complain. They spent many months doing their homework on the state of services for children in their area (which is centred on Clare) and presented me with their first thoughts on a plan to improve these services. We have been greatly assisted by parents and carers in a number of our endeavours recently to improve disability services in this area. It came as some surprise to me that there has never been a formal review of services in the Lower North region, which happens to be the heartland of the Liberal Party. This new-found care and concern for disability services is a little hard to understand when you find that this area, deep in the heart of the electorate of the Leader of the Opposition, is so incredibly poorly serviced.

Services in the area have developed in a well-meaning but very ad hoc fashion, and I have asked the Disability Services Office to give immediate priority to a regional review of the Lower North, as we have done for other areas of the state, including Port Augusta, the Riverland and the South-East. This process has been ongoing since February 2004, and it is better coordinating our services in regional areas. Our other regional plans have involved the whole community, and the process has been led by people in those communities, and I will be releasing those regional plans very shortly. We have asked people from the Lower North Special Needs Group to be part of a review process for their area which will include a whole range of local service providers—and I do not only mean the disability service providers; it also includes local council, and ensuring that we are connected with schools and other areas where people come in contact with the lives of people with disabilities and their carers.

It is no news to anyone that there is no pot of gold at the end of the rainbow which is going to resolve all these problems, but we can ensure that we have a service provision system that, when additional resources are found, can adequately cope with the needs of this area. It is true in this particular part of the state at the moment, that money is only part of the solution, and this work that has been undertaken by the parents will assist us in ensuring that we meet the needs of people with disabilities and their carers in this important part of the state.

SOUTHERN SUBURBS

Mr BROKENSHIRE (Mawson): My question is to the Minister for the Southern Suburbs. What is the government doing to address the Onkaparinga Council's concerns with what it regards as insufficient infrastructure in the Seaford area to cater for the projected influx of 6 000 new residents as a result of the Seaford/Meadows development? The Onkaparinga Council has raised concerns that if the developments proceed it may be forced to divert funds from other projects to fix the problems that are likely to arise if appropriate infrastructure is not put in place.

The Hon. J.D. HILL (Minister for the Southern Suburbs): I appreciate the question from the member for Mawson, and I am glad that he is taking some interest in my electorate. I am taking plenty of interest in his electorate as well, and there are some others who are taking a great deal of interest in his electorate as well. My colleague the Minister for Infrastructure has recently released a section of land in Seaford/Meadows, which will be the next stage of the development. As members would know, there is a lot of interest, and some heat, in the southern suburbs about the development of land. Recently in Aldinga there was a lot of community concern about land that had been proposed for development by the council. The council had agreed to development on two or three sites and the community was up in arms about it, and this was land that had been zoned residential some 20 or 30 years ago. The government is attempting to put some sequencing in place so that we can have land released in a methodical way which allows infrastructure and other services to keep up. So, we are now doing some things that should have been done years ago, and we are doing it in close cooperation with the city council.

In relation to the Seaford/Meadows land, the council came to me some time ago about their concerns. I organised a meeting with the Minister for Infrastructure and officers from the Land Management Corporation to seek assurances that the way the land would be developed would ensure that there was proper master planning. I understood at the time, when I spoke to the council about this that they were satisfied with the arrangements that had been put in place. So, I was very surprised to see their concerns expressed in the media subsequent to the release of the land. However, I understand their nervousness about this because they have had their fingers burnt in relation to the Aldinga land.

I can assure the member for Mawson, the people who live in my electorate, and those who live in the southern suburbs, that we will be working closely in a transparent way to ensure that the development processes happen appropriately, and that the infrastructure that is required happens appropriately. There will be no funds taken out of secret accounts to fix these problems up. It will all be done through the budget process, not through some secret deal done by me with money that came in from some other purpose. It will be done appropriately, sensibly and I can assure the member and the Onkaparinga Council that the process that will be put in place in Seaford/Meadows will be a very good one.

EYRE PENINSULA BUSHFIRES

Mrs PENFOLD (Flinders): Will the Minister for Emergency Services advise the house what contract has been put in place to ensure that Eyre Peninsula has firebombing

coverage during the remainder of this season, and thereafter, on the same three-minute response time basis provided to the South-East and Mount Lofty Ranges? It is now seven weeks since the Eyre Peninsula fires and we have had only a couple of short visits by firebombers. The existing contract, I understand, does not mention the Eyre Peninsula's requirements, despite the Tulka fire and the subsequent Eyre Peninsula fire illustrating the need.

The Hon. P.F. CONLON (Minister for Emergency Services): I really do think it is an extraordinary question, given that under this government aerial firefighting capacity has been more than doubled.

An honourable member interjecting:

The Hon. P.F. CONLON: The utter ignorance of these people!

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: I have to say that it took them a few weeks, but it did not take them long before they decided to play politics with the tragedy on Eyre Peninsula. That is what they have been doing. I will explain something about aerial firefighting. We have more than doubled the capacity. It is then at the disposal of the experts who run the Country Fire Service, principally Euan Ferguson. It is then allocated, according to the priorities of the Country Fire Service.

The last time I travelled with the member for Flinders and took her around, showing her what the government was doing on the peninsula, we flew into Port Lincoln airport and an aerial firefighting bomber was situated there. They had been dispatched there because the people who run the fire service decided that it was appropriate for them to be there on that day assessing risks across the state. For the life of me, I cannot understand what is wrong with that arrangement.

I have also undertaken with the member for Flinders, because she has a particular view about the use of Mr Warren, that on my next visit I will talk to Mr Warren. Can we just give credit where credit is due? This government has doubled the aerial firefighting capacity. I do not remember once in the previous nine years of her government the honourable member ever raising the question of aerial firefighting with her own government—that had a much lesser capacity. Can we give credit where it is due? The Country Fire Service will continue to allocate that increased aerial capacity, according to the judgment of firefighters, not according to the judgments of self-interested politicians.

Mrs PENFOLD: I have a supplementary question. Will the minister advise the house why he has not put a firebomber on Eyre Peninsula for the remainder of the fire danger season? I understand that a dedicated water bomber with local aerotech supervisor is available for Eyre Peninsula but that cabinet has refused funding.

The Hon. P.F. CONLON: I thought the member for Flinders would have understood the previous answer. The reason I have not put an aerial firefighter at Port Lincoln for the rest of the year is that I do not put them anywhere. We give resources; and, again, I stress more than twice the aerial firefighting resources of the previous government. Then we trust the professionals of the Country Fire Service to decide how they are allocated. If it is the proposition of the member for Flinders that an aerial firefighting capacity should be sitting at Port Lincoln on a low fire risk day, while it is not in the Adelaide Hills on a high fire risk day, then I will continue to trust the judgment of the Country Fire Service, not the judgment of the member for Flinders.

Mrs PENFOLD: I have a further supplementary question.

The SPEAKER: Order! The member for Flinders will get the call after the next question.

INFORMATION TECHNOLOGY, REMOTE AREAS

Ms BREUER (Giles): Will the Minister for Science and Information Economy inform the house about how the state government is assisting communities in remote areas of the state to access information technology?

The Hon. P.L. WHITE (Minister for Science and Information Economy): I am pleased to announce to the house that more than 650 families living in remote areas of the state will be able to get help using the internet as a result of a new state government initiative worth more than $1.2 million. The project is called Outback Connect. The project has also received $540 000 from the federal government's IT Training and Technical Support Fund. The project will provide free IT training and technical support for Aboriginal and other remote communities living in the South Australian Outback. The government—

Mr Brindal interjecting:

The Hon. P.L. WHITE: No, I have not put out a press release but, if the honourable member would like me to, that is a very good idea. I will do that. The government's Digital Bridge program (which encompasses the Outback Connect program) aims to bridge the so-called digital divide. It recognises the importance of online technology in accessing basic services for people who live in remote regions. Those people are not only geographically isolated but available services by other methods are limited. The Outback Connect project will include IT traineeships for young people, and up to 10 hours of free instruction on basic technical support for participants.

Small groups of participants will also be involved through a virtual classroom, receiving instruction in computer management, widely-used software packages and internet usage. Through a range of program partners (some government, some non-government) participants will be able to develop their skills in business planning, e-commerce, online research and communication and web-based services. This project will directly work towards South Australia's Strategic Plan targets to increase internet usage by 20 per cent within the next 10 years, and to improve the wellbeing of the state's Aboriginal population.

The Hon. W.A. Matthew interjecting:

The Hon. P.L. WHITE: That is another good idea, member for Bright.

AERIAL FIREFIGHTING

Mrs PENFOLD (Flinders): Will the Minister for Emergency Services advise the house whether the four water bombers that are resourced by the government are enough to cover the requirements of the whole of South Australia? I understand that one water bomber is dedicated to the South-East and is partially paid for by the forestry industry, two are dedicated to Adelaide (and, in particular, the Mount Lofty Ranges), leaving one available for the rest of the state, which was sent to the South-East on 11 January despite an existing fire on the Eyre Peninsula and a severe fire danger warning.

Victoria, I understand, has 14 water bombers to cover a smaller area.

The Hon. P.F. CONLON (Minister for Emergency Services): I do not know whether the member for Flinders understands what an embarrassment for the previous government her questions are. Do we not have enough resources in terms of aerial firefighters? Well, we have more than doubled the resources. I would like the member for Flinders to go back and show me when once in the entire history of the previous government—the Brown and Olsen governments—she ever raised an issue with the aerial firefighting capacity. Under her Liberals half as much is enough. Under us twice as much is not enough. What utter lack of standards or double standards, or whatever you want to call it.

The truth is, and let me put this on the record: the most important resource provided in this state for fighting fires are the 17 000 volunteers in the Country Fire Service who, under this government, have also received dramatically increased resources.

The Hon. D.C. Kotz: Rubbish!

The Hon. P.F. CONLON: Rubbish? These people cannot count. They simply cannot count.

The SPEAKER: Order! Members know that interjections are out of order. Equally, upon there being a considerable measure of interjection undertaken, the honourable minister on their feet at the time, particularly the Minister for Infrastructure, should not shout or yell, as I understand it is inappropriate for both the Speaker and any honourable member to do that. It makes it difficult for the honourable member speaking, especially a minister, to hear the call to order being made by the Speaker if the Speaker is unable to match the volume of an honourable minister or any other member.

The honourable member for West Torrens—who may count himself lucky to have been given a question.

SCHOOLS, FACILITIES

Mr KOUTSANTONIS (West Torrens): Indeed, sir, after you hear the question you will realise how grateful I am. Will the Minister for Administrative Services update the house on the ways in which the government is delivering significant facility improvements to our state public schools?

The Hon. M.J. WRIGHT (Minister for Administrative Services): The government is committed to providing facility upgrades and improvements to South Australia's schools in an efficient, timely and effective way. The Department for Administrative and Information Services administers the facilities management contract, which delivers a broad range of services to agencies, including breakdown repair services, regular maintenance of plant and equipment, grounds maintenance, minor works of less than $150 000, and cleaning and security services. These services are provided in a manner that provides the most cost efficient and effective services by properly maintaining government assets.

The annual expenditure under the contract is approximately $75 million in the metropolitan area and of the order of $29 million in rural South Australia. In implementing the government's recent $12 million targeted asset funding program and the $25 million School Pride program, the facilities management contract providers have been widely used to deliver significant improvements for our public schools across the state. The challenge of delivering these government initiatives has resulted in a new level of collaboration across government agencies, school sites and the building and construction industry. In working together to deliver these projects—

The Hon. W.A. Matthew interjecting:

The Hon. M.J. WRIGHT: You've already used that line today, Wayne. The challenge has been to find new ways to streamline processes to ensure that the work is done quickly, efficiently and properly. These processes, which have seen a partnership approach between government and the private sector, will provide a template for future administration of such contracts. Works undertaken by the facility maintenance contract providers in our schools include painting (both external and internal work), maintenance work on essential assets, hard play and sporting area development, toilet upgrades and building extensions. Much of this work has been and is being done in the regional areas, often making use of local contractors.

Examples of completed projects include Golden Grove Primary School having new carpet installed; guttering, roofing and decking work at Gulfview Heights Primary School; external painting to the buildings of East Adelaide Primary School; and building upgrades to the Rose Park Primary School. The government is committed to ensuring that we get the best outcomes for taxpayers' dollars. This best practice approach to the way the government makes use of the facilities management contract ensures the provision of timely and needy resources to our schools.

The SPEAKER: The member for Mawson—who may also consider himself lucky.

TOUR DOWN UNDER

Mr BROKENSHIRE (Mawson): Thank you, Mr Speaker. As part of the Tour Down Under, does the Minister for Transport intend to sponsor the Share the Road winners jersey beyond the three-year time frame that expired with the 2005 event?

The Hon. P.L. WHITE (Minister for Transport): I do thank the honourable member for his very polite inference that I am a good cyclist. Perhaps there are some better. I have already approved further sponsorship for that particular race into the future. I was very pleased this year to be present on the final day of the Tour Down Under. It was a magnificent day, beautiful weather, a great crowd, great teams and a great tourism event, as well as a great cycling event for South Australia. I thank him for his commendation of our government's support for that race.

Members interjecting:

The SPEAKER: Order! The member for Enfield has the call.

VICTIMS' RIGHTS

Mr RAU (Enfield): Will the Attorney-General inform the house about the steps taken to raise awareness in young people about victims' rights?

The Hon. M.J. ATKINSON (Attorney-General): It is nice to receive a question in question time, so I thank the member for Enfield since the opposition is deficient.

The SPEAKER: Order! The minister will address the question rather than bait the opposition.

The Hon. M.J. ATKINSON: There is a difference between the rights victims have and how much victims know and understand about their rights, so I welcome the oppor-

tunity to inform the house about the Rann government's efforts to raise awareness among young people. I am pleased to announce that the curriculum for year 11 legal studies now includes a topic about victims and the law. We expect that each year some 5 000 year 11 students will be taught victims' rights. Although I have not conducted a review of legal studies education across Australia, I understand that teaching victims' rights in schools is a first.

The Hon. W.A. Matthew interjecting:

The Hon. M.J. ATKINSON: A new legal studies text has been written to include a chapter about victims and the law. We have given 2 500 copies of the *Information for Victims of Crime* book to the Legal Studies Teachers Association for distribution among their year 11 students during the first semester.

The Hon. I.F. Evans interjecting:

The Hon. M.J. ATKINSON: The member for Davenport says 'Shame' and I cannot understand why.

The Hon. I.F. Evans interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: As members may know, the *Information for Victims of Crime* book explains the legal process for juveniles and adults and is given to victims when they report an offence to South Australia Police. For the information of the member for Bright, my photograph is not on it. We have also agreed to continue providing the book to legal studies students for no cost. I hope the house will join me in commending those working on this initiative, including the victims of crime coordinator, the courts education officer, the Senior Secondary Assessment Board of South Australia, the Legal Education Teachers Association and curriculum officers in the Department of Education and Children's Services.

GRIEVANCE DEBATE

MITCHAM SHOPPING CENTRE

Mr HAMILTON-SMITH (Waite): I rise to speak about the appropriateness of Unley Shopping Centre making representation to Mitcham Council to obstruct or interfere with the redevelopment of Mitcham Shopping Centre, following the tragic fire there last year, because that is exactly what happened last night at Mitcham Council's proceedings when the Development Assessment Panel met to consider submissions from the public with regard to what form the rebuild of Mitcham Shopping Centre should take. The government will be aware that I have raised with it the issue of what assistance it can provide to help with the rebuild of the shopping centre. In particular I have written to the Minister for Transport about several million dollars worth of funding to assist with the upgrade of Belair Road.

Members will also be aware that the shop traders and the large bulk of the community at Mitcham urgently wish to see the shopping centre rebuilt, vibrant again and trading again in full flight. Therefore, Mitcham council has proceeded with the matter at best speed. Last night, a number of representations from local residents were tendered at the meeting, which sounded concerns, many of which I am sure will be addressed by the council and by the developer. One of the representations was from Duke Unley Pty Ltd, and, in particular, its solicitors, Wallmans. This particular entity had its solicitors go in there and provide a very forceful argument as to why the shopping centre redevelopment should not proceed, and certainly should not proceed in the form envisaged by the developers, the Taplin Group, and by other proponents within the shopping centre and tenants.

When you have a commercial interest in competition with another commercial interest seeking to make representation at a council hearing to oppose a redevelopment that would quite obviously be to its financial detriment, I think there is an issue. I am not questioning the council's right to hear that submission. My review of the Development Act 1993—in particular, section 38—suggests to me that the council is within its liberties and its rights to hear submissions from whomsoever it should choose to hear them. However, what I am concerned about is the appropriateness of the proprietors behind the Unley Shopping Centre making such representation. I am particularly concerned that they would come in with a well-armed and well-resourced legal team to oppose the redevelopment.

I have also been advised—and I do not know whether it is correct, but I raise it because I think it needs investigation, either by the council or another entity—that the same firm of solicitors that represented Duke Unley Pty Ltd at this council assessment meeting also represented certain other residents who were making objections. I am advised that they used information, particularly traffic planning information and other data, which was developed, funded and provided by Duke Unley Pty Ltd, the Unley Shopping Centre group. This raises a question about whether or not a commercial competitor with Unley Shopping Centre is funding a campaign to resist the redevelopment of Mitcham Shopping Centre. If that is so, I would be most concerned; in fact, I would be alarmed.

There is a clear conflict of interest if Unley Shopping Centre and its proprietors are making representation in a competing council's area to oppose a particular redevelopment. Clearly, there is a competing interest. I also understand their written submission was not put in on time; that they did not register to speak on time; and that they pay no council rates in Mitcham. To muscle in on the council's due process, as outsiders with a clear commercial self-interest, is, in my view, indefensible. I say to Unley Shopping Centre butt out, let Mitcham get on with its own future, let Mitcham council and the local residents get on with the matter of determining what form the development should take. It is none of their business; they have a commercial conflict of interest. If this has spread to other opponents of the process, they should declare their interest and declare what they are up to. I say to them, just get out of the way, and let the council and the community get on with the rebuild.

HOSPITALS, QUEEN ELIZABETH

Mr CAICA (Colton): It was on 21 February 1965, at the Queen Elizabeth Hospital, that Australia's first successful kidney transplant was performed. The event made history throughout Australia. Last week, I was fortunate enough to attend the 40th anniversary of that first successful kidney transplant. The Minister for Health was also in attendance and opened those celebrations.

Back in 1965, that very first kidney transplant was from a living donor, and that was incredible in itself. An interesting statistic is that since 1965 1 700 kidney transplants have been performed in South Australia. Last year there were 98, and

29 of them came from living donors. In fact, during the Organ Donor Awareness Week, which was during that same week, my cousin-in-law provided one of her kidneys to her father, so it is not an unusual circumstance. It happens quite often, some might say, but what we do need is more donors and I will speak about that in a moment.

It was a terrific celebration and, as I said, there have been 1 700 kidney transplants in South Australia since that first operation performed by Professor Peter Knight and Dr Bill Proudman and their team back in 1965. In fact, I understand that South Australia is one of if not the only location in the world that has more living transplantees than it has people on dialysis, and that is a fantastic and outstanding statistic. The number of patients waiting for kidney transplants in South Australia is lower than in any other state but it is still too many. I am on the organ donor register (although I expect that if there was an unfortunate circumstance where my organs were considered for donation after an untimely death it might be that one or two of them would be rejected) and I hope that all members of parliament would be in that same category. As a state, South Australia requires more donors and we need to undertake an education awareness program to ensure that, whilst it is an extremely sad time for those who have lost their loved ones, it is vitally important that we have a long list of people willing to donate their organs, and I recall the old saying, 'It is no use taking your organs to heaven; God knows we need them down here.'

Since 1965 South Australia has been at the cutting edge of new research and it is a world-renowned facility at the QEH that adopts world's best practice, but it has not necessarily been the QEH in isolation. The renal transplant program is a fitting example of a collaborative approach between the various public hospitals in South Australia—in particular, the RAH, the Flinders Medical Centre and the Women's and Children's Hospital. It is a model of cooperation and that is reflected in the success and efficiency of the kidney transplant program.

We continue to improve the techniques here in South Australia. As I said, back in 1965 the QEH was the first hospital in Australia to perform a kidney transplant operation. In those days the operation had a success rate between 50 per cent and 60 per cent, and the death rate was around 10 per cent. With the improved techniques that exist today—a lot of which have been developed through the expert researchers at the Queen Elizabeth Hospital—and the adoption of immunosuppression improvements, the success rate is now above 90 per cent. However, as members would be aware, kidney transplant is a treatment and not a cure and it brings along with it other problems, and I am proud that the Queen Elizabeth Hospital Research Foundation continues an enormous amount of research in that area to ensure that we keep improving the techniques.

One of the nice things at the commemoration was to hear from Leonie Ingleton, who was a 13-year old in 1971 and who is today South Australia's longest surviving kidney transplant recipient. The focus of her speech was simply that she is able, and has been able, to enjoy a full life, which she would not have been able to do had she not had the kidney transplant at that time. I conclude by congratulating the Queen Elizabeth Hospital on the work it has done in the area of renal research and transplantation since 1965, and by congratulating and thanking all the surgeons, nurses and staff on their outstanding care in the work they do.

I reinforce the point: do not take organs to heaven; we need them down here. I encourage all members, if they are not already, to make sure that they are organ donors.

VEHICLE THEFT

The Hon. D.C. KOTZ (Newland): This hypocritical government has once again taken someone else's idea and trotted it out months later under the guise of its own initiative. Last week's announcement by the Attorney-General of a scheme to provide subsidised immobilisers to prevent vehicle theft was both welcome and long overdue but, unfortunately, it was a plagiarised attempt at a policy of its own—albeit, a national program—to reduce car theft.

Members would be aware that last year state parliament endorsed my proposal to consider subsidising vehicle immobilisers after car theft statistics approached almost 10 000 vehicles annually in South Australia, although the government voted against that proposal. I find it extraordinary that this duplicitous government would dismiss my proposal, which would have benefited the entire state of South Australia, and then provide $30 000 for a scaled-down version of exactly the same incentive scheme as I proposed in the first place. It seems that the Rann government is not interested in good ideas—just ideas for which it can claim credit. The government's backflip has also highlighted a rift between the Minister for Transport and the Attorney-General, with two senior government ministers at loggerheads over the proposal.

In a letter dated December 2004 (more than six months after this house endorsed my immobiliser proposal), the transport minister dismissed my proposal, despite its being identical to the scheme currently being promoted by the Attorney-General. However, comments by the Attorney in recent weeks directly contradict the Minister for Transport's reasons for dismissing it and support my arguments during the debate on my motion to the house. In her correspondence dated 12 December 2004, the transport minister said, 'Having an immobiliser fitted does not totally prevent vehicles from being stolen.' Yet, on 21 February 2005, the Attorney said, 'Fitting a quality engine immobiliser is the most effective way of protecting older cars against theft and their owners against the cost, hassle and stress of being a victim of theft.' He further stated, 'Figures show that cars with an Australian standard immobiliser fitted are 5½ times less likely to be stolen than those without them.'

On 12 December 2004, referring to me, the transport minister: 'Your suggestion for the government to offer a subsidy to car owners as an incentive to installing an Australian standard immobiliser may not have the desired effect.' On 21 February 2005, the Attorney-General publicly disagreed, saying, 'It is hoped the immobiliser scheme will cut theft statistics by heavily subsidising the cost and fitting of an immobiliser to pre-1990 cars.' I almost have a sense of déjà vu. We know that this government is in dire trouble when two senior ministers disagree on a proposal that would prove a shot in the arm for its failing law and order campaign.

The government's meagre attempt to implement my proposal should go much further than a scheme limited in scope and financial assistance. Students are certainly amongst those at great risk of having an older vehicle stolen, but many hundreds of thousands of older cars in the community should also be the focus of a concerted anti-theft campaign. The battlers, the single parents, the unemployed and the disadvantaged should have immediate access to a similar low-cost

vehicle immobiliser. The Attorney-General cut from the budget of the state crime prevention programs that were proving successful across our communities. Now the Attorney-General overturns the transport minister's decision not to proceed with the immobiliser program.

I suggest that perhaps the government's change of heart came about because of the following comment on page 8 of SAPOL's annual report: 'It has been observed that South Australia's fleet of vehicles is older than fleets in the eastern states and, as a result, there are less anti-theft devices to deter thieves.' I suggest that was indeed a timely warning from the police force to the government of the state. I also add that the police are in favour of considering an overall program such as that involving immobilisers. This government must implement a statewide subsidy for the supply and installation of an Australian standard immobiliser, as proposed by me, and supported by this parliament, almost a year ago. I suggest that South Australian motorists should expect nothing less.

RELAY FOR LIFE

Ms BREUER (Giles): The weekend before last, I had the privilege of taking part in the inaugural Relay for Life event in Whyalla. I have had a long-term interest in fundraising for cancer research, so I was delighted to be asked to facilitate a meeting last year in Whyalla to consider holding the event there. The meeting was held in my office, and we invited a number of community members. It was decided that we would go ahead and stage the event in Whyalla.

Initially it was meant to be in November last year but unfortunately it had to be postponed until February this year because the organiser of the Relay for Life event in South Australia, Christine Robinson, who was a very hard worker for this cause and has organised these events in the past, was diagnosed with cancer last year and so the event was delayed for some time. This was a very sharp reminder for all of us, and particularly on that weekend to see Christine there with her headscarf on, because she is currently undergoing chemotherapy and has no hair. It was a sharp and very poignant reminder that cancer can touch anyone in our lives.

It was an amazing experience being a part of the Relay for Life. Fifteen teams took part, each with a minimum of 10 people, so we had about 180 people taking part on the day in the event, as well as many other people who came along to participate and to watch what was happening. The opening ceremony was an amazing experience for everyone. It started off with a walk of survivors of cancer who wore a red ribbon, and who walked with their primary carer around the track. It was a very moving ceremony. As part of Relay for Life—and initially when I heard about this I thought it meant that we had to run—we had to continue walking for the next 18 hours from 4 p.m until 10 a.m., and this was to raise money for cancer research in Australia. All the teams had a name and a theme, and I was very pleased to participate in the Bubbly Squad, which was the name of our team for my sister-in-law who was diagnosed with breast cancer three years ago, who is also a survivor, and very fond of a glass of champagne. We saw champagne as a celebration of life and survival and so we called ourselves the Bubbly Squad.

The candlelight ceremony held on the Saturday night was absolutely magnificent. It was held around 9 p.m. when it was dark, and candles were lit around the track and on the grandstand at the Bennett Oval in Whyalla. Each of these candles was in a bag with sand. The white bags were a symbol of hope, and celebrated somebody who had survived cancer; and the brown bags were for remembrance, for people who had lost the struggle to cancer. People were able to purchase these candles, put them into a bag and write a message of hope or remembrance on them. There was a moment of silence during the ceremony and it was heart rending for all of those who were there. I was proud of my daughter who sang two beautiful and very moving songs for the ceremony. She was asked by the organisers to do this. One of our citizens in Whyalla, Norma Matters, spoke and did a wonderful job. We lit candles for the past, present and future, and everybody was sobbing at the end of that ceremony. It was fantastic.

The rest of the night was a wonderful experience. At 4 a.m. I thought that this was the most stupid thing that I had ever heard of; it was freezing cold, and we all stayed awake. However, next morning at 10 o'clock we were fired up and ready to do it again in a couple of year's time. The teams raised $41 100 in Whyalla which, apparently, was an amazing amount for an inaugural event. I want to thank all those who contributed to this and the many members in this place who contributed to my fundraising. The teams were: Saraya's Angels; Iron Princesses; Super Surgicals; OneSteel; the Nighty Gales; Bob's Angels from one of the hardware stores in Whyalla; the Millipedes from Memorial Oval Primary School; the Trustee Team—and I was very proud to see that the Housing Trust had a team there; Memories of Dad, who were a group of people who had lost their fathers; the Lion Kings, the Whyalla Lions who raised the most money for the event; the Spencer Spirits from one of the local hotels; the North Whyalla Football Club called themselves the Monk's Magpies; the WACI, Whyalla Aged Care; the Any Old Bags; and the Bubbly Squad. My congratulations to all, and I felt very privileged to take part.

NORTHERN AREAS COUNCIL, RECYCLING

The Hon. G.M. GUNN (Stuart): First, I want to put on the record that I support the action of the South Australian police department in giving their best endeavours to try to rectify antisocial behaviour at Port Augusta. They have a most unenviable task and they have set out in the public interest to protect all citizens of the state. Therefore, the action they have taken does have widespread community support. People are sick and tired of this behaviour. I recognise that there is a need to address the problems that create it. The first step is to improve the situation in the AP lands so that those people, after visiting Port Augusta, want to go back and have the ability to go back there. That issue needs to be addressed. I want to put on the record that I support the action taken. I think it is overdue. Other law and order issues need to be addressed. However, I am sure the police are giving their best endeavours to it.

I recently had a discussion with the Northern Areas Council based at Jamestown, concerning waste management. It is involved in a project to reprocess cardboard. A letter I received on 10 February states:

> At the meeting of the Northern Waste Management [in] February 2005, the enclosed proposal regarding the cardboard/paper recycling project was discussed. It was resolved by the Northern Waste Management to give in principle support to the cardboard and paper recycling project, ask Zero Waste to prepare a business plan for the project and submit applications for grant funding to state and federal governments. The Northern Waste Management would appreciate any assistance you can provide. . .

I had a discussion with them. They put forward the proposal. In relation to the background, a document states:

Recently the Gladstone Senior Citizens advised the Northern Areas Council that they were unable to continue to collect cardboard/paper for recycling at premises in the townships of Jamestown, Gladstone, Laura and Gulnare and Spalding (approximately 20 premises). Their collection also covered the townships of Crystal Brook and Wirrabara.

This valuable service undertaken voluntarily by the Senior Citizens members, with the cardboard/paper being stored at the former 'Butter Factory' building at Gladstone, which is owned by the Senior Citizens. Conservatively, some 100 tonne of cardboard and 100 tonne of paper was processed per year and sent to Armcor Recycling in Adelaide. There was little, or no recovering moneys to be gained in the cardboard collection, but this is offset by the reduction in waste at tip sites.

Some of the businesses that had cardboard/paper collected, paid a small fee, ($10 per month), however, the majority did not. The collection was undertaken with vehicles supplied by the Gladstone Senior Citizens.

Although this group are no longer able to collect the cardboard/paper, they are still prepared to process the cardboard at Gladstone, if it can be collected by other means, and transported to Gladstone. They will then arrange for its transport to Adelaide.

As an interim measure, and to enable the collection to continue, Northern Areas Council staff assisted by 'Work for the Dole' participants are currently collecting cardboard/paper from premises, using council utilities and trailers from Gladstone Senior Citizens.

At the Northern Areas Council meeting in January 2005, Council endorsed [the following action]:

- The minimum service fee of $10 per month be imposed on businesses for council to continue [to collect];
- Other business in the council area to be encouraged to participate in the. . . collection;
- Businesses be advised that all cardboard taken to waste sites must be flattened and bundled.

What they need are new premises, which I understand are available. They will need some help and assistance from the state government. It is a good project. I do ask the Minister for Environment and Conservation to give careful consideration to the representations that have been made in relation to this matter, as those people in the Senior Citizens who are doing this work are to be commended. The council and those involved in the community are to be commended for reducing the waste stream. If it can be reprocessed that is a good thing in itself. This project is one which probably could be looked at around other parts of the state, but it ought to be used as a pilot project. The assistance which is required is relatively small. However, the long-term benefits are very substantial and would benefit the community. I look forward to the minister's going about his review to ensure that this service can continue.

Time expired.

CHILD CARE REBATE

Ms RANKINE (Wright): The rebate offered to parents for child care announced by the federal government prior to the last election is quite inequitable, unfair and it fails to address properly the problem of affordability and accessibility of child care for a large number of ordinary Australian families. Ross Gitten, a journalist with *The Sydney Morning Herald*, very wisely said in December that we should beware of politicians bearing Christmas gifts, and no wiser word could be said about promises made by the federal government. Despite the promises that it made during the election last year, we continue to have a crisis in child care in Australia.

I have spoken about this issue previously in this house, and the federal government continues to fail to address this matter properly. There are a number of parts to this crisis, including the situation in relation to community-based childcare centres, the appalling results of the inane laissez-faire policy attitude of the federal government, the problems associated with large private child-care providers, as well as the child-care rebate and the difficulties that people on low incomes are facing. The issue that I would like to address today is the federal government's child-care rebate scheme and the iniquitous and inefficient results of what has been called a 'half baked' way to help mothers into the work force.

At the Brisbane City Hall on 26 September last year, the Prime Minister in his policy launch announced that, if re-elected, the Coalition would introduce a new taxation rebate of 30 per cent on parents' out-of-pocket child-care expenses. Little or no detail was provided, and we know from past experience that there is always a sting in the tail of these announcements, and there is very good reason for the federal government's not providing too much detail. In the coming days we learnt a couple of other things about the proposed rebate. In a doorstop interview the next day at a Brisbane childcare centre, we learnt in a reply to a question to the Prime Minister that there is no cap on the rebate.

He also said that its 'proportionate value is maintained for low-income earners'. Well, we will talk a little about that in a minute. After the election disquiet developed about the rebate with very good reason. The National Association of Community Based Children's Services has done modelling that clearly shows that the rebate is flawed, and let me give examples that it provides. High-income families on $100 000 or more will receive more than double the rebate of families on incomes under $30 000. Families earning under $18 000 will receive less support than those earning more because they do not pay as much income tax.

Of course, families who do not pay tax, such as student parents and sole parent pensioners, will miss out completely. This, of course, when compared with the child-care benefit, offers the highest assistance where it is most needed. There are examples where the federal government can do the right thing. Unfortunately, this is not one of them. On 21 December the federal government announced that the rebate would start and be backdated. Again, good news one would think; but, again, there is a sting in the tail. It was announced that the rebate, in fact, would be capped.

So much for the Prime Minister's promise. Clearly, it was a non-core promise as opposed to a core promise. A rebate earned in year one would not be available until year three. What does all this mean? First, it means that, as I said, we have another broken promise by the Prime Minister. What was not to be capped is now being capped. It means that because the benefit comes so long after the expenditure on child care has taken place that it is of little benefit to families who are struggling to afford the cost of child care. Can a government that claims to be so family friendly explain how this will help mothers back into the paid work force? Of course, it cannot because it does not. As Ross Gitten said in his article, it is a relatively ineffective and wasteful way to encourage greater female participation in the work force. It seems that the richer you are the more you get. The Australian Council of Social Services has pointed out that this is a regressive approach, and means that should fees rise to $83 a day families on incomes over $94 000 will pay less than those with no income who rely on benefits.

Time expired.

LIQUOR LICENSING (RETAIL SALES) AMENDMENT BILL

Mr HANNA (Mitchell) obtained leave and introduced a bill for an act to amend the Liquor Licensing Act. Read a first

time.

Mr HANNA: I move:

That this bill be now read a second time.

This bill amends the Liquor Licensing Act 1997. The bill is simply designed to remove the antiquated restriction on what sorts of businesses can hold a retail liquor merchant's licence. However, it does not remove all restrictions entirely. What it does is open the possibility that businesses with premises that are devoted to the retail sales of food may also, if they wish, apply for a retail liquor merchant's licence. I state at the outset that only limited numbers of new entrants can be expected, since the cost of a retail liquor merchant's licence is substantial; I believe in the vicinity of $50 000. I should also set out the state of the existing law.

At present, sales of sealed containers of alcoholic beverages can only be sold with limited exemptions at stand-alone liquor stores and bottle shops that are attached to hotels. That is chiefly for historical reasons. The definition of 'retail food business' in this bill will include supermarkets, delicatessens, convenience stores or other similar shops, where the sale of food and beverage products is the main purpose of that business. Those types of businesses would be able to sell alcoholic drinks in sealed, closed containers. Parliamentary Counsel has advised that this would not, for example, include someone going along the beach with an esky in their hand selling stubbies to people in the sun.

There has been some fuss about this proposal. However, anyone who has travelled interstate or overseas in western countries, at least, would find that the practice of selling sealed alcoholic drinks in supermarkets and the like is common practice. In our own nation, the ACT and Victoria have commenced this, for example, and it is common in England and Europe generally. My bill was prompted by the National Competition Council ruling that penalised South Australia to the tune of many millions of dollars. The Premier (Hon. Mike Rann) himself acknowledged this grievous penalty in a statement to the House of Assembly in June last year. This is money we can ill afford to lose. This is money that would be better spent on health, education, policing and infrastructure. This is money that should not be needlessly handed over to the commonwealth. I am certain that the Treasurer would rather have that money for our state budget, rather than handed it over as a penalty payment.

The argument is that South Australia's current arrangements in relation to the sale of liquor are in some way anti-competitive. Some businesses, for historical reasons, have been given an unfair advantage by law. We make the law. In fact, the National Competition Council has taken the view that the current legislation is 'a serious competition restriction that cannot be justified by public benefits and should be abolished'. That is a quote from the NCC report of 2003, point 7.19. It is just not fair, from a business point of view, that pubs and bottle shops have the exclusive right to sell wine, beer and spirits by virtue of historical reasons. It is not only unfair but it also creates inconvenience for customers. I am thinking particularly of customers who want to go out and do the shopping for their evening meal and buy a bottle of wine or a few stubbies of beer to go with it. At present, they have to go to two different shops. The question is: why should they? We have all seen people who have abused alcohol, I am sure, but, generally, I think we would find those people in the bars of pubs and in nightclubs, rather than around the family dinner table, where people have done their grocery shopping and picked up a bottle of wine as well to enjoy with the meal.

Let us ask who benefits from the current arrangements. The answer is obvious: big booze operators and the hotel industry. In particular, two corporations—Coles and Woolworths—have a very substantial market share in respect of retail alcohol sales. It is virtually an oligopoly situation, locking out small businesses and family run supermarkets and convenience stores. It is those latter businesses which are currently locked out of our legislative framework. Those businesses are more likely to be part of the local community and responsive to local community needs and concerns. If anyone thinks that it is a strange and dangerous idea to partially loosen restrictions on retail liquor licences, I remind them that the practice has been going on in Adelaide quite safely and successfully and without fuss for many years. With the use of exemptions under the current law, several businesses retail food and also sell sealed alcohol drinks—examples are David Jones and Woolworths in Rundle Mall. These businesses are selling alcohol responsibly. To my knowledge, there is no opposition to them doing so and, to my knowledge, there is no adverse health effect from them doing so. So, it is not a radical idea: it is something that happens in many Western countries. It happens in other states in Australia; it even happens in Rundle Mall.

Who then would be against such an idea? Obviously, there are wowsers—people who object to the availability of any kind of drug. This view can be rejected on scientific grounds by looking at the evidence in other countries. The fact is that other countries which do not have the restrictions we do do not necessarily have more alcohol problems. The argument that broadening the availability of alcohol retail outlets will cause hordes of people to binge drink is just not logical.

At this point, I need to reaffirm that existing penalties for selling liquor to drunk people or under-age people are absolutely maintained with this proposal. The Greens are against the selling of drugs to under-age people. We are against drug dealers and affirm existing penalties in relation to them, and that applies in relation to alcohol, as it does to other drugs. There are serious penalties at the moment for selling alcohol to minors in pubs and nightclubs. Those very same offences would continue to apply in relation to the sale of liquor to people who are under age, whether it be at the supermarket checkout or anywhere else, and there are fines of thousands of dollars for doing so.

The other indication of this is that there would need to be a responsible person selling the alcohol. The way it works in the ACT and Victoria is that there would be a specified checkout in the supermarket—for example, where the person actually selling is at least over the age of 18, and they have had training in responsible alcohol provision. To take a local example, Woolworths has informed me of its commitment to harm minimisation. It has a program entitled 'Responsible service of alcohol', and its employees have undertaken that training. It is staff training approved by the South Australian licensing authority. So, it not only can be done but it is already being done within South Australia.

I have spoken of wowsers who have opposed this move. I acknowledge that there may be people who have genuine concerns about the abuse of alcohol. Indeed, submissions have been put to me that this may have a harmful effect in relation to the Aboriginal communities. I restate that existing restrictions and penalties in relation to the responsible provision of alcohol continue to apply. For example, on the APY lands the blanket ban on the sale or drinking of alcohol

would continue to apply. Where there are dry areas, for example, on the foreshore in Adelaide and various country towns, they would continue to apply.

The best way we can combat alcohol abuse is through education, especially of our young people while they are at school and everywhere that we can gain access to them. Ultimately, of course, the best form of education for young people is in the home, and that does not necessarily mean parents telling their children that they must never ever touch this drug but it does mean encouraging responsible use of the drug after bearing in mind all the dangers of abuse.

The other significant group of people who strongly oppose this proposal is the Australian Hotels Association. They are, indeed, a powerful lobby group that see their profits being threatened by the opening up of competition. They are so passionate about this that in a radio debate this morning a spokesperson for the hotels industry actually claimed that more competition would lead to prices going up. This claim was presumably made to scare punters into thinking that if the current alcohol sales regulations were loosened they would be worse off. That will not be the case. I can absolutely guarantee that, as elsewhere in economic life, more competition will mean lower prices and more convenience.

Responsible alcohol consumption has a legitimate place within a balanced lifestyle, although not everyone will choose to drink. Binge drinking is abhorrent but it is more related to cultural beliefs and a person's upbringing than which shop they can go to to buy alcohol. A restrictive approach to alcohol policy is increasingly being recognised as insensitive to cultural differences and the importance of individual choice in respect to drug consumption. There is now a lot of research to suggest that alcohol abuse is more related to drinking patterns than the level of per capita consumption, and this approach is also consistent with emerging evidence of the benefits of moderate alcohol consumption.

I have talked about opponents of this proposal; let me say something briefly about community support for this proposal. Since floating this proposition I have had a number of calls from ordinary members of the community who see absolutely nothing wrong with it, people who would find it a convenient way of shopping for the alcohol product of their choice. In addition, there is massive support from small to medium businesses in South Australia and at the end of the day I will always prefer the interests of small and medium businesses—especially family businesses—to those of the mega-corporations. That is entirely consistent with Greens policy. One deli owner described this proposal to me as a lifeline for delis and, quite frankly, I do not want to see any more corner shops closing in my community.

I have also received support from members of the wine industry. These groups currently have very limited outlets because of the big players in the industry and their anti-competitive practices. I would like to see small winemakers being able to offer their products to a much more diverse range of outlets. So, it is a question of convenience and a question of having a fair market and, I suggest, there is no strong basis for opposing the measure. At the end of the day it will mean, potentially, a few more million dollars in the pocket of the South Australian government to spend on the things that really matter.

Mr MEIER secured the adjournment of the debate.

STATUTORY COMPENSATION

Mr HANNA (Mitchell): I move:

That the regulations made under the Victims of Crime Act 2001 entitled Statutory Compensation, made on 21 October and laid on the table of this house on 26 October, be disallowed.

This morning the majority of the Legislative Review Committee voted to recommend the disallowance of these regulations. The regulations allow the Crown Solicitor to pay for medical reports obtained in relation to victims of crime compensation claims. The regulations were amended so that a wider range of medical reports—for example, reports from psychiatrists—would be paid for by the Crown Solicitor; however, under the current regulations there is a dispute about the Crown Solicitor's refusal to pay for reports. Victims must pay for the reports themselves and hope to be reimbursed through a costs order if there is a dispute.

The Attorney-General has advised the committee that he is currently considering an alternative model in which the Victims of Crime Coordinator, a magistrate, or a master of the District Court, could review the Crown Solicitor's decision in relation to non-payment. The Attorney advised the committee in writing on 8 February 2005 that he was, 'not yet in a position to give the committee an undertaking as to these changes', and that, 'genuine negotiation along these lines is now in progress.' However, in a highly charged meeting this morning the committee—or at least the majority of its members—expressed its impatience, after all this issue has been around for months, if not years, in terms of general subject matter.

On 23 February 2005, the committee sent the Attorney-General a letter advising him that it would consider the regulations at its meeting that day. I realise that is only last week. Notwithstanding that, I express the view of a majority of the committee. I will read into *Hansard* a letter, signed by the Attorney-General today, which I understand has gone to various members of the Legislative Review Committee. It states:

I understand that the Legislative Review Committee this morning moved to disallow the Victims of Crime Regulations. The disallowance motion is to be debated in the Chambers later today.

On 8 February I wrote to the LRC proposing a course of action to take us out of the long-standing impasse. I understood that the LRC had accepted that these negotiations would take place in the good faith I had proposed.

On 23 February the Chair of the LRC wrote to me to let me know that the matter would again be debated by the LRC on 2 March. Alas, this letter was not brought to my attention nor the attention of my Chief of Staff.

I am informed members of the LRC have expressed concern at my lack of response in the week between the letter and today's LRC meeting. I can assure you that there is no deliberate affront. In fact, a draft Cabinet Submission for a new Victims of Crime Act has already been prepared and is awaiting Treasury sign-off. My intention was to request Cabinet permission to consult with the LRC at the earliest opportunity.

Given the circumstances, I request members urge their parties to defer discussion of the disallowance motions in the respective Chambers this week. My preferred course of action is to defer further discussion of the matter until the LRC has an opportunity to view a draft Bill.

You have my undertaking that I will proceed with all possible haste.

The letter is signed by the Attorney-General. In view of the latest undertaking by the Attorney, having put the motion and let those remarks be recorded in *Hansard*, I propose that, if there is an adjournment of this motion, I will not oppose it.

Mrs GERAGHTY secured the adjournment of the debate.

EDUCATION OMBUDSMAN BILL

Ms CHAPMAN (Bragg) obtained leave and introduced a bill for an act to provide for the making and resolution of complaints against education service providers; to make provision in respect of the rights and responsibilities of people involved in the education system; and for other purposes. Read a first time.

Ms CHAPMAN: I move:

That this bill be now read a second time.

I present to the parliament for its consideration the Education Ombudsman Bill 2004 for the purposes of providing for the appointment of an education ombudsman effectively to investigate the exercise of the administrative powers of certain agencies and to provide for the powers, functions and duties of the education ombudsman upon appointment. An ombudsman is an independent person appointed to receive, investigate and resolve complaints from affected persons about the unfairness in the administration of public services. Pursuant to the Ombudsman Act 1972, Mr Eugene Biganovsky is currently appointed as the state Ombudsman. He has general powers and can launch investigations on his own initiative, as well as receive complaints and investigate and act on the same.

In the 2002-03 annual report, 1 777 complaints had been received from all government departments. As the parliament is probably aware, the overwhelming majority relate to the area of correctional services and come particularly from prisoners. In that year, 109 complaints were received in relation to the Department of Education and Children's Services. In the 2003-04 financial year, 145 complaints were received specifically in relation to the Department of Education and Children's Services. So, quite a significant area of the Ombudsman's work involves areas other than correctional services.

As members of this parliament well know, hundreds more complaints, of varying seriousness and complexity, are dealt with internally—that is, the department investigates its departmental officers and their decisions. Those investigations relate to events or activities surrounding our public school system. As you will be aware, sir, after the initial registration of non-government schools, the Department of Education also has a very direct role in relation to their supervision and regulation. Very many of these complaints, of course, relate to investigations by departmental officers of their own decisions, so we have a situation of Caesar reviewing Caesar.

Of course, we also have departmental offices reviewing decisions of other employees of the department, namely those who are employed in the schools as principals, teachers, SSOs, and the like. In 2003, Mr Graeden Horsell, the then president of the SA Association of State School Organisations, raised the question of whether it was time to have an education ombudsman as an independent investigator in this area. I understand that Mr Horsell is employed in a senior position in the Department of Education and Children's Services. I looked with interest at his suggestion, and I think that it was important to take into account a number of aspects that he raised. Concerns particularly related to the inadequate resolution and processing of a number of serious matters that their association had taken to the department on behalf of its own affiliates. Issues included principal selection, processes, poorly organised review processes, inefficiency in facilities development, and 'deceptive spin' in teacher placement frameworks.

Many MPs in this house would also receive complaints from parents, staff and others in relation to decisions and/or treatment by the department. As one well knows, when we write as the local member to the minister, it is obvious in the response that we receive that the minister has referred the matter back to the department for response. So, effectively there is no independent assessment. That is not a criticism of the minister per se, it is not an unusual process, but it is one that hardly shows a level of independence in real terms from the constituent who comes into our office.

Importantly, in considering this, I ask the parliament to take into account that the government itself has introduced the Health and Community Services Complaints Bill 2002, which was then for the appointment of an ombudsman in the area of health and community services complaints. Our party argued at the time that it was more appropriate to have a health ombudsman as part of the current ombudsman's office but the government insisted that it be under a separate structure and that is what has transpired in relation to that area. I point out for the benefit of the house, for those who are following this debate, that I have proposed in this bill that there be a separate structure. I am not naive to the fact that if the government is not interested in having an ombudsman as a part of the overall main state ombudsman's office then they are unlikely to support any proposal that I would put to suggest that this be part of the state ombudsman's office. So, it has been drafted on the basis that it be separate, and it may well be that it is appropriate that as a separate entity, the education ombudsman be described as a commissioner. I am quite open to that consideration but I indicate the starting point in relation to that.

The education ombudsman would be a place of last resort that investigated and resolved complaints of maladministration about the ministry, boards and the tribunals. The complaints could be received by persons affected by any administrative act or omission by the Department of Education and Children's Services. It is proposed in this bill that it would cover preschools and schools. Consideration has been given as to whether it ought to include TAFE, university and tertiary educational institutions, training organisations and the like. Largely tertiary education is the domain in which one expects to find adult students who would not be taking up those actions in their own right. Certainly I am open to consideration as to whether that should be included, but it was the opposition's view that this ought to be a bill that was confined to schools and preschools at this stage. However, I am open to hear some argument in relation to others if members consider that appropriate. Persons affected include individuals, public servants and incorporated bodies, and may relate to an individual's situation or a broad systemic and/or system-wide problem. The education ombudsman may appear before a legislative committee and prepare expert comment on the fairness aspects of the proposed legislation, regulation or administrative rules. Essentially, and I think that this is entirely consistent with the government's own health commissioner that was established, the education ombudsman must be independent, flexible, accessible and credible. Fundamental elements for the structure of the office and power of the education ombudsman would be:

1. the education ombudsman must be accessible to all and provide services free of charge in a manner accommodating a diverse client group;

2. the education ombudsman must be independent of government, free of interference, require a significant term of office, manner of appointment and legislative authority to employ others independent of the department;
3. the education ombudsman must be an officer of the parliament and reporting to it;
4. the education ombudsman must have broad investigative powers (unrestricted access to government and departmental documents, officials, officers and institutions);
5. the education ombudsman must have power to assist the departments and individuals to resolve conflicts through facilitation and recommendation (with power to report if the recommendation is ignored);
6. the education ombudsman has the power to launch investigations having received complaints, or on matters of its own initiative, or referred by a member of parliament;
7. the education ombudsman as a recourse of last resort must be protected from civil action or disclosure orders; and
8. the education ombudsman must be properly resourced.

Although this is a matter which has been floated in the form of health complaints, I draw to the attention of the house that, consistent with that proposal by the government, it also made clear the following, and I refer in particular to the Minister for Health's contribution in relation to her bill where she pointed out:

> It is important to build on a well-established reputation for independence. This is the cornerstone of the public's confidence in an ombudsman's role.

In particular, she stated:

> It is always hoped that, whatever the complaint may be, it can be addressed and resolved directly and immediately between the consumer and the provider. This cannot always happen. Sometimes the power imbalance between the consumer and the provider is too great.

She went on to say:

> Parliament recognises the problem [and in reference to her proposal] to provide a place of last resort where aggrieved parties can seek objective investigation, conciliation, resolution and remedy.

I agree with the Minister for Health that, if we do have this independent body that can be referred to, when we have concerns raised by members of parliament, or of their own application, then we can have an independent body to genuinely deal with and resolve these issues. I think it is also important, and I confirm that it is proposed, that this legislation relate to administrative decisions, which will touch upon determinations that are made, even in the independent school sector and the Catholic sector; so it is not something that would necessarily be exclusive to the public school sector. Again, it is important here that parents have an opportunity to have access to an independent ombudsman for determination of those complaints.

In looking at the complaints from last year's report of the Ombudsman, I might say that a number of complaints made to the Ombudsman are dealt with but there is a finding that, on a preliminary investigation, the complaint is not sustained or not substantiated. Obviously, that will happen from time to time. Also, there is a large number that have. As to the sorts of complaints to which I refer, in relation to where advice is given, in some 85 of those complaints there had been a determination that there was a matter to be investigated, where advice was given or there had been some part resolution, but where there had been some action by the Ombudsman.

It includes such things as unreasonable treatment from a teacher; a failure to deal appropriately with bullying at school; unreasonable delay in addressing a son's education difficulties; unfair treatment of a child; delays in processing application; delay in funding a child to a new school; lack of assistance for a disabled child; refusal to take action in relation to bullying; unreasonable management of a son's harassment; unreasonable criteria for foster care funding; unreasonable decision to threaten expulsion; unreasonable requirement to pay school fees; a failure to provide a solution to a behaviour problem; unreasonable management of a disruptive child; poor attitude of a principal; unreasonable management of work injury; incompetent lecturers on a course, having received many complaints from students where no action had been taken; inadequate or inaccurate records maintained; and a child with a disability unable to access a School Card. They are a few of those complaints where action had been taken by the Ombudsman and advice given in those circumstances.

These are very important. Our children are extremely important. They are the future of our state. They deserve to have a place in which education issues are resolved promptly, without fear or favour, and in which we do not perpetrate Caesar reviewing Caesar to ensure a system which is not only independent, fair and accessible but also is seen to be so. I ask that favourable consideration be given by members of the house.

The DEPUTY SPEAKER: The chair allowed the member to introduce the bill. There could be—and the chair believes there is—serious deficiency in that the circulated notice of motion does not correspond with the detail of the bill. In fairness, I will refer the matter to the Speaker for his ruling. It would appear, on the surface, that the procedure adopted breaches the rules of the house in that there is inadequate notice given. As I say, the notice of motion does not correspond strictly to the content of the bill. The other issue relates to the question of whether it is a money bill or an appropriation bill. I will refer the matter to the Speaker in fairness, so he can make a ruling on it.

In fairness, I will accept an adjournment, but it should be made clear that, depending on the Speaker's ruling, it might be that the motion is withdrawn. I make that quite clear. Would someone take the adjournment on the basis it may not be debated in its current form.

Mrs GERAGHTY secured the adjournment of the debate.

ROAD TRAFFIC (DRUG TESTS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 9 February. Page 1446.)

Mrs GERAGHTY (Torrens): I move:

That the debate be adjourned.

The house divided on the motion:

AYES (24)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Caica, P.
Ciccarello, V.	Conlon, P. F.
Foley, K. O.	Geraghty, R. K. (teller)
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.

AYES (cont.)

Maywald, K. A.	McEwen, R. J.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Stevens, L.	Such, R. B.
Thompson, M. G.	Weatherill, J. W.
White, P. L.	Wright, M. J.

NOES (20)

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

PAIR(S)

Snelling, J. J.	Williams, M. R.

Majority of 4 for the ayes.

Motion thus carried.

The SPEAKER: I must say that I believe that members ought to allow debate of private members' matters, and that, whilst that has been undertaken and accepted in part of standing orders under Notices of Motion, Orders of the Day remain still a problem for us in that respect. I do not reflect upon the merits or otherwise on the decision to adjourn in this particular instance.

DIGNITY IN DYING BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 1652.)

Mr SCALZI (Hartley): Reluctantly, again I rise to speak to this bill. In the 12 years that I have been a member in this place we have discussed a dignity and dying bill so many times that I just wonder why the issue keeps being brought to the attention of the house. I was a member of the Social Development Committee's inquiry into the Voluntary Euthanasia Bill 1996 (which tabled its report in October 1999) together with the Hon. C.V. Schaefer, the Hon. Mr Atkinson, the Hon. Terry Cameron, the Hon. Sandra Kanck and the Hon. Dr Such (the Deputy Speaker) who has introduced this bill once more.

After a comprehensive investigation and report and debates that continued in this chamber and in the other place, I would have thought that at least for a little while we would not revisit this subject. However, I would also defend the right of any member to bring any matter for debate in this house. I commend the honourable member for his passion and his enthusiasm to try to pass such legislation but, to paraphrase Voltaire, I disagree with him vehemently. The proposal behind voluntary euthanasia is flawed because, no matter how hard we try, we cannot guarantee legislatively that it will not lead to abuse.

I say this because of the thorough investigation that this parliament had, reported by the Social Development Committee in October 1999. Prior to my involvement in that committee I went to Tasmania, and the then minister—

The SPEAKER: Order! The honourable member for Unley is out of order. The honourable member knows that if he wishes to have a discussion with anyone whatsoever other than in the chamber, he should acknowledge the chair and leave. The member for Hartley.

Mr SCALZI: The Hon. Judy Jackson, then Minister for Health in Tasmania and current Attorney-General of that state, who was in favour of voluntary euthanasia proposals before the Tasmanian report, was part of the committee that reported against introducing such legislation. The House of Lords select committee equally, with members who, one would have thought, supported voluntary euthanasia, after the investigation was also against the proposal for voluntary euthanasia. The proponents of voluntary euthanasia will argue ad nauseam that those who oppose it are motivated by religious belief. I very much doubt if the Hon. Judy Jackson, the present Attorney-General of Tasmania, was motivated by religious belief and I very much doubt if the members of the House of Lords select committee were motivated by religious belief.

The simple fact is that, regardless of our intentions and regardless of all the goodwill in the world, it is very difficult to come up with legislation that will ensure that any proposal for voluntary euthanasia will not be abused; because it is flawed. The proponents of voluntary euthanasia work from two principles: one, that we should be compassionate and not allow an individual to suffer unnecessarily; and, secondly, that every human being is autonomous and should have autonomy to make their own decision. The problem is that, as individuals in a multicultural society, in a diverse society—and the member for Florey laughs.

Ms Bedford: Not at you. Don't drag me into this.

Mr SCALZI: The problem with the proposal is that any individual's autonomy cannot be guaranteed under legislation when any legislation has to cater for the broad spectrum of society. How can my autonomy be protected at the same time as someone else's autonomy when we cannot define what autonomy is? And it will vary from individual to individual. Cultural and religious beliefs are so diverse that it would be very difficult to come up with foolproof legislation. That is the main reason why legislation has not been enacted. It has not been, as the proponents of voluntary euthanasia say, hijacked by the religious movement. That is not the case. This legislative change has been opposed by people who do not base their opposition on religion.

I turn to the compassion argument. As explained to the proponents during the committee's hearing, if you have someone with a chronic illness (as the Hon. Anne Levy would have suggested under her bill), with incurable cancer of the spine, say, the argument of compassion itself is flawed because if you have two individuals suffering from the same illness and the same excruciating pain—and thank God that palliative care in South Australia is one of the most advanced in the world.

Drugs are being made available that can alleviate some of the pain, but not in all cases. How do you justify having voluntary euthanasia for patient A, who is 18 years, and not voluntary euthanasia for patient B, who is 17 years? You allow one to suffer because of age. It is flawed. We cannot come to legislation that will cater for the autonomy of the individual, show compassion and ensure that each individual's rights are protected and that any voluntary euthanasia legislation does not lead to abuse. We have evidence from overseas (and I will not quote it because I do not have time) that shows that it can lead to abuse. For that reason I oppose the bill.

Time expired.

Ms BREUER (Giles): I rise today because this issue of euthanasia poses a real dilemma for me. I have always felt that people have the right to die with dignity and with their own agreement if they are extremely sick. I believe in the sanctity of life. I object very much to people who try to force their religious beliefs on me, and I have always objected to it. Many people in this world do not have any religious beliefs but are very much controlled by our Christian heritage and beliefs. I respect that heritage because most of my values in life are based on my Methodist Christian upbringing, including my feelings for other people and how I deal with them. Even why I am doing what I am doing I owe to that. However, I object when people try to force some of those religious values on me that I do not think are appropriate. For example, I have always been a supporter of women's right to abortion at an early stage because that is the right of women. I do not see it as killing off a life but rather a handful of cells. I have supported that in the past and will continue to do so.

I spoke today about the Relay for Life held in Whyalla a couple of weekends ago. I am involved in that because of my sister-in-law, who was diagnosed with cancer some years ago and is a success story as she has survived. When you have a family member involved in that the sanctity of life comes into your thoughts and feelings. The last thing I would have wanted would be to see my sister-in-law suffering when the worse came to the worst. To watch her die a long, painful death over many months would have been awful. I know of people who have had to do as it has happened in their families and it is a heart-breaking experience for them.

So, what do we do? Do we allow euthanasia? Do we allow people to take their own lives or to die when they so designate? I have always thought that we should be able to do this, but two and a half years ago I had an experience that made me sit back and rethink the whole issue of euthanasia. I have a very dear friend in Whyalla—an old man who is now 85 years old—who was involved in a car accident. He was hit by a car and I found out within a few hours. He is an old man with no family, so I went to the hospital and from then on I continued to be his de facto daughter. I have looked after him since then and became power of attorney for him and looked after his affairs. He is a wonderful old man.

When he was in hospital for about 10 weeks it was a case of believing that he was not going to live because he was extremely sick. There was damage to his brain and to his poor old body and it looked as though he would not live. On a number of occasions he begged me to tell the doctors to give him an injection, that he could not stand the pain any longer and wanted to die. He would ask me to ask the doctor and say, 'You can do it Lyn, you're a member of parliament—ask the doctor to do something so I can die—I can't stand this pain any longer.' I said, 'I can't do that, Don; it's not possible, it's against the law—we're not able to do that.'

This old man astonished everyone. All of a sudden he became as well as one can be at 84 years old, went from hospital into nursing home hostel accommodation, lives by the sea with a million dollar view to look out on every day, is well looked after and still continues to lead quite a full life. He is very much hampered by his physical capacity at this stage, but he is still able to get out. He regularly comes to the theatre with me, likes a nice glass of wine and enjoys his life still. I have had this discussion with him on a number of occasions: 'Don, what if I was able to say to the doctors as your power of a attorney that you did not want to go on living'? It astounds him also that he was begging at that time, yet he now lives a wonderful life.

I do not see that there is a clear answer on this and I do not think we should be making decisions on it. It is better to leave alone the situation. It is too big a decision. I certainly do not want the responsibility of voting on something like this. I do not want the responsibility of saying that it is okay to take someone's life or for someone to take their life if they do not want to go on living. How do we know their situation will not change? This issue keeps coming up in our society. People get up and get angry, beat their brow and their chest and come up with opinions, but it is a area we should leave well alone and not take on the responsibility of someone's life.

Mr MEIER (Goyder): I oppose the bill. I have had the opportunity on several occasions over the years to speak in relation to voluntary euthanasia or dignity in dying, the title of this bill. I do not advocate that it should be allowed under any circumstances. I will start by referring to a few definitions, as outlined in an article entitled 'Euthanasia, the slippery slope' by Brian Pollard in *All Life Matters* of March 2000. Under 'definitions' it states:

> Voluntary euthanasia can be accurately defined as 'intentionally taking the life of a person who requests it, for compassionate motives, either by action or omission.' Once one accepts that the intention to take life is ALWAYS present, the act is always active, whether the end is achieved by doing something one should not do (such as giving a lethal dose), or by failing to do something one should do (such as discontinuing treatment that is appropriate in the circumstances).

That definition is straightforward. Dr Pollard goes on to say:

> In that sense, there is no such thing as 'passive euthanasia'. For those who wish to muddy the waters insist on describing as passive euthanasia the proper actions of doctors when they cease treatments that are no longer useful, or are unwanted, or are too burdensome.

Further on in the article, Brian Pollard deals with the definition of 'dignity', as follows:

> Dignity can be an emotive word, implying something everyone should have, though few would claim to be dignified at all times. The real and original meaning of 'dignity' is value or worth. Only when every human life is accorded equal value can all lives be seen as requiring equal protection, and that protection must never be made to depend on the quality of one's life at the time, though that is precisely what is rapidly coming to be accepted widely. We either value every life equally, whatever its quality, or we start to put priorities on different lives according to how we assess their claim to social dignity.

It is in that relation that we as a parliament should reject this bill, because we start to determine whether or not a person has an appropriate quality of life. There are now quite a few recorded examples of where people at one stage of their illness wanted to die but later on they were pleased they were not able to die—they got through the trauma and pain, and they were happy to continue to live. The one thing from which most human beings suffer is pain. I say 'most', because I noticed an example in the newspaper recently where a young boy (I think he is now two years old) was born without the ability to feel pain. One could almost say, half his luck. However, I can imagine his parents' trauma when they try to stop him touching things or doing things that could cause serious harm to his health.

With dignity in dying and voluntary euthanasia, it is almost as though we are saying that, if a person experiences too much pain, they should have the right to die. We are almost saying that life should be free of the unwanted ills and that, if life is not going the way we would like it go, why should one not have the right to terminate that life. It is a great tragedy that so many people do terminate their life. I do not have recent statistics with me, but I do have statistics

from 1993, which state that there were 2 081 completed suicides in Australia, for all ages. It was interesting to compare that with the number of people killed in motor accidents (only 1 956) that same year. In fact, it was said that during the previous 20 years (up to 1996) some 20 000 people had taken their own life through suicide. That is a great tragedy. In fact, it is a reflection on the health of this country. I would be interested to see whether more recent statistics show a decline in numbers, although I suspect there has not been, because drug usage and similar abuse of one's body has probably increased over time, and we still have a disproportionately large number of people wishing to suicide.

Surely, we should be doing everything we can to preserve life. If we decide to go down the track of voluntary euthanasia, it would not be that difficult to extend it to people who we perhaps feel are not having a proper life and would be relieved of their burdens. One such group would be paraplegics, and particularly quadriplegics, who, to the untrained observer, would appear to have no quality of life. However, those of us who have come to know people in that situation, or who have been born with severe disabilities, appreciate that those people invariably do have their own quality of life and are getting real enjoyment from being alive, even though we cannot see it that way.

I again refer to Dr Brian Pollard, this time from an article in *The Australian Doctor* of 29 June 2001, where he says:

> Human rights are not established by claiming them, however much they may be wanted. Basic human rights have been set out in various documents, the best known of which is the UN's Universal Declaration of Human Rights, formulated in 1948 and now signed by the governments of more than 90 per cent of the world's population, including Australia.
>
> Far from describing a right to request death, the. . . [United Nations] declaration describes the fundamental right of every individual to the integrity of their life as equal, inherent, inviolable, inalienable and deserving of the protection of law. There are to be no exceptions, the right resides in one's humanity, and it may neither be taken or given away.

I think Dr Pollard really hits the nail on the head in that particular reflection: that we cannot simply decide to create human rights, that there are certain rights, and life is probably the most important one of the lot.

I also would like to refer to examples that have come to my attention over the years where people have been in a serious way from a health point of view. I recall one example where the husband of a family was involved in a very serious accident and was, for all intents and purposes, going to be a vegetable for the rest of his life. The doctor at that time said to the wife (and they had three children), 'My advice is that you turn off the life support system.' The wife did not take that action, and the husband did recover. Whilst he was not 100 per cent his old self, he could certainly walk, run and speak and, in fact, he himself said that he had far more time to spend with his children and was able to enjoy his children far more than he ever had prior to his accident. The worst thing would have been to have him taken off life support.

Time expired.

Ms BEDFORD secured the adjournment of the debate.

CONSTITUTION (BASIC DEMOCRATIC PRINCIPLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 1663.)

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I was making a spirited defence of the party system, and it has been a much maligned beast in this house in recent years.

Mr Hanna interjecting:

The Hon. J.W. WEATHERILL: I not think the member for Mitchell is necessarily a person who should be heard on this matter, because he offered a particular platform and party to the people he represented and they have now been deprived of the opportunity of having a Labor member of parliament in the seat of Mitchell. So, in this context I think the member for Mitchell ought to be careful about his interjections.

I was making a defence of the party system and suggesting that true accountability and true democracy exists when a comprehensive party platform is taken to an election and it is tested through a rigorous process: not this notion of basically deciding that someone can sneak from one side of the chamber to the other. That is the real difficulty with the remarks implicit in this resolution; we do not know from time to time what an Independent member of parliament is likely to do on the floor of this house. Indeed, there are a range of parties getting around the place—One Nation, Family First, and others—which jump up onto the political scene from time to time and one only finds out what they really think when legislation is put into the house and one sees which way they vote. Sometimes it can come as a surprise—indeed, it has been an enormous surprise to us to see how the Family First Party has voted from time to time on a number of issues. Some remarkable things have occurred in the upper house.

Mr Goldsworthy: Give us an example!

The Hon. J.W. WEATHERILL: I can give you an example, actually. The way in which they voted to exclude child protection from the scope of the Health and Community Services Bill which went to the upper house was a very strange decision by the member representing Family First. Many of the essential features of the industrial relations bill, which was legislation to protect family incomes, were unable to be supported by Family First. My point is this (and in this respect I acknowledge the role of the Liberal Party in our democracy, as I do the role of the Labor Party): we present comprehensive political platforms to the people of this state. We are examined extensively on our record, and it gives people a real choice and a real idea of what will happen over the four years between elections. I think this resolution is a nonsense. It perpetuates the myth that poor Mr Smart has been sold, namely, that somehow you can come to this place via the Liberal Party, jump over here from time to time and still be in the Liberal Party. Ask the member for Unley how he has fared from jumping over to the other side of the house from time to time! It is not a great career move to be a free thinker in the Liberal Party. It is mythology when the Liberal Party says that its members have the right to exercise their conscience. It is an illusory right, because the consequences of exercising it are political oblivion. It is always been a nonsense.

This bill is not about democracy; it is about the illusion of democracy. Real democracy comes from presenting a full, comprehensive and accountable program to the people once every four years, being evaluated on it and the people of the state making a choice. They chose a Labor government last time and, hopefully, they will make a similar choice in more resounding numbers at the next election.

Mr SCALZI (Hartley): I could not believe what I was hearing—the minister criticising Independents, Family First

and, I presume the Greens as though they are not political parties. I would have thought that all political parties were political parties.

The Hon. J.W. Weatherill: I was talking about the two-party system.

Mr SCALZI: Not all democracies have a two-party system. One only has to refer to—

The Hon. J.W. Weatherill: That's right. Look at Italy—45 governments in 46 years. It works well!

Mr SCALZI: The minister refers to Italy but, in a way, that has a stable democracy. Indeed, it is a G7 country.

Mr Koutsantonis: It is G8 now.

Mr SCALZI: G8—thank you. The minister criticises this bill and says that the exercising of this right by Independents is a farce. Talk about biting the hand that feeds you! If the Labor Party did not have the support of the member for Hammond, who followed this very principle we are debating here today, it would not be in government. It is audacious to say that people in the electorate of Mitchell are deprived of a Labor member. They have a good member and, although I may not agree with all his views, I can tell you that he represents his constituents well.

When members opposite talk about democracy, they mean a guided democracy. They believe that what the caucus says must go. As I said, if it were not for the grace of God, the 49 per cent of votes they received at the last election and the support of the members for Hammond, Chaffey and Mount Gambier, they would not be in government today. Those members are Independents who upheld this very principle, namely, the ability to change their mind. Members opposite want to deprive others of this basic democratic principle. At the end of the day, first and foremost we are elected to represent our constituents not political parties. When we last debated this issue, the member for West Torrens got it wrong. He said that this is democracy, but where are the political parties at local government level? Does he mean that all local government members, because they do not belong to a political party and do not have a platform, deprive their constituents of the democratic process? What a farce!

Mr Koutsantonis: Why are you in the Liberal party? Why aren't you an Independent?

Mr SCALZI: I am an Independent within the Liberal Party framework, and that is what you should be. I am a proud Liberal, because I am able to exercise my conscience and, when I want to, I can cross the floor and not be exiled for six years like Stormy Norm Foster, who was sent out into the wilderness. What did you do to the Hons Trevor Crothers and Terry Cameron? As soon as they voted against the caucus, it was, 'Arrivederci until you come back.' The minister reminds me, the Hon. Terry Groom was a good former member for Hartley.

Mr Koutsantonis interjecting:

Mr SCALZI: I did. The Hon. Terry Groom was a good member for Hartley, he was fluent in Italian, and he represented his constituents well. Let us not forget that he too was an Independent Labor member because of the factional dealings of members opposite. The Hon. Terry Groom was a capable member and representative of my area. I should know because after I lost in 1989 to the Hon. Terry Groom, I went to his place, and we sat down and had a beer and a pizza, and he was a gentleman. What did the Labor party do with the talents of the Hon. Terry Groom? They made him minister when he went Independent; he had to go Independent. The Hon. Terry Groom was Independent when he became minister, and then he had to stand against Senator Annette Hurley.

Mr Koutsantonis interjecting:

Mr SCALZI: He has come home. They always bring them home at the end when it suits them.

The Hon. J.W. Weatherill: He is coming after you, Joe.

Mr SCALZI: He is coming after me, is he? He is coming home. They bring them home. That is how flexible the principles of the Labor Party are; bring them home when they need them.

Mr Koutsantonis interjecting:

Mr SCALZI: He came back, and the Liberal Party did not have to give—every time you speak you strengthen my argument. The Hon. member for MacKillop came back to the Liberal Party on principle; we did not make him a minister. We did not have to make a deal and spend an extra $3 million. You made the Hon. Karlene Maywald a minister as well so that you have an alliance with the National Party, an alliance with Independents, and you have an alliance of convenience so that you can be in government. This is a government that cannot rule by itself. Someone said, 'We live in interesting times.' I say, 'We live in self-interested times.' This government is proving it by the way in which it opposes a bill such as this about basic democratic principles.

I commend the member for Stuart for introducing this measure and I know that it has not been introduced lightly. He has researched, and there is such legislation in Germany. Also, I propose that people are able to vote according to their conscience. I can vote according to my conscience, and I can be a card carrying member of a union on this side because we believe in basic democratic principles and freedom of association.

Mrs Geraghty interjecting:

Mr SCALZI: The Hon. member talks about the member for Unley. If members opposite had as much freedom as the member for Unley I would have more respect for the Labor Party.

Mrs Geraghty: You are trying to kick him out.

Mr SCALZI: The member for Unley is able to look after himself.

The Hon. M.J. Atkinson: No, he's not; that's the point.

Mr SCALZI: Look at how you are sidetracking the issue. Why can you not support this bill? In fact, I believe that we should have a inter-party committee that looks into which issues should be basic conscience votes and which should not, and stick to the democratic principles. I might disagree with the member for Mitchell's views but at least he has got principles and guts, and will fight for them. For these reasons I support the bill.

Time expired.

The house divided on the second reading:

AYES (15)

Buckby, M. R.	Chapman, V. A.
Evans, I. F.	Goldsworthy, R. M.
Gunn, G. M. (teller)	Hall, J. L.
Hanna, K.	Kerin, R. G.
Kotz, D. C.	Matthew, W. A.
McFetridge, D.	Meier, E. J.
Redmond, I. M.	Scalzi, G.
Such, R. B.	

NOES (20)

Atkinson, M. J.	Bedford, F. E.
Caica, P.	Conlon, P. F.
Foley, K. O.	Geraghty, R. K.
Hill, J. D.	Key, S. W.

NOES (cont.)

Koutsantonis, T.	Lomax-Smith, J. D.
Maywald, K. A.	McEwen, R. J.
O'Brien, M. F.	Rankine, J. M.
Rann, M. D.	Rau, J. R.
Thompson, M. G.	Weatherill, J. W.
White, P. L.	Wright, M. J.

PAIR(S)

Brown, D. C.	Breuer, L. R.
Hamilton-Smith, M. L. J.	Ciccarello, V.
Venning, I. H.	Snelling, J. J.
Williams, M. R.	Stevens, L.

Majority of 5 for the noes.

Second reading thus negatived.

The SPEAKER: This is a matter about which I have strong views and, as the member for Hammond, I want to put them on the record. In simple terms, the processes of democracy are better served if all people, whether or not members of this place, understand that those who seek election in this place are representatives of the people who live in the electorates which they have been elected to represent. Their duty is to the people, not to a party organisation or any other group who may choose to seek to direct them. I also hold that strong view for the simple reason that in the Marshall Plan for the constitutional reform of Germany after the Second World War, a constitution imposed on that country made it a felony to require or to attempt to require a member of parliament to vote in a particular way that might be other than what they considered the appropriate course of action in their conscience. Notwithstanding the sensitivity this may have for the Australian Labor Party, that organisation remains unique in the world. Neither the Labor Party in New Zealand (so far as I am aware) and most definitely the Labor Party in the United Kingdom seeks to require members of that party to vote the way they are directed under pain of being expelled from membership if they do not. That has always struck me as quaint.

It is not a party that makes the person. It is more particularly the electorate that seeks to have someone to represent it. Regardless of the philosophical inclinations that someone may have, it is improper in my judgment for them to be directed by anyone and it is improper for the practice to be allowed to continue. It is improper on the grounds that I regard it as undemocratic. I thank the house.

PARLIAMENTARY PROCEDURE, DIVISIONS

Mr BROKENSHIRE (Mawson): On a point of order: I advise you, sir, and the house that a few members could not get to the division because non-members of parliament had rung the bells on the first floor and we had to stop and, with the slowness of the lift, we were not able to get here.

The SPEAKER: There is no point of order. Is the member for Mawson saying the bells were not ringing on the first floor?

Mr BROKENSHIRE: Sir, I seek leave to make a personal explanation to advise the house of a matter.

The SPEAKER: The honourable member seeks leave to give a personal explanation. I will not try to second guess what is in the honourable member's mind. I will leave the honourable member to contemplate that.

Leave granted.

Mr BROKENSHIRE: My personal explanation is that two members were not able to make the division because non-members of parliament had activated the button and held the lift on the first floor, which then prevented our getting here on time. I would like to make that personal explanation.

Mrs Geraghty: Why didn't you take the stairs?

Mr BROKENSHIRE: We were already in the lift. As a result of being in the lift and buttons being pressed on the first floor that stopped the lift and therefore prevented our making it here on time. I wish to advise the Speaker and the house of that matter.

The SPEAKER: I heard the honourable member. That is not the kind of matter that ought to be the subject of a personal explanation. It is not contemplated that it should be. If the honourable member misses a division, he has my sympathies. I would like to know who the hell the staff members were who disobeyed the clear direction that has been posted in the lift that when the bells are ringing in either chamber no member of staff may use the lift. No person other than a member of parliament may use the lift under pain of the most stringent and strong disciplinary measures against them. If it is a staff member of a member of parliament, regardless of the office that member may occupy, that is even more serious as an interference in the capacity of members to execute their responsibilities. Having said that, I will move on.

Mr BRINDAL (Unley): Mr Speaker, I seek your guidance. I was the other member concerned. We came down when the bells were ringing, but by travelling in the lift we were deprived of our right to vote by members of staff of people in here. Rather than name them, I would like the vote recommitted, or at least have our vote recorded because we are entitled to attend the vote and we are not, as you know, sir, entitled to be—

The Hon. M.J. Atkinson interjecting:

Mr BRINDAL: We chose to use the lift. It is not for you to question how we get into the chamber.

The SPEAKER: Order! The member for Unley will not respond to interjections.

Mr BRINDAL: I apologise, sir. I sincerely apologise.

The SPEAKER: The member for Unley will resume his seat. Notwithstanding the rule that has been made for the conduct of services around this building, it is nonetheless—regardless of whether there are lifts—the responsibility of every member of parliament to get into this chamber once the bells are rung. I would not even contemplate a proposition to resubmit the motion on those grounds. We will move on. The members for Unley and Mawson (however comforting or otherwise it may be for them to learn) should know that, whether they had both voted for one side or the other, the result would have still been the same. There would not have been an equality of votes in any event. Let that be the end of the matter.

EDUCATION OMBUDSMAN BILL

The SPEAKER: Before calling on the next matter, can I say that I have reviewed a notice of motion put by the member for Bragg. I find that the measure which the member for Bragg brought into the chamber—intentionally or inadvertently—is in contravention of standing orders. The bill which the honourable member brought into the chamber is not a bill to amend the Education Act of 1972. It is for a separate matter altogether. There is another reason why the bill cannot be entertained by the house, that is, that clause 8 has provisions of remuneration for such officers as it would propose to create and no message has been received from Her

Excellency the Governor. Accordingly, it will be struck from the *Notice Paper*.

PARENTAL RESPONSIBILITY BILL

Adjourned debate on second reading.

(Continued from 24 November. Page 1055.)

The Hon. M.J. ATKINSON (Attorney-General): The government opposes the bill. The bill seeks to make parents criminally liable for the actions of their children and to give powers to the police to remove children from public places. The measures are not new. The member for Stuart has introduced similar legislation on other occasions. Some other jurisdictions have introduced similar measures with little success. In 1994 New South Wales introduced similar legislation. The legislation was subject to an extensive review in 1996 that resulted in the legislation being repealed and replaced.

The New South Wales review was highly critical of the New South Wales legislation and found that the assumptions underpinning the legislation were flawed and unwarranted. In particular, the problems identified with the New South Wales legislation were that the legislation did nothing to prevent or reduce juvenile offending; it did not encourage families to take greater responsibility for the criminal behaviour of their children; it did not address the problem of family dysfunction and inadequate or neglectful parenting; it did not have clear enforcement mechanisms; and it was unlikely to have any effect in protecting children from a situation where there was a likelihood that they may commit a crime or be exposed to some risk.

It had the potential to widen the criminal justice net and inappropriately draw young people who have not committed offences into the criminal justice system. It had the effect of putting youth further at risk, and it was not supported by the New South Wales police. The New South Wales review recommended adoption of a range of social development measures aimed at providing support to parents, children and communities in dealing with juvenile crime and related issues. In South Australia the government is interested in building communities not breaking them apart.

It believes that this legislation is based on false assumptions and flawed policy, and that it has the potential to waste resources on proposals that have already been discarded in New South Wales. The bill creates an offence against a parent who wilfully or negligently fails to exercise an appropriate level of supervision or control over his or her child's activities which contribute to the commission of an offence. What is an appropriate level of control? Appropriate to what? How is a court to judge such an inexact and vague standard as this? But worse is to come. How does the parent contribute to the commission of an offence? Let me give an example. Little Johnny sneaks out of home at night. His parents are aware but have been unable to stop Johnny. Johnny robs a CD store. There is no relevant criminal causal relationship between the parents and the commission of the offence, therefore the parents cannot be liable under the bill.

If that is so, when are parents going to contribute to the commission of an offence? If that is not so, are parents going to be liable for anything and everything that Johnny gets up to? That is neither sensible nor desirable. The bill defines a child to be a person under the age of 15 years. Why 15? Why not 18, 16 or 12? The bill goes on to allow the police to remove a child and place that child in an approved place of safety. The officer must notify the child's carer unless it is not practical to do so or it would not be in the child's best interest to do so. In other words, there will be situations where children will simply disappear for 24 hours. Imagine the panic this will create.

A scheme that allows for children who have committed no offence to be detained for 24 hours without alerting the parents or guardians is fraught with difficulty. Plus, there is no right to a lawyer for the child. Adults have the right to a lawyer: why not children—especially children who have committed no offence? In addition, it is quite apparent that there are plenty of examples where it is not in the best interests of the child to be detained in the care of the state without contact with an externally responsible adult. Members will be aware of the Commission of Inquiry into State Care, which is looking into the abuse of children in custody. Those who do not learn from the past are bound to repeat it, and in this case there should be no repetition.

The government does not support the proposal to criminalise dysfunctional or ineffective parenting. The proposal goes against the fundamental basis of the criminal law that there is a presumption against vicarious liability. Parents need assistance and support to deal effectively with their children as distinct from being labelled bad parents and being apportioned blame and criminal responsibility. This legislation could serve to destroy rather than strengthen the family. The bill could have further harmful effects on families and could result in parents gaining a criminal record that would have the potential to affect their work opportunities.

Moreover, there is no evidence to suggest that the bill will have any positive effects on reducing youth crime, that it will lead to improvements in family functioning or that it will effectively deal with the causes of offending or increase parents' ability or willingness to supervise the activities of their children. The bill could also have serious effects on the functioning of the youth justice system, because more cases may go to trial as a young person may be encouraged not to admit guilt because of the additional liability that is created for parents.

The government does not support the proposed new powers to allow police to remove a child from a public place. South Australia has general loitering laws in the Summary Offences Act that allow a police officer to ask a person to cease loitering or a group to disperse if the police officer believes or apprehends on reasonable grounds that the person or member of the group (1) has committed a crime or is about to commit a crime or is likely to commit a crime; or (2) has breached the peace, is about to breach the peace or is likely to breach the peace; or (3) has, will or is likely to obstruct the movement of pedestrians or vehicular traffic; or (4) is likely to be in the vicinity of danger.

There are also existing provisions under the Children's Protection Act and the Education Act that allow police in certain circumstances to remove children from a public place and return a child to his or her place of residence or to school. For example, section 16 of the Children's Protection Act authorises the police to remove a child from any premises or place using such force as is reasonably necessary for the purpose, if an officer believes on reasonable grounds (a) that a child is in a situation that, if not removed pursuant to this section, the child's safety would be in serious danger; and (b) that the child is not in the company of any of his or her guardians.

There are arguments against enacting legislation that would give police the power to pick up young people without any offence having been committed or where the child is not at risk. If a young child has not committed an offence and there is no reasonable suspicion that the child is about to commit an offence, the proposal could breach human rights to freedom of association and liberty. The bill may contravene Article 15 of the Convention on the Rights of the Child that recognises the rights of the child to freedom of association and freedom of peaceful assembly.

The measures in this bill could also lead to an increase in adversarial relationships between police and young people. There is also the possibility that relations between police and the Aboriginal community will be affected because Aboriginal youths could be disproportionately affected by the legislation. The cultural norm of socialising in public places makes the Aboriginal community particularly vulnerable to this type of law. There is no empirical evidence to suggest that taking a youth home or to a safe house will improve the welfare of young people or their families. The legislation does not address the issue of why the youth is in a public place.

What if the youth is there to escape domestic violence at home? Relocating the child back to the home does not deal with the issue. The bill allows a child to be detained for a period of 24 hours and, if the child leaves the place of safety without permission, then the child is guilty of an offence, the maximum penalty being $125 for a first offence, and for a subsequent offence $1 250 or detention for one month. The bill will, in effect, introduce compulsory detention for children who have not committed any offence. This has a net widening effect and inappropriately exposes young people to the criminal justice system.

Research shows that keeping young people out of the juvenile justice system lowers the amount of recidivism. The bill contemplates removing a child to a place of safety approved by the minister. Thought would need to be given to what lodgings would be approved under the legislation and the cost implications of the proposal. New lodgings separate from those used for the detention of young offenders would need to be established across the state by the Department for Families and Communities as safe places. Lodgings would need to be established in regional centres and across the metropolitan area. The centres would need to provide constant supervision and care on a continuing basis.

The cost of establishing such centres was considered in 2001 when the honourable member introduced the Parental Liability Bill 2001. The bill contained provisions authorising police to remove children under the age of 15 years from public places. The operational cost, on top of the establishment and capital cost for each centre, was estimated to be in the realm of $500 000 to $1 million a year. It was anticipated that at least eight such centres would be required in country areas and two in Adelaide. Therefore, the total running cost, apart from establishment and capital costs, was estimated to be about $6 million to $12 million per annum.

The house divided on the second reading:

AYES (4)

Buckby, M. R.	Gunn, G. M.(teller)
Matthew, W. A.	Meier, E. J.

NOES (32)

Atkinson, M. J. (teller)	Bedford, F. E.
Brindal, M. K.	Brokenshire, R. L.
Caica, P.	Chapman, V. A.
Conlon, P. F.	Evans, I. F.

NOES (cont.)

Foley, K. O.	Geraghty, R. K.
Goldsworthy, R. M.	Hall, J. L.
Hanna, K.	Hill, J. D.
Kerin, R. G.	Key, S. W.
Kotz, D. C.	Koutsantonis, T.
Lomax-Smith, J. D.	Maywald, K. A.
McEwen, R. J.	McFetridge, D.
O'Brien, M. F.	Rann, M. D.
Rau, J. R.	Redmond, I. M.
Scalzi, G.	Such, R. B.
Thompson, M. G.	Weatherill, J. W.
White, P. L.	Wright, M. J.

Majority of 28 for the noes.

Second reading thus negatived.

The SPEAKER: My own sentiments are in support of the thrust of the proposition put by the member for Stuart. I hold those views, notwithstanding the concerns which honourable members have expressed about civil liberties and human rights and so on. Nonetheless, I hold the view that the police do not, of course, concern themselves with trivia and would not, in my judgment, be likely to cause problems in the improper exercise of the powers the legislation might have otherwise conferred had it succeeded. Notwithstanding any of that—that is, my sentiment to support the thrust of what the member for Stuart would have done—I would not have voted for it because of what I believe to be the ambiguities that could have otherwise been better clarified in the legislation.

ANZAC DAY COMMEMORATION BILL

The Hon. M.D. RANN (Premier) obtained leave and introduced a bill for an act to continue and enhance the commemoration of Anzac Day as a day of national significance; to make a related amendment to the Lottery and Gaming Act 1936; and for other purposes. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

On 24 April 2003 the government announced its intention to introduce legislation honouring the memory of the ex-service community involved in the Great War and subsequent conflicts, as well as those involved in peace-keeping efforts.

Whereas the importance of ANZAC Day was originally to provide a solemn occasion of remembrance and a sense of mourning for the gallantry of sacrifices at Gallipoli, the ANZAC inspiration was evident in Australia's later participation both in war and peace-keeping efforts, and is equally applicable today.

Accordingly, ANZAC Day now has a broader significance and is also about recognising the importance to the nation of the ideals and values that service men and women exhibit in war, also described as the ANZAC spirit.

This bill achieves the goal of honouring these ideals and values in several ways.

The ANZAC Day Commemoration Council will be established to consider the long-term needs for the commemoration of ANZAC Day, given the dwindling number of ex-service men and women. The Council will be the key to the longevity of the commemoration of ANZAC Day and the ANZAC spirit.

The bill also establishes the ANZAC Day Commemoration Fund. The Fund will be administered by the Council and will be used for the purposes of welfare, commemoration and education.

The bill aims to enhance South Australia's commitment to ANZAC Day by restricting the operation of sporting and entertainment venues on ANZAC Day.

The Government and RSL have several loose arrangements in existence already with sporting clubs such as the SANFL whereby the ANZAC Day football match does not commence until 12 noon, and the SAJC does not commence the race day until 1.30 pm. The bill reinforces this commitment and restricts all other sporting activity and entertainment where tickets for admission (or similar devices) are made available for pre-purchase are required for entry from commencing until 12 noon.

The intent of the ANZAC Day Commemoration Bill is not to replace the significant work that is undertaken by the RSL and other ex-service bodies in the organisation of commemoration activities on ANZAC Day. Rather, it is to enhance South Australia's commitment to ANZAC Day, and to ensure this commitment is sustained well into the future.

I commend the bill to members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the bill.

4—Object of Act

This clause sets out the object of the bill.

Part 2—ANZAC Day Commemoration Council

5—Establishment of Council

This clause establishes the *ANZAC Day Commemoration Council*, and sets out provisions relating to the corporate nature of the Council.

6—Membership of Council

This clause provides that the Council is to consist of 9 members appointed by the Governor. The Premier must nominate the members (to be, as far as practicable, equal numbers of men and women), and such nomination may only occur after the Premier has consulted with the RSL.

7—Terms and conditions of membership

This clause sets out the terms and conditions of an appointment to the Council, including that the term of appointment is not to exceed 3 years, the power for the Governor to appoint deputies, and provisions relating to casual vacancies on the Council.

8—Presiding member

This clause provides that the Premier must appoint a member of the Council to be its presiding member.

9—Vacancies or defects in appointment of members

This clause provides that an act or proceeding of the Council is not invalid simply because of a vacancy in its membership, or a defect in a member's appointment.

10—Remuneration

This clause provides that a member of the Council is entitled to remuneration, allowances and expenses determined by the Governor.

11—Functions of Council

This clause provides that the functions of the Council are to keep and administer the Fund established by the bill, and to carry out such other functions as the Premier may assign to it.

12—Council's procedures

This clause sets out the procedures of the Council, including that a quorum is to consist of 5 members.

13—Staff

This clause provides that the Council may be assisted by Public Service employees assigned to the staff of the Council by the Premier, and also that the Council may, by agreement with the relevant Minister, make use of the services of the staff, equipment or facilities of an administrative unit.

14—Annual report

This clause requires the Council to submit an annual report to the Premier on its operations and requires the Premier to table copies of the report in both Houses of Parliament.

Part 3—ANZAC Day Commemoration Fund

15—Establishment of Fund

This clause establishes the ANZAC Day Commemoration Fund.

16—Application of Fund

This clause sets out the purposes for which the Fund may be applied by the Council, including making payments to an organisation for the purpose of educating the community about the significance of ANZAC Day, payments for aged veterans to maintain, alter and improve their homes, payments to maintain and care for aged veterans in homes, payments for the welfare of spouses and children of deceased veterans, and similar applications.

17—Accounts and audit

This clause requires the Council to keep proper accounts of receipts and payments in relation to the Fund. It requires the Auditor-General to audit the accounts of Fund at least once each year.

Part 4—Regulation of public entertainment on ANZAC Day

18—Restriction on public entertainment before 12 noon on ANZAC Day

This clause sets out provides that it is unlawful to hold public sporting and entertainment events between the hours of 5 a.m. and 12 noon on ANZAC unless authorised to do so in writing by the Premier. A public sporting or entertainment event is defined to mean a sporting or entertainment event or activity to which tickets for admission (or similar devices) are made available for purchase by a member of the public prior to the holding of the event or activity and are required for entry to the event or activity.

If such an event is held, the organiser is guilty of an offence for which the maximum penalty is a fine of up to $1 250, or an expiation fee of $160.

The Premier must liaise with and have regard to comments made by the RSL before granting an authorisation for such an event.

The clause provides an offence for a person to contravene or fail to comply with a condition of an authorisation.

19—Two up on ANZAC Day

This clause provides that, subject to certain exceptions, two-up is not an unlawful game for the purposes of the *Lottery and Gaming Act 1936* if played in ANZAC Day on the premises of a branch or sub-branch of the RSL, or Defence Force premises.

Part 5—Miscellaneous

20—False or misleading statement

This clause provides that it is an offence to make a false or misleading statement in relation to information provided under the bill, the maximum penalty for which is a $5 000 fine.

Schedule 1—Related amendment

This Schedule deletes section 59AA of the *Lottery and Gaming Act 1936* which has been incorporated in clause 19 of the bill.

Schedule 2—Further provisions relating to Council

1—Duty of members of Council with respect to conflict of interest

This clause sets out provisions dealing with conflict of interest on the part of a member of the Council. The provisions are in the same terms as those found in the *Public Sector Management Act 1995* (as amended by the *Statutes Amendment (Honesty and Accountability in Government) Act 2003*) which is yet to come into operation.

2—Protection from personal liability

Subclause (1) provides that no personal liability is incurred by a member of the Council, or a member of the staff of the Council, for an act or omission in good faith in the performance or purported performance of a power, function or duty under this bill. A civil liability that would, but for subclause (1), lie against a person lies instead against the Crown. This is also consistent with the *Public Sector Management Act 1995* (as amended by the *Statutes Amendment (Honesty and Accountability in Government) Act 2003*).

3—Expiry of Schedule

This clause provides that this proposed Schedule 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*), or, if that section has come into operation before the commencement of this proposed Schedule, will be taken not to have been enacted.

The Hon. R.G. KERIN secured the adjournment of the debate.

LAW REFORM (CONTRIBUTORY NEGLIGENCE AND APPORTIONMENT OF LIABILITY) (PROPORTIONATE LIABILITY) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001. Read a first time.

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

That this bill be now read a second time.

This bill amends the Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001 to replace the existing regime of joint and several liability with the regime of proportionate liability in some cases. It applies to claims for damages for economic loss and property damage arising from negligent or innocent wrongdoing. It does not affect personal injury claims.

As part of their response to the insurance crisis, all Australian jurisdictions have agreed to adopt proportionate liability in economic loss and property damage claims. New South Wales, Victoria, Queensland and Western Australia have already legislated to this effect. Other jurisdictions are preparing legislation.

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

The Hon. M.J. ATKINSON: Other jurisdictions are preparing legislation. All jurisdictions have followed the national model endorsed last year by insurance ministers and by the Standing Committee of Attorneys-General, although Queensland has taken a somewhat different approach from other jurisdictions and applies a monetary threshold. The commonwealth has meanwhile legislated to make complementary amendments to the Trade Practices Act and other acts so that proportionate liability can apply to claims for damages for misleading and deceptive conduct under commonwealth law.

Our legislation looks somewhat different from the legislation passed in other jurisdictions, because, unlike other jurisdictions, which have done this as part of their civil liability amendments, South Australia already has a Law Reform (Contributory Negligence and Apportionment of Liability) Act. It is appropriate in our case to make these amendments to that act so as to work within the scheme we have already. The effect of our bill is, nevertheless, similar to that of interstate legislation. I seek leave to have the balance of my second reading explanation incorporated in *Hansard* without my reading it.

Leave granted.

In summary, it is presently the law that if two wrongdoers concurrently bring about the same harm, the wronged party can sue either or both of them for the full amount of the damage. If only one of them pays for the damage, that person can then pursue the other for contribution and the court will work out what the share of each should be. It can happen, however, that one or more of the wrongdoers cannot be made to pay, perhaps because they are impecunious or because they cannot be found. In that case, under a system of joint and several liability, the one who is able to pay is made to pay in full even though only partly responsible for the damage.

A typical example is a car crash involving several vehicles. It may be that two or more drivers are at fault, as for instance in a chain collision. Perhaps one of the defaulting drivers carries property-damage insurance but the others do not. Each of them has contributed to the damage to the innocent driver's vehicle but only one can pay. In that case, it will be the insured driver, or rather his insurer, who pays for all the damage. Although there is a right to claim contribution from the other defaulting drivers, in reality this may be worth nothing.

The Government has received submissions from insurers and professional groups urging that this system should be changed because it can work injustice and because it tends to increase the cost of insurance. Insurers must price their product to cover the risk that they will be forced to pay for damage that was not wholly the fault of the insured. This proposal was included in a discussion paper published last year and those who commented on it were generally in support. Accordingly, this Bill creates a regime of proportionate liability so that in cases of property damage and financial loss, each wrongdoer is legally liable to pay only for his or her share of the damage. In effect, instead of having separate contribution proceedings, this regime requires the court to decide on each party's share of the responsibility in the principal proceedings. There will be no rights of contribution between parties whose liability is fixed in this way.

It is fair to point out that this means that whereas, hitherto, the defendant who can pay has borne the share of the defendant who cannot, under this Bill, the plaintiff will be left unable to recover that share. Either solution is imperfect, but the solution proposed by the Bill should help to create a legal environment more conducive to the continued availability and affordability of insurance. There is also the possibility that a plaintiff may be able to buy their own insurance rather than rely on the liability insurance of others. For example, in the chain collision case, comprehensive car insurance would protect the innocent driver against the risk that other drivers may not be able to pay for the damage.

The new regime applies to claims for damages where the wrongdoing is negligent in the broad sense. That is, there must have been a breach of a duty of care either in tort, under a contract or under a statute. It also applies where the wrongdoing occurs without fault, for instance in the case of an innocent misrepresentation in breach of s. 56 of the *Fair Trading Act.* The liability of intentional wrongdoers will not be limited by this Bill, so that, for instance, a person who perpetrates a fraud will remain liable for the whole of the damage done.

The effect of this Bill is that when a person sues for damage to property or for financial loss caused by negligent or innocent wrongdoing, the court, having determined liability and contributory negligence in the ordinary way, will proceed to allocate fixed shares of the damages to the defendants whose liability is apportionable. That party is liable to pay only his or her fixed share. A defendant's share will be fixed according to what is fair and equitable having regard to his or her responsibility for the damage, and the responsibility of other wrongdoers (including any who may not have been joined in the action).

That does not mean that non-parties will have their liability determined in their absence. Rather, the court fixes the maximum liability that could be attributed to them. If they are later sued, they can argue that in fact their liability is less than this or that they are not liable at all. For this reason, it can be expected that, as at present, plaintiffs will usually seek to join all potentially liable parties in the first proceedings. If there are subsequent proceedings, however, the earlier determinations about the amount of damages, and the shares of each wrongdoer, including the plaintiff, cannot be relitigated.

Further, to encourage joinder of all the parties in one action, the Bill requires a defendant to pass on to the plaintiff any information he or she may have about the identity and whereabouts of any other potential defendant and the circumstances giving rise to his or her liability. Failure to do so puts the defendant at risk of an order for the costs of any subsequent proceedings that could have been thereby avoided.

The new regime applies only to concurrent, or several, liability where two parties who do not act jointly bring about the same harm. It does not apply to cases of joint liability, that is, where the defendants have acted together. In those cases, because each is responsible for the joint activity, each remains liable in full.

Also, the Bill does not alter the position of a party who is by operation of law responsible for the wrongdoing of another. For example, it does not allow apportionment between a principal and an agent, an employer and an employee, or between a person who owes a non-delegable duty and the person whose action causes a breach of that duty. Such parties are treated as a group and the court is to allocate a fixed share of liability to the group. The present law about contribution between members of a group is preserved.

This Bill is intended to help ensure that insurance remains available and affordable. It is consistent with measures taken in other States. It will mean that defendants who are responsible for part of

the damage pay only for that part and are not left to pay the share of another party for whose actions they are not responsible in law. At the same time, the measure does not affect the entitlements of plaintiffs who sustain bodily injury. They will remain entitled to recover in full from any of the defaulting parties. The Bill thus seeks to be fair both to plaintiffs and defendants.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

The current *Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001* (the ***principal Act***) is not divided into Parts. The proposed amendments will insert Part headings into the principal Act where necessary and insert a new Part providing for proportional liability between persons liable for a particular act or omission resulting in harm consisting of economic loss (but not economic loss as a result of personal injury) or loss of or damage to property.

Part 2—Amendment of *Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001*

4—Insertion of Part heading

"Part 1—Preliminary" is to be inserted before section 1 of the principal Act.

5—Amendment of section 3—Interpretation

A number of definitions are to be inserted in section 3 and amendments made to current definitions. Among these are the substituted definition of ***derivative liability***. The new definition expands on the current definition so that it will mean—

(a) a vicarious liability (including a partner's liability for the act or omission of another member of the partnership); or

(b) a liability of a person who is subject to a non-delegable duty of care for the act or omission of another that places the person in breach of the non-delegable duty; or

(c) if an insurer or indemnifier is directly liable to a person who has suffered harm for the act or omission of a person who is insured or indemnified against the risk of causing the harm—the liability of the insurer or indemnifier; or

(d) a liability as nominal defendant under a statutory scheme of third-party motor vehicle insurance;

A definition of ***group*** is to be inserted. A group consists of a person who is directly liable for a particular act or omission and the person or persons (if any) who have a derivative liability for the person's act or omission.

Instead of the current definition of ***fault***, a ***negligent wrongdoing*** is defined as—

(a) a breach of a duty of care that arises under the law of torts; or

(b) a breach of a contractual duty of care; or

(c) a breach of a statutory duty of care that is actionable in damages or innocent wrongdoing that gives rise to a statutory right to damages.

A liability is an ***apportionable liability*** if the following conditions are satisfied:

(a) the liability is a liability for harm (but not derivative harm) consisting of economic loss (but not economic loss consequent on personal injury) or loss of, or damage to, property;

(b) 2 or more wrongdoers (who were not acting jointly) committed wrongdoing from which the harm arose;

(c) the liability is the liability of a wrongdoer whose wrongdoing was negligent or innocent.

However, a liability to pay exemplary damages in not to be regarded as an apportionable liability.

6—Amendment of section 4—Application of Act

A new paragraph is to be inserted providing that the principal Act does not apply to liability subject to apportionment under section 72 of the *Development Act 1993*.

7—Amendment, redesignation and relocation of section 5—Judgment does not bar an action against person who is also liable for the same harm

The amendment to current section 5(4) is consequent on amendments providing for apportionable liability. This section as amended is to be redesignated as section 12 and will follow the heading to Part 4 (General provision). In fact, it will be the only section in that Part.

8—Insertion of Part heading

The Part heading (Part 2—Concurrent liability and contributory negligence) is to be inserted before section 6 of the principal Act.

9—Right to contribution

These amendments are consequential on the insertion of Part 3.

10—Amendment of section 7—Apportionment of liability in cases where the person who suffers primary harm is at fault

This amendment is consequential on the substitution of the term "negligent wrongdoing" for the current term used (that is, "fault").

11—Substitution of sections 8 and 9

Current sections 8 and 9 are otiose. In substitution for those sections, it is proposed to insert a new Part 3 comprising sections 8 to 11.

New section 8 (**Limitation of defendant's liability in cases of apportionable liability**) provides that a liability on a claim for damages that is apportionable will be limited under this proposed section. Where that limitation applies, the liability of the defendant will be limited to a percentage of the plaintiff's notional damages that is fair and equitable having regard to the extent of the defendant's liability and the extent of the responsibility of other wrongdoers (including wrongdoers who are not party to the proceedings) for the harm.

For the purposes of working out a defendant's liability—

(a) 2 or more wrongdoers who are members of the same group are to be treated as a single wrongdoer; and

(b) if the plaintiff was guilty of contributory negligence, that contributory negligence will be brought into account as wrongdoing and a percentage assigned to it; and

(c) if 2 or more wrongdoers are each entitled to the benefit of a limitation of liability under this new section (for some reason other than that they are members of the same group), the aggregate percentage assigned to them cannot exceed—

(i) if there is no contributory negligence on the plaintiff's part—100%; or

(ii) if there is contributory negligence on the plaintiff's part—100% less a percentage representing the extent of the plaintiff's responsibility for his or her harm.

New subsection (4) sets out the procedure that a court must follow in a case involving apportionable liability.

The court first determines the plaintiff's notional damages.

Secondly, the court gives judgment against any defendant whose liability is not subject to limitation under this section for damages calculated without regard to new Part 3.

Thirdly, the court determines, in relation to each defendant whose liability is limited under new section 8, a proportion of the plaintiff's notional damages equivalent to the percentage representing the extent of that defendant's liability.

Finally, the court gives judgment against each such defendant based on the assessment made under the third step (but in doing so must give effect to any special limitation of liability to which any of the defendants may be entitled).

The plaintiff is not entitled to recover by way of damages under the judgment more than the amount fixed by the court as the plaintiff's notional damages. a definition of notional damages is to be inserted in section 3. That definition provides a plaintiff's notional damages is the amount of the damages (excluding exemplary damages) to which the plaintiff is, or would be, entitled assuming—

(a) no contributory negligence; and

(b) the defendant were fully liable for the plaintiff's harm and were not entitled to limitation of liability under—

(i) this Act; or

(ii) any other Act that limits the liability of defendants of a particular class (as distinct from one that imposes a general limitation of liability); or

(iii) a contract.

New section 8 does not affect the award of exemplary damages and, if such damages are awarded, they may be recovered from a defendant against whom they were awarded in the ordinary way.

New section 9 (**Contribution**) provides that in a case in which the liability of one or more wrongdoers is limited

under new Part 3, the provisions of Part 2 regarding contribution apply but subject to the following qualifications:

(a) no order for contribution between wrongdoers whose liability is limited may be made;

Exception—

Contribution will be allowed between wrongdoers who are members of the same group, in respect of the liability of the group, in the same way (and subject to the same exceptions) as apply under Part 2.

(b) no order for contribution may be made in favour of a wrongdoer whose liability is limited against a wrongdoer whose liability is not limited;

(c) no order for contribution may be made in favour of a wrongdoer whose liability is not limited (***A***) against a wrongdoer (***B***) whose liability is limited unless A has fully satisfied the judgment debt, and, if such an order is made, the amount of contribution awarded against B cannot exceed the amount of B's liability for damages under the judgment.

New section 10 (**Procedural provision**) provides a defendant who fails to comply with its obligations under this proposed section in relation to another potential defendant's identity and whereabouts and the circumstances giving rise to the other's potential liability may be ordered by a court to pay costs incurred in proceedings that could have been avoided if the defendant had carried out its obligation.

New section 11 (**Separate proceedings**) provides that if a plaintiff brings separate actions for the same harm against wrongdoers who are entitled to a limitation of liability under new Part 3, the judgment first given (or that judgment as varied on appeal) determines for the purpose of all other actions—

(a) the amount of the plaintiff's notional damages; and

(b) the proportionate liability of each wrongdoer who was a party to the action in which the judgment was given; and

(c) whether the plaintiff was guilty of contributory negligence and, if so, the extent of that negligence.

A new Part heading is to be inserted after new section 11. That Part (**General provision**) will be comprised of section 12 (**Judgment does not bar an action against person who is also liable for the same harm**), which is current section 5 with amendment (see section 7 of this measure).

12—Transitional provision

The amendments to be effected by this measure are intended to apply prospectively only.

The Hon. R.G. KERIN secured the adjournment of the debate.

DEFAMATION BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to modify the general law relating to the tort of defamation; to repeal provisions of the Civil Liability Act 1936 relating to the tort of defamation; to amend the Criminal Law Consolidation Act 1935, the Evidence Act 1929 and the Limitation of Actions Act 1936; and for other purposes. Read a first time.

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

That this bill be now read a second time.

The bill reforms the law of defamation in accordance with model provisions agreed by all state and territory Attorneys-General in November 2004. They had attempted to reach agreement on uniform defamation law reform since 1979, without success. Indeed, I recall being a cadet, or perhaps a D-grade reporter with *The Advertiser*, under the Metropolitan Daily Newspapers Award, and being detailed by the then editor, Don Riddell, to be paid by Advertiser administration, rather than Advertiser editorial, so that I could work on *The Advertiser*'s response to then federal government's proposal for a uniform defamation law. Believe me, I worked for *The Advertiser* a long time ago. The agreement was a long time coming.

Protecting freedom of expression and protecting personal reputation from unjustified aspersions are not new ideas. They can be traced back through the common law for hundreds of years. However, the balance between these competing interests, and the degree to which people could express themselves freely, have changed over time. The means and speed with which people communicate have changed dramatically in recent years. The government puts this bill forward as representing a reasonable and fair balance between the competing interests and a reasonable and fair way of accommodating the changes brought about by technology.

We have all heard about some defamation litigation that has dragged on interminably at great expense to all parties and the court system and at considerable emotional cost to the parties. Some of us have been shocked by the size of some awards of damages, especially a few made in New South Wales. The bill contains provisions that are intended to provide incentives for early settlement of disputes about defamation, and to encourage early corrections, apologies and replies to correct errors, put both sides of a story, and restore damaged reputations. It would also cap the damages that may be awarded for non-economic loss.

From the point of view of commercial publishers and people who have a national reputation, the difference between the defamation laws of each state and territory has caused difficulties. The differences between jurisdictions have come about because states and territories have modified and supplemented the common law by statute in differing ways. The mass media, book publishers, internet service providers and others, have urged all Australian governments to make the law of defamation the same, or at least consistent, throughout Australia.

The bill will not entirely displace the common law. Rather, it will modify and supplement it in a way that is appropriate to modern means of communication, and in a way that has been agreed by all the state and territory attorneys-general, and drafted in consultation with parliamentary counsel's committee. I implore members to approach the bill with goodwill and not to undermine the uniformity that will be achieved if state and territory parliaments pass bills in accordance with the model. Lastly, the useful information about this bill is mostly contained in the clause notes rather than the second reading speech. I seek leave to have the rest of the explanation incorporated in *Hansard* without my reading it.

Leave granted.

This Bill is to reform the law of defamation in accordance with model provisions agreed to by all State and Territory Attorneys-General in November, 2004. Attorneys-General had attempted to reach agreement on uniform defamation law reform since 1979, without success. This agreement, then, was a long time coming.

Protecting freedom of expression and protecting personal reputation from unjustified aspersions are not new ideas. They can be traced back through the common law for hundreds of years. However, the balance between these competing interests, and the degree to which people could express themselves freely, have changed over time. And the means and speed with which people communicate have changed dramatically in recent years. The Government puts this Bill forward as representing a reasonable and fair balance between the competing interests and a reasonable and fair way of accommodating the changes brought about by technology.

We have all heard about some defamation litigation that has dragged on interminably at great expense to all parties and the court system and at considerable emotional cost to some parties. Some of us have been shocked by the size of some awards of damages, especially some made interstate. This Bill contains provisions that are intended to provide incentives for early settlement of disputes about defamation and to encourage early corrections, apologies and replies to correct errors, put both sides of a story and restore

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I implore Members to approach this Bill with goodwill and not to undermine the uniformity that will be achieved if State and Territory Parliaments pass Bills in accordance with the model.

The Bill would repeal the old defamation provisions that, for a long time, have been in our *Wrongs Act 1936* (recently renamed the *Civil Liability Act 1936*). Instead, we would have a stand-alone Act called the *Defamation Act 2005*.

The explanation of the clauses of the Bill adopt most of the explanatory notes drafted by an interstate Parliamentary Counsel in consultation with Parliamentary Counsel's Committee. They are very detailed and cover much of what I would normally say in my second reading speech, such as background information relevant to particular clauses. I will not repeat them. However, I mention some of the major points.

For the first time, there will be a statement of objects in our statutory defamation provisions. They are set out in clause three. They are:

- to enact provisions to promote uniform laws of defamation in Australia;
- to ensure that the law of defamation does not place unreasonable limits on freedom of expression and, in particular, on the publication and discussion of matters of public interest and importance;
- to provide effective and fair remedies for persons whose reputations are harmed by the publication of defamatory matter; and
- to promote speedy and non-litigious methods of resolving disputes and the publication of defamatory matter.

Decisions about whether matter that has been published is, or is not, defamatory will continue to be decided according to the common law. This will allow for the law to change gradually and incrementally as the meaning of words and actions and the standards of society change. The majority of submissions, including all those made by mass media organisations, supported this.

At common law, a libel was actionable without proof of actual damage—slander was actionable only if the defamed person proved that actual damage resulted from the slander. The distinction originated in the days when words spoken were transient. They were published by the speaker only to the people who were close enough to hear. Now spoken words are often broadcast to thousands, if not millions, of people and are recorded by electronic means for future reproduction and republishing. Commonwealth legislation treats matter published by radio or television as potentially libellous, rather than slanderous. The submissions received indicated that the distinction is now considered anachronistic. The majority of States and Territories have already abolished it by statute. The Bill would abolish the distinction between libel and slander in South Australia.

The New South Wales experiment of making each imputation conveyed by a defamatory statement a separate cause of action will not be followed. The common law position that a publication gives rise to one cause of action no matter how many imputations it conveys would be maintained by the Model Bill and this Bill.

The defences to actions in defamation are as important as the elements of the cause of action. One of the most contentious issues has been whether a person should ever be liable for publishing matter that is true. At common law, and in South Australia, the position has always been that a defendant who proves that the published matter was true has a complete defence. Traditionally, this has been known as *the defence of justification*. This is also the law in Victoria, Western Australia and the Northern Territory, New Zealand and England. In New South Wales the defendant has a defence only if it is also proved that the matter was published in the public interest. In Queensland, Tasmania and the Australian Capital Territory the defendant must prove that the matter was published for the public benefit. In November, all State and Territory Attorneys-General agreed that their Bills should contain a statutory defence that reflects the common law defence of justification, and thus, this aspect of the South Australian law will not change.

The Bill would allow the common law defence of qualified privilege to continue to operate.

In addition, the Bill contains statutory defences of:

- contextual truth;
- absolute privilege;
- publication of public documents;
- fair report of proceedings of public concern;
- qualified privilege that is wider than the common law defence of qualified privilege;
- honest expressions of opinion;
- innocent dissemination, which will protect people such as newsagents, booksellers, librarians and internet service providers who unwittingly publish defamatory matter without negligence on their part; and
- triviality.

These are explained in the explanation of the clauses.

Unlike the Model Bill, this Bill does not include schedules of publications that are to be protected. This is because we have not, as yet, identified any specific publications, or any specific bodies whose publications, should be protected additionally to those who would be protected by the more general provisions of clauses 25, 26 and 27 of this Bill.

Our *Limitation of Actions Act 1936* sets limitation periods of two years for slander and six years for libel. The general view of people who made submissions was that the limitation period is too long in some jurisdictions, including in South Australia. The Bill would set a limitation period of one year for commencement of civil defamation actions. Early correction, restoration of reputation and resolution of defamation disputes is in the interests of the parties and the public. The shortening of the limitation period will help to achieve the object of providing effective remedies. Also, as the distinction between libel and slander would be abolished by this Bill, there would be no need for two different limitation periods. However, the court would have power to extend the time to up to three years in certain circumstances set out in Part 5 of Schedule 1 of the Bill.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

Sets out the name (also called the short title) of the proposed Act.

2—Commencement

This clause provides that the proposed Act will come into operation on 1 January 2006.

3—Objects of Act

Clause 3 sets out the objects of the proposed Act.

4—Interpretation

Proposed section 4 defines certain terms used in the proposed Act. In particular, the following terms are defined:

The ***general law*** is defined to mean the common law and equity.

The term ***matter*** is defined to include the following:

- an article, report, advertisement or other thing communicated by means of a newspaper, magazine or other periodical;
- a program, report, advertisement or other thing communicated by means of television, radio, the Internet or any other form of electronic communication;
- a letter, note or other writing;
- a picture, gesture or oral utterance;
- any other thing by means of which something may be communicated to a person.

The term ***publication*** of matter is defined to mean communication of the matter by one person to any other person. However, it should be noted that at general law certain kinds of communication are not treated as being publications of matter for the purposes of the tort of defamation. An example of this is where defamatory matter is communicated only to the person being defamed. The operation of the general law in relation to what constitutes publication for the purposes of the tort of defamation is preserved by proposed section 6.

5—Act binds Crown

The proposed Act binds the Crown in all its capacities.

Part 2—General principles

Division 1—Defamation and the general law

6—Tort of defamation

The proposed Act does not affect the operation of the general law in relation to the tort of defamation except to the extent that the proposed Act provides otherwise (whether expressly or by necessary implication). The proposed section also makes it clear that the general law as it is from time to time is to apply for the purposes of the new legislation as if existing defamation legislation had never been enacted or made. This provision removes any doubt about the application of the general law particularly in those Australian jurisdictions in which the general law has previously been displaced by a codified law of defamation

The proposed Act does not seek to define the circumstances in which a person has a cause of action for defamation. Rather, the proposed Act operates by reference to the elements of the tort of defamation at general law. Accordingly, if a plaintiff does not have a cause of action for defamation at general law in relation to the publication of matter by the defendant, the plaintiff will not (subject to the modification of the general law effected by proposed section 7) have a cause of action for the purposes of the proposed Act.

At general law, a plaintiff has a cause of action for defamation against a defendant if the defendant publishes defamatory accusations or charges (referred to conventionally as ***imputations***) about the plaintiff to at least one other person (other than the defendant or his or her spouse). The courts have expressed the test for determining what is defamatory in various ways. Perhaps the most familiar description is that of Lord Atkin in *Sim v Stretch [1936] 2 All ER 1237* at p1240—matter that tends to lower the plaintiff in the estimation of right-thinking members of society generally. Nowadays, the word "ordinary" is usually used, rather than "right-thinking".

"Defamatory" can be described as tending to damage the plaintiff's reputation, or tending to lead to his or her exclusion from society. Words, gestures etc, however insulting or objectionable, that tend to produce neither of these effects, are not actionable.

Usually a defamatory statement imputes that the person about whom it is said is morally blameworthy. However, a statement, although not imputing moral blameworthiness, may be defamatory if it dishonours the person.

7—Distinction between slander and libel abolished

The general law distinction between libel and slander is abolished.

At general law, libel is the publication of defamatory matter in a written or other permanent form while slander is the publication of defamatory matter in a form that is temporary and merely audible. If a matter is libellous, the plaintiff does not need to prove that he or she sustained material loss (or ***special damage***) in order for the matter to be actionable. However, if a matter is slanderous, the plaintiff must usually prove special damage in order for the matter to be actionable. The abolition of this general law distinction means that all publications of defamatory matter are actionable without proof of special damage.

The distinction has already been abolished in most Australian jurisdictions under existing law. The only exceptions are South Australia, Victoria and Western Australia.

Division 2—Causes of action for defamation

8—Single cause of action for multiple defamatory imputations in same matter

A person has a single cause of action for defamation in relation to the publication of defamatory matter even if more than one defamatory imputation about the person is carried by the matter.

The proposed section reflects the position at general law that the publication of defamatory matter is the foundation of a civil action for defamation and reflects the existing law in all of the States and Territories, other than New South Wales.

9—Certain corporations do not have cause of action for defamation

A corporation cannot assert or enforce a cause of action for defamation of the corporation. The only exception to this general rule will be a corporation that is operated on a not-for-profit basis, but that is not a governmental or public authority under a law of an Australian jurisdiction or another country. The proposed section will not preclude any individual associated with a corporation from suing for defamation in relation to the publication of matter about the individual that also defames the corporation.

10—No cause of action for defamation of, or against, deceased persons

Proposed section 10 provides that no civil action for defamation may be asserted, continued or enforced by a person in relation to the publication of defamatory matter about a deceased person (whether or not published before or after the person's death). The proposed section also prevents the assertion, continuation or enforcement of a civil cause of action for defamation against a publisher of defamatory matter who is deceased.

South Australian law, and the existing laws of the States and Territories (except Tasmania), preclude a civil action for defamation in relation to a deceased person, or against a deceased person. This reflects the position at general law.

Division 3—Choice of law

11—Choice of law for defamation proceedings

This proposed section provides for choice of law rules where a civil cause of action is brought in a court of this State in relation to the publication of defamatory matter that occurred wholly or partly in an Australian jurisdictional area. An ***Australian jurisdictional area*** is defined to mean—

(a) the geographical area of Australia that lies within the territorial limits of a particular State (including its coastal waters), but not including any territory, place or other area referred to in paragraph (c), or

(b) the geographical area of Australia that lies within the territorial limits of a particular Territory (including its coastal waters), but not including any territory, place or other area referred to in paragraph (c), or

(c) any territory, place or other geographical area of Australia over which the Commonwealth has legislative competence but over which no State or Territory has legislative competence.

Examples of areas over which the Commonwealth, but not a State or Territory, has legislative competence include places in relation to which the Commonwealth has exclusive power to make laws under section 52(i) of the Commonwealth Constitution and the external Territories of the Commonwealth.

The proposed section creates two choice of law rules.

The first choice of law rule applies where a matter is published only within one Australian jurisdictional area. The choice of law rule in that case will require a court of this State to apply the substantive law applicable in the Australian jurisdictional area in which the matter was published.

The second choice of law rule applies if the same, or substantially the same, matter is published in more than one Australian jurisdictional area by a particular person to two or more persons. The choice of law rule in that case will require a court of this State to apply the substantive law applicable in the Australian jurisdictional area with which the harm occasioned by the publication as a whole has its closest connection. In determining which area has the closest connection with the harm, the court may take into account any matter it considers relevant, including—

- the place at the time of publication where the plaintiff was ordinarily resident or, in the case of a corporation that may assert a cause of action for defamation, the place where the corporation had its principal place of business at that time; and
- the extent of publication in each relevant Australian jurisdictional area; and
- the extent of harm sustained by the plaintiff in each relevant Australian jurisdictional area.

The second choice of law rule is based on the recommendation made by the Australian Law Reform Commission in its report entitled Unfair Publication: Defamation and Privacy (1979, Report No 11) at pages 190–191. As indicated in that report, the Australian jurisdictional area with which the tort will have its closest connection will generally be where the plaintiff is resident if the plaintiff is a natural person resident in Australia. In the case of a corporation, it will generally be where the corporation has its principal place of business.

These choice of law rules will be needed when an Act limits or excludes civil liability for defamation in a particular jurisdiction. For instance, a common statutory provision in

State and Territory law is one that protects a public official or public authority of the State or Territory from civil liability for actions taken in good faith in the exercise of statutory functions. These provisions are of general application and therefore include, but are not limited to, civil liability for defamation.

Under existing law, choice of law for defamation matters is largely determined by the general law. Under the general law, the law of the place in which a defamatory matter is published must be applied to determine liability for that publication. If the matter is published in more than one place, then there is a separate cause of action for each publication. In that circumstance, different laws may need to be applied for each different publication depending on the place of publication.

Part 3—Resolution of civil disputes without litigation

Division 1—Offers to make amends

The Division sets out provisions dealing with offers to make amends for the publication of matter that is, or may be, defamatory. The provisions may be used before, or as an alternative to, litigation.

New South Wales and the Australian Capital Territory make similar provision for offers to make amends under their existing laws. The other Australian jurisdictions have provisions in their rules of court and other civil procedure legislation that provide for the making of offers of compromise or payments into court. However, these provisions tend to be available only once litigation has commenced.

12—Application of Division

Division 1 applies if a person (the ***publisher***) publishes matter (the ***matter in question***) that is, or may be, defamatory of another person (the ***aggrieved person***). The proposed section also makes it clear that the Division operates discretely from any rules of court or any other law in relation to payment into court or offers of compromise. However, the Division will not prevent the making or acceptance of other settlement offers.

13—Publisher may make offer to make amends

Proposed section 13 enables a publisher to make an offer to make amends to an aggrieved person.

14—When offer to make amends may be made

The offer cannot be made if 28 days or more have elapsed since the publisher has been given a concerns notice by the aggrieved person that the matter in question is, or may be, defamatory or if a defence in an action for defamation brought by the aggrieved person has been served. The proposed section also enables a publisher to seek further particulars from the aggrieved person if the concerns notice does not particularise the defamatory imputations carried by the matter in question of which the aggrieved person complains.

15—Content of offer to make amends

This proposed section specifies what an offer to make amends must or may contain. It also confers certain powers on a court in relation to the enforcement of an offer to make amends that is accepted by an aggrieved person.

16—Withdrawal of offer to make amends

Proposed section 16 enables a publisher to withdraw an offer to make amends. It also enables a publisher to make a renewed offer to make amends after the expiry of the periods referred to in proposed section 14 if the renewed offer is a genuine attempt by the publisher to address matters of concern raised by the aggrieved person about an earlier offer and is made within 14 days after the earlier offer is withdrawn (or within an agreed period).

17—Effect of acceptance of offer to make amends

If the publisher carries out the terms of an accepted offer to make amends (including paying any compensation under the offer), the aggrieved person cannot assert, continue or enforce an action for defamation against the publisher in relation to the matter in question even if the offer was limited to any particular defamatory imputations.

18—Effect of failure to accept reasonable offer to make amends

Under proposed section 18, it is a defence to an action for defamation against the publisher if the publisher made an offer of amends that was not accepted and the offer was made as soon as practicable after the publisher became aware that the matter in question is or may be defamatory, the publisher was ready and willing to carry out the terms of the offer, and the offer was reasonable in the circumstances.

19—Inadmissibility of evidence of certain statements and admissions

Proposed section 19 provides that (subject to some exceptions) evidence of any statement or admission made in connection with the making or acceptance of an offer to make amends is not admissible as evidence in any criminal or civil proceedings.

Division 2—Apologies

20—Effect of apology on liability for defamation

An apology by or on behalf of a person will not constitute an admission of liability, and will not be relevant to the determination of fault or liability, in connection with any defamatory matter published by the person.

Part 4—Litigation of civil disputes

Division 1—General

21—Permission required for further proceedings in relation to publication of same defamatory matter

If a person has brought defamation proceedings in South Australia or elsewhere, the permission of the court is required for further proceedings for defamation to be brought against the same person for the same or like matter.

Division 2—Defences

22—Scope of defences under general law and other law not limited

Proposed section 22 provides that a defence under Division 2 is additional to any other defence or exclusion of liability available to the defendant apart from the proposed Act (including under the general law) and does not of itself vitiate, limit or abrogate any other defence or exclusion or liability. The proposed section also provides that the general law applies to determine whether a publication of defamatory matter was actuated by malice. At general law, a publication of matter is actuated by malice if it is published for a purpose or with a motive that is foreign to the occasion that gives rise to the defence at issue. See Roberts v Bass (2002) 212 CLR 1 at 30–33.

23—Defence of justification

Under proposed section 23, it is a defence to the publication of defamatory matter if the defendant proves that the defamatory imputations carried by the matter of which the plaintiff complains are substantially true. The term ***substantially true*** is defined in proposed section 4 to mean true in substance or not materially different from the truth.

The defence reflects the defence of justification at general law where truth alone is a defence to the publication of defamatory matter.

24—Defence of contextual truth

This proposed section provides for a defence of contextual truth. The defence deals with the case where there are a number of defamatory imputations carried by a matter, but the plaintiff has chosen to proceed with one or more, but not all of them. In that circumstance, the defendant may have a defence of contextual truth if the defendant proves—

- the matter carried, in addition to the defamatory imputations of which the plaintiff complains, one or more other imputations (***contextual imputations***) that are substantially true; and
- the defamatory imputations about which the plaintiff complains do not further harm the reputation of the plaintiff because of the substantial truth of the contextual imputations.

There is a defence of contextual truth under the existing law of New South Wales.

At general law, the truth of each defamatory imputation carried by the matter published that is pleaded by the plaintiff must be proved to make out the defence of justification unless it can be established that the imputations were not separate and distinct but, as a whole, carried a "common sting". In that case, the defence of justification is made out if the defendant can show that the "common sting" is true. See Polly Peck (Holdings) Plc v Trelfold [1986] QB 1000 at 1032. The defence of contextual truth created by the proposed Act, unlike the general law, will apply even if the contextual imputations are separate and distinct from the defamatory imputations of which the plaintiff complains.

25—Defence of absolute privilege

Proposed section 25 provides that it is a defence to the publication of defamatory matter if the defendant proves that the matter was published on an occasion of absolute privilege. The proposed section lists, on a non-exhaustive basis, certain publications that are protected by this defence. These include—

- the publication of matter in the course of the proceedings of a parliamentary body of any country; and
- the publication of matter in the course of the proceedings of an Australian court or Australian tribunal; and
- the publication of matter on an occasion that, if published in another Australian jurisdiction, would be an occasion of absolute privilege in that jurisdiction under a provision of a law of the jurisdiction corresponding to the proposed section.

The defence of absolute privilege at general law extends to certain parliamentary and judicial proceedings and certain ministerial communications. The privilege is described as being absolute because it cannot be defeated even if the matter was untrue or was published maliciously.

The proposed section extends the defence of absolute privilege to the publication of matter that would be subject to absolute privilege under the corresponding law of another Australian jurisdiction.

26—Defence for publication of public documents

It is a defence to the publication of defamatory matter if the defendant proves that the matter was contained in—

- a public document or a fair copy of a public document; or
- a fair summary of, or a fair extract from, a public document.

The proposed section provides that the defence is defeated if, and only if, the plaintiff proves that the defamatory matter was not published honestly for the information of the public or the advancement of education.

The proposed section defines ***public document*** to mean—

- any report or paper published by a parliamentary body, or a record of votes, debates or other proceedings relating to a parliamentary body published by or under the authority of the body or any law; or
- any judgment, order or other determination of a court or arbitral tribunal of any country in civil proceedings and includes—
- any record of the court or tribunal relating to the judgment, order or determination or to its enforcement or satisfaction; and
- any report of the court or tribunal about its judgment, order or determination and the reasons for its judgment, order or determination; or
- any report or other document that under the law of any country—
- is authorised to be published; or
- is required to be presented or submitted to, tabled in, or laid before, a parliamentary body; or
- any document issued by the government (including a local government) of a country, or by an officer, employee or agency of the government, for the information of the public; or
- any record or document open to inspection by the public that is kept—
- by an Australian jurisdiction; or
- by a statutory authority of an Australian jurisdiction; or
- by an Australian court; or
- under legislation of an Australian jurisdiction; or
- any other document issued, kept or published by a person, body or organisation of another Australian jurisdiction that is treated in that jurisdiction as a public document under a provision of a law of the jurisdiction corresponding to the proposed section.

The existing laws of a number of States and Territories make provision for a statutory defence along these lines. However, the scope of the statutory defences differs in each jurisdiction.

27—Defences of fair report of proceedings of public concern

It is a defence to the publication of defamatory matter if the defendant proves that the matter was, or was contained in, a fair report of any proceedings of public concern. The proposed section also provides that it is a defence to the publication of defamatory matter if the defendant proves that—

- the matter was, or was contained in, an earlier published report of proceedings of public concern; and
- the matter was, or was contained in, a fair copy of, a fair summary of, or a fair extract from, the earlier published report; and
- the defendant had no knowledge that would reasonably make the defendant aware that the earlier published report was not fair.

The proposed section provides that the defence is defeated if, and only if, the plaintiff proves that the defamatory matter was not published honestly for the information of the public or the advancement of education.

The proposed section defines ***proceedings of public concern*** to mean—

- any proceedings in public of a parliamentary body; or
- any proceedings in public of an international organisation of any countries or of the governments of any countries; or
- any proceedings in public of an international conference at which the governments of any countries are represented; or
- any proceedings in public of—
- the International Court of Justice, or any other judicial or arbitral tribunal, for the decision of any matter in dispute between nations; or
- any other international judicial or arbitral tribunal; or
- any proceedings in public of a court or arbitral tribunal of any country; or
- any proceedings in public of an inquiry held under the law of any country or under the authority of the government of any country; or
- any proceedings in public of a local government body of any Australian jurisdiction; or
- certain proceedings of a learned society or of a committee or governing body of such a society; or
- certain proceedings of a sport or recreation association or of a committee or governing body of such an association; or
- certain proceedings of a trade association or of a committee or governing body of such an association; or
- any proceedings of a public meeting (with or without restriction on the people attending) of shareholders of a public company under the Corporations Act 2001 of the Commonwealth held anywhere in Australia; or
- any proceedings of a public meeting (with or without restriction on the people attending) held anywhere in Australia if the proceedings relate to a matter of public interest, including the advocacy or candidature of a person for public office; or
- any proceedings of an ombudsman of any country if the proceedings relate to a report of the ombudsman; or
- any proceedings in public of a law reform body of any country; or
- any other proceedings conducted by, or proceedings of, a person, body or organisation of another Australian jurisdiction that are treated in that jurisdiction as proceedings of public concern under a provision of a law of the jurisdiction corresponding to the proposed section.

At general law, fair and accurate reports of proceedings of certain persons and bodies are subject to qualified privilege. For example, the general law defence extends to proceedings in parliament and judicial proceedings conducted in open court. As the defence at common law is a defence of qualified privilege, it can be defeated by proof that the publication of the defamatory matter was actuated by malice.

The existing laws of most States and Territories make provision for a statutory defence along the lines of the general law defence. However, the scope of the statutory defences differs in each jurisdiction.

The proposed section extends to a larger class of proceedings than the general law defence. Also, the new defence limits the circumstances in which the defence can be defeated to situations where the plaintiff proves that the defamatory

matter was not published honestly for the information of the public or the advancement of education.

28—Defence of qualified privilege for provision of certain information

Proposed section 28 provides for a defence of qualified privilege that is based on the provisions of section 22 of the Defamation Act 1974 of New South Wales. The proposed section provides that it is a defence to the publication of defamatory matter to a person (the ***recipient***) if the defendant proves that—

- the recipient has an interest or apparent interest in having information on some subject; and
- the matter is published to the recipient in the course of giving to the recipient information on that subject; and
- the conduct of the defendant in publishing that matter is reasonable in the circumstances.

The proposed section lists a number of factors that the court may take into account in determining whether the conduct of the defendant was reasonable. These factors largely mirror the factors relevant at general law as stated by the House of Lords in Reynolds v Times Newspapers Ltd (2001) 2 AC 127.

As the defence created by the proposed section is a defence of qualified privilege, it can be defeated on the same grounds as the defence of qualified privilege at general law. For example, the proposed section makes it clear that the defence may be defeated if the plaintiff proves that the publication was actuated by malice.

The defence is broader than the defence at general law because the interest that the recipient must have or apparently have is not as limited as at general law. It has been said of the New South Wales provision that "[w]hat the section does is to substitute reasonableness in the circumstances for the duty or interest which the common law principles of privilege require to be established". See Morosi v Mirror Newspapers Ltd [1977] 2 NSWLR 749 at 797.

The proposed section, however, adds to the factors referred to in the New South Wales provision in two important respects. Firstly, it requires the court to take into account whether it was in the public interest in the circumstances for the matter published to be published expeditiously. The New South Wales provision limits the court to a consideration of whether it was necessary in the circumstances for the matter published to be published expeditiously. Secondly, it requires a court to take into account the nature of the business environment in which the defendant operates. The New South Wales provision does not include this factor in its list of factors.

29—Defences of honest opinion

This proposed section provides for a number of defences relating to the publication of matter that expresses an opinion that is honestly held by its maker.

The proposed section distinguishes between three situations.

The first situation is where the opinion was that of the defendant. In that situation, the defence is made out if it is proved that the defendant honestly held the opinion, the opinion related to a matter of public interest and the opinion was based on proper material. ***Proper material***, for the purposes of the proposed section, is material that—

- is substantially true; or
- was published on an occasion of absolute or qualified privilege (whether under this Act or at general law); or
- was published on an occasion that attracted the protection of a defence under the proposed section or proposed section 26 or 27 or the defence of fair comment at general law.

The second situation is where the opinion was that of the defendant's employee or agent. In that situation, the defence is made out if it is proved that the defendant believed that the opinion was honestly held by the employee or agent, the opinion related to a matter of public interest and the opinion was based on proper material.

The third situation is where the opinion was that of a third party. In that situation, the defence is made out if it is proved that the defendant had no reasonable ground to believe that the opinion was not honestly held by the third party at the time of publication, the opinion related to a matter of public interest and the opinion was based on proper material.

The defences, at least in relation to opinions personally held by the defendant, largely reflect the defence of fair comment at general law. However, the proposed section clarifies the position at general law in relation to the publication of the opinions of employees, agents and third parties. The existing laws of New South Wales, Queensland, Tasmania, Western Australia and the Northern Territory make statutory provision (whether partly or wholly) in relation to the defence of fair comment. The proposed section also make it clear that the defence may be defeated if the plaintiff proves that the publication was actuated by malice.

30—Defence of innocent dissemination

Proposed section 30 provides that it is a defence to the publication of defamatory matter if the defendant proves that—

- the defendant published the matter merely in the capacity, or as an employee or agent, of a subordinate distributor; and
- the defendant neither knew, nor ought reasonably to have known, that the matter was defamatory; and
- the defendant's lack of knowledge was not due to any negligence on the part of the defendant.

A person will be a subordinate distributor of matter for the purposes of the proposed section if the person—

- was not the first or primary distributor of the matter; and
- was not the author or originator of the matter; and
- did not have any capacity to exercise editorial control over the content of the matter (or over the publication of the matter) before it was first published.

The proposed section also lists a number of circumstances in which a person will generally not be treated as being the first or primary publisher of matter.

The defence largely follows the defence of innocent dissemination at general law. See, for example, Thompson v Australian Capital Television Pty Ltd (1996) 186 CLR 574. However, the provision seeks to make the position of providers of Internet and other electronic and communication services clearer than it is at general law. For example, the provider of an Internet email service will generally not be treated as being the first or primary distributor of defamatory matter contained in an email sent using the service. Accordingly, a service provider of that kind will be treated as being a subordinate distributor for the purposes of the defence unless it can be shown that the service provider was the author or originator of the matter or had the capacity to exercise editorial control over the matter.

31—Defence of triviality

It is a defence to the publication of defamatory matter if the defendant proves that the circumstances of publication were such that the plaintiff was unlikely to sustain any harm.

The existing laws of the Australian Capital Territory, New South Wales, Queensland, Tasmania and Western Australia already provide for the defence.

Division 3—Remedies

32—Damages to bear rational relationship to harm

A court, in determining the amount of damages to be awarded in any defamation proceedings, is to ensure that there is an appropriate and rational relationship between the harm sustained by the plaintiff and the amount of damages awarded.

33—Damages for non-economic loss limited

Proposed section 33 provides for the determination of damages for non-economic loss for defamation. A limit on the amount of damages for non-economic loss is imposed ($250 000). The proposed section also provides for the indexation, by order of the Minister published in the Gazette, of the maximum amount that may be awarded as damages for non-economic loss. A court will not be permitted to order a defendant to pay damages that exceed the maximum damages amount under the proposed section unless it is satisfied that the circumstances of the publication of the matter to which the proceedings relate are such as to warrant an award of aggravated damages.

The existing laws of the States and Territories do not currently impose a cap on damages for non-economic loss that may be awarded in defamation proceedings.

34—State of mind of defendant generally not relevant to awarding damages
A court, in awarding damages, is generally to disregard the malice or other state of mind of the defendant at the time the matter to which the proceedings relate was published.
35—Exemplary or punitive damages cannot be awarded
A court cannot award exemplary or punitive damages for defamation.
The award of these damages is permitted under the existing laws of all of the States and Territories other than New South Wales.
36—Factors in mitigation of damages
Proposed section 36 lists some factors that a court may take into account in mitigation of damages. The list is not intended to be exhaustive.
The existing laws of a number of States and Territories make provision for similar mitigating factors, although there are differences between the jurisdictions as to the factors expressly recognised by legislation.
37—Damages for multiple causes of action may be assessed as single sum
This proposed section enables a court in defamation proceedings that finds for a plaintiff on more than one cause of action to assess damages as a single sum.
The existing law of New South Wales already confers this power on its courts.
Division 4—Costs
38—Costs in defamation proceedings
Proposed section 38 requires a court (unless the interests of justice require otherwise) to order costs against an unsuccessful party to proceedings for defamation to be assessed on an indemnity basis if the court is satisfied that the party unreasonably failed to make or accept a settlement offer made by the other party to the proceedings. The proposed section also provides that in awarding costs in relation to proceedings for defamation, the court may have regard to—

- the way in which the parties to the proceedings conducted their cases; and
- any other matters that the court considers relevant.

The proposed section is based on the provisions of section 48A of the Defamation Act 1974 of New South Wales.
Part 5—Miscellaneous
39—Proceedings for an offence do not bar civil proceedings
The commencement of criminal proceedings for an offence under section 257 of the *Criminal Law Consolidation Act 1935* does not preclude the commencement of civil proceedings or the determination of those proceedings.
40—Proof of publication
Clause 40 facilitates the proof in civil proceedings for defamation of publication in the context of mass produced copies of matter and periodicals.
41—Giving of notices and other documents
Clause 41 provides for how notices may be given under the proposed Act.
42—Regulations
Clause 42 confers a power to make regulations for the purposes of the proposed Act.
Schedule 1—Related amendments and transitional provisions
Part 1—Preliminary
1—Amendment provisions
This clause is formal.
Part 2—Amendment of *Civil Liability Act 1936*
2—Amendment of section 3—Interpretation
This clause removes the definition of ***newspaper*** from section 3 of the *Civil Liability Act 1936*. That definition is redundant because of the proposed repeal of Part 2 of the Act.
3—Repeal of Part 2
Part 2 of the *Civil Liability Act 1936* is repealed.
Part 3—Amendment of *Criminal Law Consolidation Act 1935*
4—Amendment of section 257—Criminal defamation
Section 257(2) of the *Criminal Law Consolidation Act 1935* provides that a person charged with the offence of criminal defamation has a lawful excuse for the publication of the relevant defamatory matter if he or she would have a defence to an action for damages for defamation in respect of the publication. As a consequence of the amendment proposed by this clause, in determining whether the person charged with the offence has a lawful excuse, regard may be had only to the circumstances happening before or at the time of the publication.
Part 4—Amendment of *Evidence Act 1929*
5—Substitution of section 33
This clause recasts section 33 of the *Evidence Act 1929*. Under proposed new section 33, a person who is required to answer a question, or to discover or produce a document or thing, in civil proceedings for defamation is not excused from answering the question or discovering or producing the document or thing on the ground that the answer to the question or the discovery or production of the document or thing might tend to incriminate the person of an offence. However, under subsection (2), an answer given to a question, or document or thing discovered or produced, by a natural person in compliance with the requirement is not admissible in evidence against the person in any other action or proceedings
Part 5—Amendment of *Limitation of Actions Act 1936*
6—Substitution of section 37
This clause amends the *Limitation of Actions Act 1936* to provide that, generally, a civil action for defamation must be commenced within one year following the date of publication of the matter of which the plaintiff complains. However, a court is to extend this limitation period to a period of up to three years if it is satisfied that it was not reasonable in the circumstances for the plaintiff to have commenced the action within the one year period.
Under their existing laws, both New South Wales and the Australian Capital Territory provide for a one year limitation period that can be extended for a limited further period. In South Australia and Western Australia actions for slander are subject to a limitation period of two years. In other cases and in other jurisdictions, the limitation period is generally six years.
Part 6—Transitional provisions
7—Savings, transitional and other provisions
Clause 7 provides that, generally, the proposed Act will apply to defamatory matter that is published on or after the commencement of the proposed Act. However, the existing law will continue to apply to the following:

- a cause of action for defamation that accrued before the commencement of the proposed Act; and
- a cause of action for defamation that accrued after the commencement of the proposed Act, but only if—
- the action is raised in proceedings that include other causes of action that accrued before that commencement; and
- the action accrued no later than 12 months after the earliest pre-commencement action accrued; and
- each action in the proceedings arose out of the publication of the same, or substantially the same, matter on different occasions.

8—Application of amendments to *Limitation of Actions Act 1936*
This clause provides for transitional arrangements in relation to the amendments made by Part 5 of Schedule 1 to the *Limitation of Actions Act 1936*. These transitional arrangements are in similar terms to those prescribed by clause 7 with respect to the application of the Act to defamatory matter.

The Hon. R.G. KERIN secured the adjournment of the debate.

STATUTES AMENDMENT (ENVIRONMENT AND CONSERVATION PORTFOLIO) BILL

The Hon. J.D. HILL (Minister for Environment and Conservation) obtained leave and introduced a bill for an act to amend the Historic Shipwrecks Act 1981, the National Parks and Wildlife Act 1972, the Native Vegetation Act 1991, the Natural Resources Management Act 2004, the Pastoral Land Management and Conservation Act 1989, the Radiation Protection and Control Act 1982, the Water

Resources Act 1997 and the Wilderness Protection Act 1992. Read a first time.

The Hon. J.D. HILL: I move:

That this bill be now read a second time.

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

Leave granted.

Introduction

The *Statutes Amendment (Environment and Conservation Portfolio) Bill 2005* seeks to make minor and administrative amendments to a number of Acts within the Environment and Conservation Portfolio. The Bill seeks to clarify certain matters and to reduce current ambiguities associated with administration of, and compliance with, those Acts. The Bill amends eight Acts: the *Historic Shipwrecks Act 1981*, the *National Parks and Wildlife Act 1972*, the *Native Vegetation Act 1991*, the *Natural Resources Management Act 2004*, the *Pastoral Land Management and Conservation Act 1989*, the *Radiation Protection and Control Act 1982*, the *Water Resources Act 1997* and the *Wilderness Protection Act 1992*.

Historic Shipwrecks Act 1981

As a result of proposed amendments to the *Historic Shipwrecks Act 1981*, shipwrecks will become historic shipwrecks for the purposes of the Act after they have been situated in the territorial waters of the State for 75 years. Currently, shipwrecks and associated articles located in the territorial waters of the State are assessed on a case by case basis to determine whether they are of historic significance. The amendments made by this Bill will bring the *Historic Shipwrecks Act 1981* into line with the *Historic Shipwrecks Act 1976* of the Commonwealth. All wrecks and associated articles will, by virtue of proposed new section 4A, become 'historic' when they are 75 years old. This means that wrecks in State and Commonwealth waters will be treated in the same way. The amendments will provide certainty for the community, provide clarity for developers and create greater uniformity across Australia. (All states have a 75 year rule except New South Wales, which has a 50 year rule.)

National Parks and Wildlife Act 1972

Currently, the *National Parks and Wildlife Act 1972* requires the Minister to lay annual reports received from the National Parks and Wildlife Council and advisory committees before Parliament within six sitting days of receipt. Amendments to the Act will provide consistency with the requirements of the *Public Sector Management Act 1995* by extending this period from six to twelve days.

In addition, changes to provisions relating to the powers of the Director of National Parks and Wildlife will have the effect of allowing the Director to delegate any of the Director's powers under the Act and will allow for more effective and responsible administration of the Act.

An amendment to the regulation making power of the Act is also proposed. This amendment will have the effect of allowing the making of regulations to regulate the taking, keeping or selling of protected animals or other animals indigenous to Australia, or the eggs or carcasses of protected animals or other animals indigenous to Australia (including pursuant to permits).

A further amendment to this Act removes uncertainty in relation to penalties for contravention of permits under the Act. The Act currently prescribes two penalties for failing to comply with a permit. The amendments proposed to sections 70A and 73 will remedy this situation so that only one penalty will apply.

Native Vegetation Act 1991

Currently under the *Native Vegetation Act 1991*, the Native Vegetation Council *must*, if consenting to an application for permission to remove native vegetation, attach to the consent a condition that will achieve an environmental benefit. This requirement has the potential to be seen as overly obstructive at times. The amendments proposed by this Bill to the *Native Vegetation Act 1991* will provide the Native Vegetation Council with the capacity to consent to the clearance of native vegetation without attaching a condition to the consent if in the opinion of the Council the proposed clearance will not result in a loss in biodiversity. The Council must also be satisfied that the attachment of a condition would place an undue burden on the landowner. These changes will provide for a more efficient use of the Act whilst still ensuring the conservation, protection and enhancement of native vegetation of the state.

To provide consistency in this process, guidelines will be developed for use by the Native Vegetation Council to assist in the determination of whether, in a particular instance, an unconditional consent may be given to a proposed clearance of native vegetation.

Natural Resources Management Act 2004

The proposed amendments to the *Natural Resources Management Act 2004* will ensure that if a penalty for unauthorised use of water in a particular period is not gazetted in the stipulated time, the applicable penalty for that period will be taken to be the last penalty declared by the Minister. This will ensure that a financial deterrent for the overuse of water is always in place, regardless of whether or not a notice is gazetted within the first six months of a consumption period, therefore providing added protection for the State's water resources.

Related amendments to the *Water Resources Act 1997* have also been included within this Bill. The *Water Resources Act 1997* will be repealed when the *Natural Resources Management Act 2004* becomes fully operational on 1 July 2005.

Pastoral Land Management and Conservation Act 1989

The Bill proposes minor changes to the constitution of the Pastoral Land Management Fund to reflect the reality that rent paid for pastoral leases minus associated administrative costs usually results in a deficit, therefore rarely contributing to the fund.

The Bill also proposes an amendment relating to the functions of the Board. This amendment will enable the Board to perform functions assigned to the Board under Acts in addition to the *Pastoral Land Management and Conservation Act 1989*, for example, assessment of clearance by grazing applications under the *Native Vegetation Act 1991*.

The changes provide greater clarity within the *Pastoral Land Management and Conservation Act 1989* and will help to aid in the more effective administration of the Act.

Radiation Protection and Control Act 1982

The transfer of responsibility for the administration of the *Radiation Protection and Control Act 1982* from the Health portfolio to the Environment Protection Authority has resulted in a number of consequential amendments to that Act. Additionally, an amendment to the long title of the Act is proposed to reflect the fact that the protection of the environment and the health and safety of people against the harmful effects of radiation is an objective of the Act.

Water Resources Act 1997

As noted above, the proposed amendments to the *Water Resources Act 1997* are similar to those proposed in relation to the *Natural Resources Management Act 2004*. These amendments will ensure that if a penalty for unauthorised use of water in a particular period is not gazetted in the stipulated time, the applicable penalty for that period will be taken to be the last penalty declared by the Minister. This will ensure that a financial deterrent for the overuse of water is always in place, regardless of whether or not a notice is gazetted within the first six months of a consumption period, therefore providing added protection for the State's water resources.

Wilderness Protection Act 1992

The criteria currently used to determine membership of the Wilderness Advisory Committee do not accurately reflect the skills and knowledge required in relation to conservation and interconnectedness of ecosystems. A proposed amendment to the *Wilderness Protection Act 1992* will enable a suitable field of applicants to be considered for membership of the Committee with qualifications or experience in a field of science that is relevant to the conservation of ecosystems and to the relationship of wildlife with its environment. A further amendment will provide for consistency between this Act and the *National Parks and Wildlife Act 1972* in relation to membership of the South Australian National Parks and Wildlife Council.

Additionally, providing the Director of National Parks and Wildlife with a power to delegate any of the Director's powers under the Act will allow for more effective and responsible administration of the Act.

Removal of obsolete references and update redundant terminology

Finally, the Bill proposes a variety of statute law revision amendments to each of the Acts. These amendments remove obsolete references and update terminology, to aid in understanding and interpretation.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

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

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Historic Shipwrecks Act 1981*

4—Amendment of section 3—Interpretation

This amendment to section 3 of the *Historic Shipwrecks Act 1981* is consequential on the insertion by clause 5 of new section 4A. As a consequence of this amendment, an article or the remains of a ship that are historic relics or historic shipwrecks by virtue of new section 4A fall within the definition of ***historic relic*** and ***historic shipwreck*** respectively.

5—Insertion of section 4A

This clause inserts a new section.

4A—All shipwrecks and relics of a certain age historic

Section 4A provides that the remains of all ships that have been situated in South Australian waters for 75 years or more are historic shipwrecks for the purposes of the Act. All articles that have been situated in South Australian waters for 75 years or more and that were associated with ships are historic relics.

If the remains of a ship, or any articles, have been removed from South Australian waters at any time, those remains or articles are historic shipwrecks or historic relics for the purposes of the Act after the 75th anniversary of the date that the remains or articles first came to rest on the seabed.

The Governor may declare by proclamation that the section does not apply to the remains, or part of the remains, of a particular ship or class of ships. The Governor may also declare by proclamation that the section does not apply to an article or class of articles.

6—Amendment of section 12—Register of Historic Shipwrecks

This clause amends section 12 so that the Minister is required to enter into the Register of Historic Shipwrecks particulars of all known remains and articles that are historic shipwrecks or historic relics by virtue of new section 4A.

7—Amendment of section 14—Regulations may prohibit certain activities in a protected zone

Subsection (1)(b) of section 14 currently provides that regulations under the Act may prescribe penalties, not exceeding a fine of $1 000 or imprisonment for one year, or both, for a contravention of a provision of the regulations made for the purposes of paragraph (a). This clause recasts subsection (1) so that paragraph (b) is removed. New subsection (3a) prescribes a penalty of $1 250 or imprisonment for one year, or both, for contravention or failure to comply with a regulation under subsection (1). The penalty for breach of a regulation under the section is thereby prescribed in the Act rather than by regulation.

8—Repeal of section 25

Section 25 is repealed. This section provides that—

- proceedings for an offence against the Act will be disposed of summarily; but
- an offence against the Act that is punishable by imprisonment is a minor indictable offence and will be disposed of accordingly.

As a consequence of the repeal of this section, offences under the Act will be classified in accordance with section 5 of the *Summary Procedure Act 1921*. This means that offences under this Act for which a maximum penalty of two years or less is prescribed will be summary, rather than minor indictable, offences. As a result of this amendment, classification of offences under the *Historic Shipwrecks Act 1981* will be consistent with most other Acts. The *Summary Procedure Act* prescribes the manner in which proceedings for these offences will be disposed of.

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

9—Amendment of section 12—Delegation

Section 12(3) of the *National Parks and Wildlife Act 1972* currently provides that the Director of National Parks and Wildlife may delegate powers that have been delegated to him or her to the South Australian National Parks and Wildlife Council (the *Council*), or to an advisory committee or another person. The provision does not allow the Director to delegate powers that have not been delegated to him or her. This clause recasts subsection (3) so that the Director can delegate any of his or her powers under the Act.

10—Amendment of section 19D—Annual report

As a consequence of this amendment, the period within which the Minister is required to lay before both Houses of Parliament the mandatory report received from the Council on its operations is extended from six days to twelve days.

11—Amendment of section 19L—Annual report

As a consequence of this amendment, the period within which the Minister is required to lay before both Houses of Parliament an annual report received from an advisory committee on its operations is extended from six days to twelve days.

12—Amendment of section 27—Constitution of national parks by statute

This amendment does not alter the meaning or effect of the provision. Rather, the meaning of the provision is clarified so that there is no doubt that "or to be included in" means "or *ceases* to be included in".

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

This amendment does not alter the meaning or effect of the provision. Rather, the meaning of the provision is clarified so that there is no doubt that "or to be included in" means "or *ceases* to be included in".

14—Amendment of section 29—Constitution of conservation parks by statute

This amendment does not alter the meaning or effect of the provision. Rather, the meaning of the provision is clarified so that there is no doubt that "or to be included in" means "or *ceases* to be included in".

15—Amendment of section 30—Constitution of conservation parks by proclamation

This amendment does not alter the meaning or effect of the provision. Rather, the meaning of the provision is clarified so that there is no doubt that "or to be included in" means "or *ceases* to be included in".

16—Amendment of section 31—Constitution of game reserves by statute

This amendment does not alter the meaning or effect of the provision. Rather, the meaning of the provision is clarified so that there is no doubt that "or to be included in" means "or *ceases* to be included in".

17—Amendment of section 33—Constitution of recreation parks by statute

This amendment does not alter the meaning or effect of the provision. Rather, the meaning of the provision is clarified so that there is no doubt that "or to be included in" means "or *ceases* to be included in".

18—Amendment of section 34A—Constitution of regional reserves by proclamation

This amendment does not alter the meaning or effect of the provision. Rather, the meaning of the provision is clarified so that there is no doubt that "or to be included in" means "or *ceases* to be included in".

19—Amendment of section 45A—Interpretation

This clause amends section 45A to remove redundant references to *Bookmark Biosphere Trust* and *Man and the Biosphere Program*.

20—Amendment of section 45F—Functions of a Trust

This amendment is connected to the amendments made by clause 19. Section 45F(1a) relates solely to the Bookmark Biosphere Trust, which no longer exists.

21—Amendment of section 60I—Plan of management

Section 60I of the *National Parks and Wildlife Act 1972* requires the Minister to prepare a draft plan of management in relation to the harvesting of each species of protected animal to which the relevant Division of the Act applies. Under subsection (7), a plan of management must be published in the Gazette. There is also a requirement that a notice stating the place or places at which copies of the plan may be inspected or purchased must be published in a newspaper circulating throughout the State.

As a consequence of the amendment made by this clause, notice that a plan of management has been adopted by the Minister must be published in the Gazette and a newspaper circulating generally throughout the State. The notice must state the place or places at which copies of the plan may be inspected or purchased. There will no longer be a requirement that the plan of management be published in the Gazette.

22—Amendment of section 70A—Failure to comply with authority

Section 70A and section 73 both currently prescribe penalties for contravention of a permit under the Act. Section 73(2) goes further than section 70A in that it refers also to "a person acting in the employment or the authority of the holder of a permit". This clause recasts section 70A(1) so that it incorporates the reference to persons acting in the employment, or with the authority, of the holder of a permit. Section 73(2) is deleted by clause 23.

23—Amendment of section 73—Offences against provisions of proclamations and notices

This clause amends section 73 by deleting subsection (2). This provision is redundant because of the amendment made by clause 22 to section 70A.

24—Amendment of section 80—Regulations

Section 80(2)(a) provides for the making of regulations that confer powers, authorities, duties and obligations necessary or expedient for the enforcement of the Act. That provision is amended by this clause to allow such regulations to also be made if necessary or expedient for the administration of the Act.

This clause also inserts a new paragraph. As a consequence of the insertion into section 80(2) of paragraph (wa), regulations under the Act may regulate the taking, keeping or selling of protected animals or other animals indigenous to Australia, or the eggs of protected animals or other animals indigenous to Australia. The regulations may regulate taking or killing of such animals or eggs pursuant to permits granted by the Minister.

Part 4—Amendment of *Native Vegetation Act 1991*

25—Amendment of section 29—Provisions relating to consent

Under section 29(11) of the *Native Vegetation Act 1991*, the Native Vegetation Council may consent to clearance of native vegetation under the section if a condition is attached to the clearance and the Council is satisfied that fulfilment of the condition will result in a significant environmental benefit.

As a consequence of the amendment made to section 29 by this clause, subsection (11) will be subject to new subsection (12). This new subsection provides that a consent to clearance of native vegetation may be unconditional if the Council is satisfied that the clearance would not result in a loss of biodiversity and the attachment of a condition under subsection (11) would place an unreasonable burden on the person applying for the consent.

Part 5—Amendment of *Natural Resources Management Act 2004*

26—Amendment of section 115—Declaration of penalty in relation to the unauthorised or unlawful taking or use of water

Section 115 of the *Natural Resources Management Act 2004* provides that the Minister may declare a penalty payable by a licensee who takes water in excess of the water allocation of a water licence. Under subsection (2), the notice must be published in the first half of the accounting period in relation to which the penalty is to apply. Proposed new subsection (3) provides that if the Minister has not declared a penalty or penalties by the end of the first half of a particular accounting period, it will be taken that the last penalty or penalties declared by the Minister also apply to the taking of water in the consumption period that corresponds to that accounting period.

Part 6—Amendment of *Pastoral Land Management and Conservation Act 1989*

27—Amendment of section 9—Pastoral Land Management Fund

Under section 9 of the *Pastoral Land Management Act 1989*, the Pastoral Land Management Fund currently consists of, among other money, a prescribed percentage (which must be between 5 and 15 per cent) of the amount received each year by way of rent paid under pastoral leases reduced by the administrative costs attributable to administering those leases. As amended by this clause, this provision applies only if the amount received in a particular year by way of rent paid under pastoral leases exceeds the administrative costs attributable to administering those leases for that year. In those circumstances, a prescribed percentage (being not less than 5 per cent or more than 15 per cent) of the excess is payable into the Fund.

28—Amendment of section 17—Functions of Board

The Pastoral Board will, as a consequence of this amendment, be required to perform functions assigned to the Board by or under the Act *or another Act*.

Part 7—Amendment of *Radiation Protection and Control Act 1982*

29—Amendment of long title

This clause amends the long title of the *Radiation Protection and Control Act 1982* to insert a reference to protection of the environment and the health and safety of people against the harmful effects of radiation.

30—Amendment of section 5—Interpretation

This clause amends the interpretation section of the Act to remove redundant references and revise the definition of ***Department***.

31—Amendment of section 9—Radiation Protection Committee

Reference to the South Australian Health Commission is removed from section 9. As a consequence of this amendment, the presiding member of the Radiation Protection Committee must be an officer or employee of the administrative unit of the Public Service charged with the administration of the Act.

32—Amendment of section 12—Functions of Radiation Protection Committee

Reference to the South Australian Health Commission is removed from section 12.

33—Amendment of section 16—Authorised officers

This clause amends section 16 by deleting subsection (2). This subsection provides that a mines inspector is an authorised officer for the purposes of the Act.

34—Amendment of section 17—Powers of authorised officers

This clause amends section 17 by deleting subsection (4). This subsection limits the powers of mines inspectors under the Act.

35—Amendment of section 22—Annual report

Under section 22, the South Australian Health Commission is required to prepare an annual report on the administration of the Act and the Minister is required to cause a copy of the report to be laid before each House of Parliament as soon as practicable following receipt of the report.

This clause amends section 22 so that it is the administrative unit of the Public Service charged with the administration of the Act, rather than the South Australian Health Commission, that is required to prepare the report.

36—Substitution of section 35

This clause recasts section 35 for the purpose of removing references to the South Australian Health Commission.

37—Amendment of Schedule—Application of this Act to the Roxby Downs Joint Venturers

This clause removes references in the Schedule to the South Australian Health Commission. As a consequence of the amendment to clause 4, the Minister, rather than the Commission, is required to refer an application to the Radiation Protection Committee and consider the Committee's response.

Part 8—Amendment of *Water Resources Act 1997*

38—Amendment of section 132—Declaration of penalty in relation to the unauthorised or unlawful taking or use of water

Section 132 of the *Water Resources Act 1997* provides that the Minister may declare a penalty payable by a licensee who takes water in excess of the water allocation of a water licence. Under subsection (2a), the notice must be published in the first half of the accounting period in relation to which the penalty is to apply. Proposed new subsection (2ab) provides that if the Minister has not declared a penalty or penalties by the end of the first half of a particular accounting period, it will be taken that the last penalty or penalties declared by the Minister also apply to the taking of water in the consumption period that corresponds to that accounting period.

Part 9—Amendment of *Wilderness Protection Act 1992*

39—Amendment of section 3—Interpretation

This clause amends the interpretation section of the Act to remove a redundant reference to the ***Natural Resources***

Management Standing Committee and revise the definition of ***Department***.

40—Amendment of section 6—Delegation

Section 6(3) of the *Wilderness Protection Act* currently provides that the Director of National Parks and Wildlife may delegate powers that have been delegated to him or her to any person. The provision does not allow the Director to delegate powers that have not been delegated to him or her. This clause recasts subsection (3) so that the Director can delegate any of his or her powers under the Act.

41—Amendment of section 7—Annual report

This clause amends section 7 by replacing references to "the Department of Mines and Energy" and "the Minister of Mines and Energy" with "an administrative unit of the Public Service" and "the Minister responsible for the administration of the *Mining Act 1971*" respectively.

42—Amendment of section 8—Wilderness Advisory Committee

As a consequence of this amendment, membership of the Wilderness Advisory Committee will include a person who has qualifications or experience in a field of science that is relevant to the conservation of ecosystems and to the relationship of wildlife with its environment.

43—Amendment of section 12—Wilderness code of management

The amendments made by this clause remove redundant references to the Natural Resources Management Standing Committee.

44—Amendment of section 22—Constitution of wilderness protection areas and wilderness protection zones

This amendment removes a redundant reference to the Natural Resources Management Standing Committee.

45—Amendment of section 24—Alteration of boundaries of wilderness protection areas and zones

This amendment removes a requirement that a copy of a notice under section 24 be provided to the Natural Resources Management Standing Committee.

46—Amendment of section 25—Prohibition of mining operations in wilderness protection areas and zones

A reference to "the Minister of Mines and Energy" is replaced with "the Minister responsible for the administration of the *Mining Act 1971*".

47—Amendment of section 31—Plans of management

The amendments made by this clause remove redundant requirements in relation to the Natural Resources Management Standing Committee.

48—Amendment of section 33—Prohibited areas

A reference to "the Minister of Mines and Energy" is replaced with "the Minister responsible for the administration of the *Mining Act 1971*".

Schedule 1—Transitional provision

1—Transitional provision relating to *Natural Resources Management Act 2004* and *Water Resources Act 1997*

This transitional provision relates to the amendments to the *Natural Resources Management Act 2004* and the *Water Resources Act 1997*. The penalties declared by the relevant Minister under section 132(1)(a) of the *Water Resources Act 1997* with respect to the taking of water in the consumption period that corresponds to the 2003/2004 financial year accounting period will continue to apply for the purposes of the *Water Resources Act 1997* or the *Natural Resources Management Act 2004* (as the case requires) in respect of succeeding consumption periods until a new penalty is declared by the relevant Minister (either under section 132(1)(a) of the *Water Resources Act 1997* or section 115(1)(a) of the *Natural Resources Management Act 2004*).

Schedule 2—Statute law revision amendment of *Historic Shipwrecks Act 1981*

This Schedule makes various statute law revision amendments to the *Historic Shipwrecks Act 1981*.

Schedule 3—Statute law revision amendment of *National Parks and Wildlife Act 1972*

This Schedule makes various statute law revision amendments to the *National Parks and Wildlife Act 1972*.

Schedule 4—Statute law revision amendment of *Native Vegetation Act 1991*

This Schedule makes a statute law revision amendment to the *Native Vegetation Act 1991*.

Schedule 5—Statute law revision amendment of *Pastoral Land Management and Conservation Act 1989*

This Schedule makes various statute law revision amendments to the *Pastoral Land Management and Conservation Act 1989*.

Schedule 6—Statute law revision amendment of *Radiation Protection and Control Act 1982*

This Schedule makes various statute law revision amendments to the *Radiation Protection and Control Act 1982*.

The Schedule deletes section 46 of the Act. Section 46 provides that contravention of, or failure to comply with, a provision of the Act is an offence. The section also provides that proceedings for offences against the Act are, unless minor indictable, to be disposed of summarily and prescribes a maximum penalty of $50 000 or imprisonment for five years for minor indictable offences and $10 000 for summary offences.

This section is deleted so that offences under the Act are classified in accordance with section 5 of the *Summary Procedure Act 1921*. The Schedule also inserts a penalty provision at the foot of each section or subsection that creates an offence. Offences that are not punishable by imprisonment, or for which a maximum penalty of two years or less is prescribed, will be summary offences. Others will be indictable. As a result of this amendment, classification of offences under the *Radiation Protection and Control Act 1982* will be consistent with most other Acts. The *Summary Procedure Act* prescribes the manner in which proceedings for these offences will be disposed of.

Schedule 7—Statute law revision amendment of *Wilderness Protection Act 1992*

This Schedule makes various statute law revision amendments to the *Wilderness Protection Act 1992*.

The Hon. R.G. KERIN secured the adjournment of the debate.

PUBLIC SECTOR MANAGEMENT (CHIEF EXECUTIVE ACCOUNTABILITY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 October. Page 389.)

The Hon. R.G. KERIN (Leader of the Opposition): I rise to put our point of view on the bill. I make the point straight up that, whilst the opposition does not totally agree with the direction of this particular bill, it will not oppose it. It is up to the government how it administers the Public Service. It is perhaps ironic that this is coming in after three years, and this may only be in effect for one year with the current government—we will see on that. We reserve our right and flag that, if we do become the government next year, we will revisit some of the issues in this bill.

The bill amends the Public Sector Management Act 1995 and is specific to matters which deal with the chief executives of government departments. The amendments are not numerous but they basically deal with the termination of chief executives' appointments. The termination clause in the current act refers to the grounds for termination as being if the CEO does not carry out duties satisfactorily or to the performance standards which are specified in the actual contract. That is replaced in the bill with the words, 'with the standards set from time to time by the Premier and the minister responsible for the administrative unit under the contract'.

Secondly, it is about chief executives' general responsibilities. The amendment makes the CEO jointly responsible to both the Premier and the minister, and rewords the responsibility to conform with the whole of government objectives. I have no great problem with conforming with whole of government objectives.

The third one is ministerial direction. Section 15(1) provides that the chief executive is subject to direction by the

minister or by the minister responsible for the unit. New section 15(1) provides:

. . . the CE. . . is subject to direction—
(a) by the Premier with respect to matters concerning the attainment of whole of government objectives; and
(b) by the minister responsible for the unit.

As I said, we will not oppose the bill, but we reserve our right to organise the structure differently when in government. I think the move does show perhaps the Premier's lack of confidence in some of his ministers to do it this particular way. The Premier and Deputy Premier on several occasions have attacked senior public servants. Again, this risks the politicisation of the Public Service. Some of those attacks on public servants, particularly in relation to the Crown Solicitor's Trust Account, have been quite amazing. It seems a bit of a one-way street and all that goes wrong is the public servants' fault. There is a balancing act there to do with ministerial responsibility. The Premier has a code of conduct, which, we would suggest, some of the ministers do not absolutely follow at present. With those few words, while we do not totally support the move, we do acknowledge that the government has a right to organise the Public Service in the way it sees fit. We reserve our right to say that, in not voting against this, that does not mean we totally support it; and we would do it differently.

The Hon. R.B. SUCH (Fisher): I think South Australia has been well served over time with the quality of members of the Public Service. Obviously, from time to time, we have people who do better than and outperform others, but it is fair to say that our Public Service has served the people of this state with distinction. There have been few examples, either at the highest level or the medium and not so high levels, where there has been behaviour which one could categorise as unacceptable or inappropriate. There always will be one or two exceptions, but when one considers the number of public servants—greatly reduced in number in the last 10 years—the quality of service has been superb. I think it ranks amongst the best in the world.

In terms of this specific provision, I think it is important that the Premier, as the Chief Minister, is in a position to ensure that chief executives deliver what the government of the day wants and that the objectives of the government of the day are met. One would assume that is what chief executives would be seeking to do, but we all know, notwithstanding my earlier comments, sometimes chief executives—a bit like politicians—have a mind and an agenda of their own. Clearly, a government must have objectives which will be supported by all the chief executives rather than some of them.

I am pleased to see a change in terms of how senior public servants are treated by the government in the sense that there is more opportunity now for them to participate in public debate—obviously, still keeping within the confines of government policy. If we constrain public servants, especially senior public servants, we get to a point where we stifle creativity and potential for innovation and vision in the ranks of the Public Service. I think there has been a variation over time, and it is fair to say that in the last 15 years or so there has been a tendency, in effect, to gag senior public servants, in particular; and I guess those down the pecking order tend to be gagged by the chief executive and other senior executives anyhow.

It is vital in a democracy that we do not waste and suppress the creative talent of people in the Public Service. There are not many people in our community who can really contribute by way of innovative ideas and vision. Sadly, in the university sector most of the academics, with a few exceptions, have been silenced by the threat of loss of funding; and the sheer demands put on them in relation to their time. We rarely get senior academics—or junior academics, for that matter—commenting on public policy, challenging the direction of society and speaking out on issues of concern. That is a real pity, a tragedy.

Likewise, when we silence the Public Service from participating in the public debate, being on the airwaves and in the media, ultimately we diminish the potential of our democratic system. Clearly, we cannot have chief executives getting on talkback radio to enunciate their own hobbyhorse, and the thrust of this bill is to ensure that, in a way, there is more cohesion and common focus amongst the chief executives. Clearly, a balancing act is required in terms of creating an environment in which public servants can provide that innovation and engage in legitimate public debate, but, at the same time, be part of a team seeking to meet the objectives of a democratically elected government. This measure before us, one would hope, would help.

I think that it is critical that any government be able to specify to its chief executives the objectives of the government and to put the wood on them in terms of achieving those objectives. Whether it be not simply by imposing a time line but stating the objective quite clearly and saying, 'The government expects that you, as the chief executive, will meet these objectives by a certain time frame.' That is perfectly reasonable, otherwise you tend to get a lot of waffle, meandering and time wasting. The link, I suppose, that follows from that is that if you have people to perform at a high level, be creative and deliver the goods you must pay them accordingly.

Under the Playford government we used to have a system where it was the old-public servant who was not paid much but who worked on the basis that they were genuinely serving the public. They had a status and recognition in the community which came from the fact that they were senior public servants and they had that respect. I am not saying that that respect has gone totally, but nowadays we tend to indicate our respect somewhat in the extent to which we pay people. I would never want to see a Public Service that is operated by people whose motivation is purely monetary—that would be a disaster.

We want people who are committed to serve the public in the best sense of that term, just as we do in this place. I would have to say—even though I disagree with many of my colleagues in here—that I believe that people come into this place with the noble ideal of serving the community, and that is what our public servants should be on about. A few years ago we had a couple of high fliers drawn in—big publicity, big pay packets. The trouble with high fliers is that they tend to hit a brick wall and do not often deliver.

As well as obviously having an option of attracting people outside the system (which is good and healthy), we should be nurturing within the Public Service people who can get a chance to display their talents at an age that is a fair way removed from the retiring age. In other words, we do not want people getting into senior positions a couple of years before retirement and never getting a chance to show what they can do, and demonstrate their ability and talent. I think that this is a very legitimate bill. Each government has a right to structure the Public Service in a way that will meet not only its commitments by way of what it made at the election but also its specific objectives.

I would hope that, in focusing on the Public Service, the Premier and other ministers are mindful of allowing chief executives—as I say, within the bounds of government policy—to participate in public debate and to be a part of an innovative drive in South Australia to put South Australia once again at the forefront of reforms, not for the sake of it. The Dunstan era is often referred to. Not everyone agreed with what happened then but, at that time and subsequent to that, we had a lot of innovative developments taking place in education.

We led the nation in education. We led the nation in a range of areas, as well as social reform. I would like to see this state get back to a point where it leads not only Australia but also the rest of the world—not for the sake of having a social laboratory here, but because it is good to do those things so that we can have a society which is decent, which treats people with dignity and which seeks to remove injustice, and where—and this might be idealistic—we have a society with fewer people being incarcerated because we change the underlying social issues and problems that give rise to that incarceration and conflict with the law.

There is a great challenge for our Public Service. We want people who have talent but who have a commitment to social justice and making our society a better place, and who are aware of the great issues involving the environment and other things with which many of us are concerned. I support this bill. I do not believe that it is the answer to all our prayers. I believe that, with the right will and good leadership, we can have that Public Service delivering what all of us want; which, as I say, is to lead not only Australia but also the world in innovative and far-sighted policies that make us a showcase of enlightened human activity for the rest of the world.

Mr HANNA (Mitchell): I express some concern about the bill. Some aspects of it are beyond argument, for example, furthering the performance appraisal process in relation to chief executives in our Public Service. However, the bill unarguably furthers the concentration of power in the Premier's office that has been going on for some time. Members would recall that it was under former premier Olsen that media managers for the various ministers were concentrated into a truth bureau within his office, or at least under the control of the Premier's office, and that process has been continued and refined by the Rann administration.

There is no wonder that the Liberal opposition agrees with the bill because, after all, Mr Kerin hopes to be the Premier one day and enjoy the benefits of that additional power. In the 1930s Germany had a word for it: Fuerherprinzip. I do have some specific questions for the Premier, and if they can be answered in his response to these debates there will not be a need to go into consideration of the bill in detail.

First, does the bill allow the Premier to bypass his ministers in giving specific instructions about undertaking tasks to the chief executives? Secondly, does the process in respect of termination of chief executives change at all with the passage of this legislation? In other words, is this different from the current process? Will the Premier's power to see an end to chief executives be any greater than it currently is? Thirdly, I note that in an explanation to clause 5 there is a requirement placed upon the chief executives to be responsible for 'the general conduct of its employees', referring to the particular administrative unit.

What is meant by 'the general conduct of its employees' in that context? For example, could this be used to dismiss chief executives if there is leaking of administrative information of a politically sensitive nature from a government department? If the Premier can answer those questions satisfactorily, there will not be a need to go into great detail with the bill, but I would appreciate genuine and full answers to those questions.

Ms THOMPSON (Reynell): I also support the bill. It is a simple bill. Its chief objective is to emphasise the whole-of-government responsibilities of agencies. I have been in some way or another connected with both the commonwealth and the state public services since I was about 16, and have always regarded the term 'bureaucrat' as a bit of an insult. To me the term 'public servant' is far preferable because, in the vast majority of the cases, the people with whom I worked and whom I served in some of my roles were very much committed to delivering quality services to the community in accordance with the legislative requirements of the day. However, the structure of the bureaucracy that we have is based in some ways on the same sort of structure that we have in our courts of competitive models.

Various agencies were established to represent the interests of a particular group within the community or to deliver a particular service. It was often seen that the agencies advocated extremely strongly for the interests that they served and that justice and good public administration were served by having powerful competing forces and in this way vigorously arguing the interests of different groups. One of the examples that often comes up in this house is the perceived conflict between farmers and the environment. The traditional model had a department relating to labour and a department relating to business.

It was expected that they would serve their ministers well, provide their ministers with good briefings about the interests of that community that they were serving and, at the senior 'mandarin' (a nicer word than 'bureaucrat') level, either those interests would be argued out or the ministers would be well equipped to argue those cases in cabinet. This has been the way the Public Service in Australia, in the various states, and the Civil Service in Britain has worked for many years, and in the past it has served the community well. That has not been the case for some time.

In 1993, I think it was, certainly in the last days of the Arnold government, when that government was addressing the horrible impact of the State Bank and looking at ways of saving significant amounts of money within the Public Service, I was invited to a seminar designed to seek the views of people a little bit under the senior levels of the Public Service as to how we could do things better; how, with the very difficult circumstances that we were facing, we could deliver not only the same level of service to the community but, if possible, improve it.

We were locked away for some time, a group of people from a variety of agencies regarded, we were told, as the creative thinkers of the state Public Service, and asked to look at ways forward. Our unanimous conclusion, well before morning tea, was that we had to collaborate. We had to look at the needs of an individual. We had to look at the needs of an agency; look at how many different agencies were serving one individual and how more effective that would be for both the individual and the agencies if we were able to collaborate in the interests of either that individual or that community. After morning tea we spent the rest of the day trying to work out how this could happen.

We looked at issues like privacy legislation, the barriers to sharing of information effectively between agencies, the traditional culture of the organisation and how some of these issues could be overcome. Well before we could put our creative thoughts into practice, along came the 1993 election and the Public Service was decimated—and 'decimated' really is the appropriate word in terms of some of the advisory levels that we have never seen before. I do not recall all the people who were in that room with me at that time, but most of them were sacked or encouraged to leave within the first 12 months of the Brown government. So much for the wisdom that they had about how to achieve better results for our community with the smaller dollar available to us.

Instead, we saw the experiment of making huge mega-departments. What we saw from that was that not only did agencies not work together to serve a particular individual or community but that they competed even more fiercely as money was shuffled from one part of the agency to the other, not always in the most transparent manner. So, the brave face of trying to cooperate and collaborate went.

The incoming Rann Labor government began drawing on resources inside and outside the Public Service to work out a better way forward for South Australia so that we can lead Australia and play an important part on the world stage again. We have done it before and we can do it again. One of the clear pieces of advice received is that we have to work as a whole community to break down competition, to look at collaboration, and one way of leading this is through the bureaucracy. It will not be easy. The traditional silos have long existed and for reasons that were valid at the time people will continue to advocate for the groups they serve, but they have to start thinking now of how agencies can collaborate both for the individual and for various community groups.

I have been looking at issues in the UK that deal with some of the people who are really excluded from the mainstream of community in the UK and the preventative measures that are being taken, particularly in relation to young people at risk of either offending or not being included in the full life of the community because they do not have the skills to participate and abide by our community rules or laws. One of the features of that has been the need for agencies to work together and share information about individuals. The Blair government took a very strong approach in relation to that and passed legislation requiring agencies to work together and to share information. When this was not working they legislated again and took even stronger measures, requiring agencies to share information. That is information about not only individuals but the whole family of a child who was at risk of not participating fully in their community.

This measure at the moment simply requires chief executives to get their agencies to think about the whole of government outcomes and not just outcomes for their particular interest group. We have a state plan so that chief executives and every single public servant can now see the role they are playing in relation to the development of our community and the provision of service excellence. The requirement of this bill is significant in that it mentions for the first time the requirement of chief executives and all public servants through them to work together to collaborate for the best outcomes of the state and the achievement of our whole of government state plan.

This is a modest bill, but it gives a very important signal that we have to look at overall outcomes and forget the traditional arguing in relation to one interest versus another. We know those interests are still valid and we want them to be heard. The objective of whole of government outcomes does not mean that individual interests will not be heard. We will not be a happy community unless individual interests are heard, but we are challenging our Public Service, and through them there are community interest groups to look at other perspectives, to try to see the whole picture and to work together to achieve the whole picture. I am pleased to commend the bill to the house.

The Hon. M.D. RANN (Premier): I thank all members for their contributions. To summarise why we are doing this, we have a very strong message from the economic summit, from the Economic Development Board, from the people involved in social inclusion, sustainability and the Premier's Science and Research Council that, if we want to move forward as a state, we have to rethink the way we do things. The clear message is that, whilst many issues face a minister and a department that are covered by that portfolio, there are increasingly more issues coming about that involve cross departmental and whole of government approaches to problems and solutions.

To give an example, one of the references given to the social inclusion initiative, headed by David Cappo, was the issue of homelessness. Some people say, 'Shouldn't homelessness be the province of the housing department or the Housing Trust?' Homelessness crosses all portfolios because it is caused by poverty, unemployment, mental illness, alcohol and drug problems, people coming out of prisons, people who are rough sleepers being recycled through hospital wards, and so on. So it was decided to take a whole of government approach to deal with the issue of homelessness. Initially it was very difficult for some departments to think in a different way. Whilst it is true that heads of department have signed contracts with me as Premier, their legal obligations are to their minister and portfolio.

Last year we embraced the State Strategic Plan that sets out where we want to be as a state within 10 years, or more in some cases, and how the various things are interrelated in terms of our export plans and in terms of the infrastructure to support those plans—a strategic approach to infrastructure rather than the usual approach of the past 100 years of ministers going into capital works bidding processes like a lottery. What are our priorities as a government and a state rather than the priorities of individual departments?

So, whilst a great deal of collaboration goes on, we thought it was really important to enshrine in legislation a changed approach not just by the advisory boards, like the Economic Development Board, the Premier's Round Table, the Science and Research Council and the Social Inclusion Initiative, but also to put in legislation that the heads of government departments have obligations not just to their ministers and their portfolios but to that whole of government effort and to the State Strategic Plan. So, this is not some kind of grab for power by me—I already sign their contracts. But under the change arrangements there would be a clear obligation to the Strategic Plan and to the whole of government effort.

So, in answer to some of the questions raised by the member for Mitchell, I just wanted to respond as follows. In terms of the process of dismissal, there is no change in that process, except obviously that there would be additional grounds for failure to meet obligations under the plan. But in terms of the process of dismissal there would be no change. The performance agreement negotiated with the CEO would

be negotiated with both the Premier and the ministers, because it would include the portfolio's ambitions, as well as the whole of government ambitions. The practicality of it is that that would be unlikely, except when there was a specific matter relating to the State Strategic Plan and the whole of government area that was outside the minister's portfolio area. However, in practice, that would obviously be in consultation with the minister, as well as the CEO. Does the bill allow the Premier to bypass ministers? No, it does not give the Premier the power to direct on non whole of government initiatives.

Whole of government objectives are jointly agreed by the Premier, minister and chief executive in terms of the contract and the performance appraisal process. The member for Mitchell asked about termination of contracts, to which I have just referred. It certainly does not do this, except for adding those additional grounds. Obviously, the greater clarity of expectations it introduces makes it less likely that CEs would have their contracts terminated, because it clarifies what we want of them, not just in terms of the portfolio but in terms of the wider aims of the government. The member's third question related to their responsibilities to their employees. Certainly, under section 14, chief executives are already responsible for general conduct, and this amendment does not change this at all.

In conclusion, I thank members for their contribution. This is not an attack on public servants. I think we have an outstanding Public Service in this state. We are simply trying to change things for the better, given the State Strategic Plan and the advice we have received from the Economic Development Board and from other advisory boards. How do we marry what they are doing in the interests of the state? Having a lot of high powered people putting in a huge amount of work to the benefit of our state but, at the same time, making sure that our Public Service structures are modernised. This is groundbreaking legislation, in that it is the first of its kind in Australia, and I am not aware of any similar legislation in the British Commonwealth of Nations.

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

MOTOR VEHICLES (LICENCES AND LEARNER'S PERMITS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 February. Page 1595.).

Mr BROKENSHIRE (Mawson): This is an important bill, and one that I know the parliament will, by and large, support in a bipartisan way. I advise the minister that, overall, the Liberal opposition supports the primary principles of the bill and what it is trying to be achieved with this bill. As in the case of any democratic society, certain colleagues have some concerns over a couple of aspects of the bill. But I guess it is going to be a suck and see type of exercise. It is going to be put to parliament and debated and, given the bipartisanship of this bill, passed through both houses within the next few weeks, and then we will have to look at how this bill goes in practice. At the end of the day that is what we are all on about, namely, improving the practices around driver behaviour. I must say, at the outset, that many of the P-platers that I witness driving around do an extraordinary job and they are responsible when it comes to drink driving. In fact, my observations are that many of the young people of today are far more aware of the risks in drinking and driving and much better prepared to organise a captain or to take their swag with them than are some of us who have been around for a little longer, who think that it is still possible to have a few jugs or a bottle of wine and jump in the car and head off home.

I want to say to the younger people of this state that this is not about singling them out and saying that parliament is going to make it tougher for them. It is about ensuring that certain standards are put in place when it comes to the requirements for getting a licence. A licence has always been a privilege, not something we should take for granted, in any case. On numerous occasions I have said that we are, effectively, driving a potentially lethal weapon and, sadly, we see that too often—in fact, one only had to pick up the paper recently to see more road fatalities.

The goal of successive governments—and our own Liberal government put a lot of initiatives in as well—has been to try to curb the road toll, and it is good to see that over a sustained period of time it has been reduced. A lot of that has to do with technology and the creation of better cars with airbags and seatbelts and all that, but when you start to address the road toll it is actually a comprehensive and combined effort. I remember, probably when I was at high school, we were losing close to one person a day on our roads—that is how bad it was. I am sure it was over 300 some years, and that is a huge amount of trauma for communities: the life itself, what it does to the families and, if you want to be callous, the economic cost every time you lose a person on the road. It is a huge cost to the community.

Of course, not factored in or talked about enough are those people who survive a road accident but spend a sustained period of time in places like Julia Farr—and I congratulate and commend all the doctors, nurses and staff who work in places like that. Some of these people never get back together completely and that one road accident has an impact on them and their families for the rest of their lives. Therefore, any initiatives we can bring forward to keep people safer on our roads are ones that the opposition supports.

The debate around young people on the roads is one that will continue. As I said, there is a perception out there amongst some people that P-platers are responsible for reckless driving, that they are blase and that they believe they are bulletproof. Many people say that P-platers are a real risk. That is not quite true: in fact, young people in the 16 to 20 year age group are not necessarily the ones (when they are younger) who end up involved in a tragic or serious road accident. It has been shown that after the first year on their P plates there tends to be an acceleration of risk, and it can be the second year and from then on up to about the age of 25, where they start to get some confidence (sometimes too much confidence), that the road trauma comes in.

The fact that they are looking at a couple of years on P plates, and the fact that there are two phases to it, dangles a carrot out there, as the minister said, and I support that. It dangles a carrot out there for people who do the right thing and get through that period without any impediments, and by the time they are 18½ or 19 they should have confidence and should have improved their driving skills because they have not had any of the sticks that are in this bill pointed at them. I understand that more than 80 per cent of those P-platers will get through without having any of the penalties that will be imposed if people are not prepared to do the right thing when it comes to phase 1 and phase 2 of their driving.

I think the hazard perception test is another positive step forward, and I am waiting to receive a copy (which I

understand will be here soon)—the minister's office has agreed to make one available and I will be keen to show that to my colleagues. Some would argue that it is really a simulator, similar to where pilots go into a simulation testing centre, and I am advised it is much more than the car games that kids play with—thank goodness, because you see them rapidly hitting the walls and accelerating at ridiculous speeds, etc. Some of that does worry me because, when you see that sort of game on their TV screens, you have to ask yourself whether that encourages them to go faster. I am not sure about that but, certainly, this hazard perception test is more about them encountering real scenarios. Hopefully, it will give them better skills and more opportunities to think through situations before they are actually put in front of them.

I trust that this initiative, this new technology coming across Australia, will also be enjoyed by those people who are doing the test but, importantly, I hope it will make them think about what to do when an object falls off a truck, when someone jumps a lane right in front of them, or when they get a blow-out. At the moment, those are the things that really have not been in driver training to the extent that they should have been. I received a letter just recently from a colleague where a young person got out of control on a dirt road and rolled the car. That had some pretty serious consequences, not only because she lost a good car and, from memory, I believe there was some injury (although thankfully not serious) but she was also charged with dangerous driving, as I recall. She has argued that if the training was different when she got her licence she would not have had that charge, because she would have been more prepared for that incident.

Anything that can educate people in preventative driving and give them a better understanding of the risks and hazards of a wet road, or of a road that has been dry for a long period of time, particularly after summer, and then you get a shower of rain—it is the worst time, it is very slippery—is to be supported. On a dusty road or a foggy road night vision is always much more difficult for people when they are trying to work out whether they can overtake, particularly in the country. I find that young people, when they see a light ahead, find that pretty difficult to work out in the country. I have driven with plenty of young people in my own area, and my knees have knocked a few times when they are about to pull out and pass another vehicle.

When they are new drivers, they do not understand the difference in the distances between cars with lights at night and without them in the daytime. I raise these points, because I think that including 10 hours of night driving is important. Hopefully, most people have already thought about that, but many just go out on Sunday afternoons on a quiet road. In my area, I often see learner drivers out with their families or driving instructors in the off-peak period, when there is not the volume of tourist traffic and when it is not dark. So, the initiative to include 10 hours of night driving and 50 hours of supervised driving go another step forward to giving them better experience before they go onto their P1 plates.

I asked the minister's advisers about the situation in respect of supervised driver training and whether it means that there would be an increased or significant cost on the parents. I am advised that will not be the case. I think that the public needs to understand that 'supervised driver training' can encompass anybody who has been driving for two years and who has not been involved in road traffic offences over that two-year period. Many of my constituents, whilst they are competent drivers, say they have taken their kids out once or twice and are glad to get a driving instructor because they are a nervous wreck. I will never forget the first time I took my oldest child out on the Nangkita to Tooperang road for the first time and the panic she experienced when a tri-axle stock crate came towards her. I was very glad when she got a driving instructor. I think there are some arguments for getting accredited professional people to manage the instruction for you. However, I point out that the opposition was careful to ensure that people do not have to go to that additional expense, so I do not see it as an impediment.

The curfew for drivers who commit serious traffic offences is an example of some of the 'stick' approaches in the bill. It has been debated for quite a long period of time. We would not have supported curfews per se, because they would be an unfair impediment on young people and families, whether they live in the city or the country. People say that there is some relief and benefit once your oldest child gets a licence, because many kids play sport, or often these days they work in part-time jobs in fast-food outlets, restaurants and taverns. They may not finish work until midnight or 1 or 2 o'clock in the morning, and they may car pool with a few others, so you would not want a curfew in such situations. Therefore, I say to the young people: clearly, we have considered that on your behalf and have talked it through in the parliament, as we have tonight. There will not be a curfew unless you do the wrong thing but, if you do, that curfew might make you treasure and value the privilege of having a licence. I ask that young people consider this measure in a positive light.

One concern many have about the bill at the moment is that, because of the number of demerit points for more traffic offences than even two years ago, P-platers in particular will not have very many chances, even in relation to basic speeding. So, the message is simple: do not speed and be careful on the roads. Speeding and alcohol will be more risk factors for younger drivers. If you are over a certain blood alcohol content, that is already a reason for disqualification. Of course, if you are on a P1 or P2 licence and you are disqualified by reason of alcohol, the consequences will be significant. I do not think anybody apologises for that, given the fact that alcohol, particularly high blood alcohol—that is, .08 and above—puts everyone, not just the individual, at huge risk. Therefore, in my view, and in that of my party, other penalties are needed.

We wanted to check on the appeal provisions in the event of licence disqualification. This is a more difficult area in the overall bill to manage, because hardship is often considered. Having worked through this issue with the minister's office, I understand that the RAA made some representation that, if disqualification occurred, the hardship appeal would be once for every five years instead of 10 years. That is now in the bill, and I think that has probably made it fairer. Nevertheless, the fact of the matter is that, if you go through that disqualification period, you have five years in which have to be very cautious when you are on the road. We do not think enough about the impact that road trauma has on the police, the emergency services and the individuals who come across those incidents. They need to be included in the equation as well. I have not mentioned them before, but I want to place on the public record my appreciation for all those paid and volunteer staff in the services who I am sure, by and large, will support this bill as another opportunity to prevent them from being called out to such incidents.

I am advised that all of the peak groups—RAA, Sir Eric Neale's Road Safety Advisory Council, and YACSA—have

supported this bill, and that makes the opposition feel more comfortable about it as well. Had they been raising valid points and concerns we would have looked at those and may well have considered some amendments to address their concerns. However, I am advised, and I will put it on the public record tonight, that they are all supportive of this bill.

The situation around road safety does not just stop with this particular bill, and where it is up to now. Whilst it is not the minister's portfolio, I have said many times, and I will say again, that one of the big factors in slowing down unacceptable driver behaviour—not only slowing down but managing all facets of unacceptable driver behaviour—is a presence of police on our roads. I have seen this on our own road, the Victor Harbor Road. Whenever they have a blitz, people slow down and drive appropriately, but when they know that there is not a blitz most of the time they know that they have got a chance of driving in an erratic form of behaviour and getting away with it, and you see some unbelievable risks taken on the roads then.

Whilst we acknowledge and support that this initiative will hopefully assist with road safety, there is a lot more that not just this minister alone can do but that the government can do, and a primary of that is the presence of visible police cars. There are more and more people complaining to me about speed cameras. I have had complaints about them in government and in opposition, but there seems to be an increase in complaints about location, in particular, of speed cameras. Frankly, a lot of the time I now ask myself why those speed cameras are put in certain locations, and they should primarily be located based on computer research and information, black spots and the like.

Again, if there was more of a visible police presence rather than these days where you see that not only have they gone from the Magna station wagons and the Holden Commodores, but they are getting into vans and the like, almost in a fashion of being able to hide from the community the type of vehicle that might contain a speed camera. When people drive past that speed camera and they are photographed doing 72 km/h in a 60 km/h zone, or 119 or 120 km/h in a 110 km/h zone, they do not even know that they have done that until they get a bill in the mail. That is the first time that they are aware that they have been caught for speeding, and so I believe that a better way of deterring people from speeding would clearly be to have more police cars on our roads and also in our rural areas.

There is another matter that I would like to raise tonight. There has been some argy-bargy about this, and I again reinforce that we are supporting this bill and I am sure that the minister will be happy about that and will commend us for supporting her bill. However, I am disappointed that we are not part of the trial in the eastern states that the federal government has funded together with the states. I am talking about a pilot program in New South Wales and Victoria that is working with young people to see whether or not more stringent defence driver training programs in getting their licences is going to be good for road safety. I have been advised that that was discussed at the transport ministers' council meetings on a couple of occasions. I am not sure that this minister—I probably do not have to defend her—was actually the minister through all of that initial discussion. Notwithstanding that, this government's minister or ministers were at those ministerial council meetings when discussions occurred early on.

Further to that, I am advised—it can be corrected, but it is advice I have from a pretty good source—that the offer of being involved in that particular pilot program went to states other than just New South Wales and Victoria. However, those two states were the first two states to get back saying, 'Yes, we will put our hand up for this and we will contribute some dollars.' I am not sure of the exact amount but it is roughly a dollar for dollar, as I understand it, contribution to this program. If you are going to project to get 108 000 additional motorists for speeding and other traffic offences in a year, and if you are going to project to get several million dollars more revenue from speeding and other traffic offences in a year, then I would have thought that the government could have been generous enough, and ambitious and eager enough to say, 'Hey, I would like to be a part of that program. I would like to be a part of that pilot. South Australia wants to lead the way in road safety initiatives,' and we would have been part of that. Now we are going to have to sit back and wait for one or two years to see how those other states go without having the opportunity of being a direct participator.

I put that on the public record as a relevant part of this debate because, whilst I commend the bill and will support it, I think it is worthwhile putting points about extra police being required and about the fact that we were not involved in a pilot program that we could have been involved in, as I am advised, and, finally—and this is going to assist the minister—because we have also had a lot of discussion on road funding. We will continue to work through this, but even at a conference that I went to last year on road funding the federal office for the Minister for Transport—not from the minister's office but a senior public servant from the department responsible to minister Anderson—said that they were struggling to work out what are the actual specific funding arrangements for roadworks in South Australia from the state government, as against the federal government contribution, because when you look at the budget lines, and I have tried to look at these as well, a lot of those packages talk about state and federal funding for road initiatives.

When you talk privately to some people in the department, they will tell you that they believe that there has been a cut this year in actual money allocated to road maintenance, construction and improvement. Of course, the minister will say that there is an increase. If there is a proper and real increase—and I throw down this gauntlet to the minister tonight—I ask her to post to me in the next month—which is a reasonable amount of time to get it together, because I am sure the minister has it there now if there has been an increase—a line by line breakdown of state government dollars only—no federal funding—of contribution to all facets of road maintenance and construction in this state; and to show us line by line whether it is black spot funding, road shouldering, overtaking lanes, new construction, reconstruction or maintenance on outback roads such as the Birdsville Track. I ask the minister to provide the information for the last four years. I will be fair because I am a fair person, as my colleagues know. Of course, the member for Torrens knows that when I was the minister I was so cooperative, trying to assist the opposition. I would like the minister to show over the last four years what the actual real dollars investment is in road funding. Then, next to that, so that we get it absolutely accurate—

The Hon. P.L. White: I think you are running out of things to talk about.

Mr BROKENSHIRE: Minister, I am not running out of things to talk about: I am simply asking for some assistance in the interests of bipartisanship to develop our road infrastructure. This is a very relevant point. You would have a

table for four years on all those points, and over here you would have a table on the four years of increased revenue base in government, including the GST dividends. One of the things—

The Hon. P.L. White interjecting:

Mr BROKENSHIRE: The trouble with estimates—and even bills sometimes—is that you ask these questions. For example, in the estimates, the minister, through her CEO of the department, came up with a study which showed they could do better by doing away with a lot of the private outsourcing and buying all this equipment. Caterpillar is rapt. I am sure they had a great Christmas at Cavan, because magnificent machinery is running all over parts of the state and sitting in a lot of other spots, as well. I asked the minister on that occasion whether she could show me how she got to the point of working out we would be financially better off.

Mrs GERAGHTY: I rise on a point of order, sir. I draw attention to the shadow minister's contribution, because I thought we were on a roadworks bill or something else. Could you ask him to come back to the substance of the bill?

The ACTING SPEAKER (Mr Rau): If the member wishes to continue, we all are very interested in the bill. We are very interested in what he has to say and we will not be interjecting because we want to hear every word.

Mr BROKENSHIRE: Thank you very much, Mr Acting Speaker. This is relevant because you can be reasonably broad when it comes to a second reading contribution. This is about road safety. Anything that deals with road safety is important.

The Hon. P.L. White interjecting:

Mr BROKENSHIRE: Just give me five more minutes, then I will let the minister have some respite from me. This is important and relevant because it has to come into the overall debate. This is a road safety initiative. Every member in this house agrees with that. Coupled with this road safety initiative is the broader argument around road safety. All I want to say is that, when I asked for that information, although it will save millions of dollars and it must have been a detailed study, I got back eight lines on a piece of paper. I need more than that if we are going to keep the government accountable and support things such as this bill.

Even with the GST and increases through the price of petrol, every time petrol goes up the state government gets more money through GST, because all the GST comes back to the state but we are not seeing that being spent on our roads.

Mrs GERAGHTY: I rise on a point of order, sir. I hope, if he is nearly finished, he comes back to the substance of the bill.

The ACTING SPEAKER: If the member finishes shortly, I am sure we can tolerate the broad-ranging contribution.

Mr BROKENSHIRE: Thank you for your support, Mr Acting Speaker. I ask my colleagues and the community to look at the points I have made. I believe they are relevant. It is a big issue. The opposition supports this bill because there is no bigger issue than keeping people, especially our young people, safe on our roads. Our young people are our future. They have a lot to offer. They are fantastic when it comes to the way they approach matters, except on the roads. Statistics show that they do not often approach road safety issues quite as well as they approach other issues that come their way. Therefore, the opposition has pleasure in supporting this bill and will watch this bill with interest in the next few years, in the hope it does achieve better driver training, better responsibility on our roads and, as a result, firstly, keep our young people safe and, secondly, allow their parents to get some sleep at night when many of them with their nocturnal habits are driving their motor vehicles on the roads. The opposition will be supporting the bill.

The Hon. R.B. SUCH (Fisher): As the minister and others would know, I am very passionate about this issue. One of the reasons for my passion is that in November 1990 a nephew of mine was killed just out of Murray Bridge, along with a 16 year old girl. They were in the back seat of a Holden Torana driven by another 16 year old; and the co-driver, if you like, was another 16 year old. So four 16 year olds in a Holden Torana on a dirt road out from Murray Bridge failed to take a bend and the two in the rear seat—my nephew Christopher and the young lass—were killed when the car hit a Stobie pole.

The other two survived, which was fortunate in that respect. That sad event—the loss of a fantastic young lad, as well as a lovely girl from Murray Bridge—has caused ongoing sadness in the family. Whilst he was a nephew, I was still close to him, but the pain for someone to lose a son or a daughter would be even greater. Nearly every day in South Australia—certainly in Australia—someone loses their life on the roads. We do not take it seriously enough. We have become immune to it. It is almost like a statistic when one talks about someone's loved one who has lost their life. Also, often there are those who have been seriously injured, and that trauma can go on for years.

You can go to the Julia Farr Centre, Hampstead and other places and you will see people who are suffering as a result of road accidents. We have a funny notion in this state and in this country that being able to drive a car is a right, an entitlement. I do not believe that it is. Other countries, such as the United Kingdom, do not have the same attitude. They do not have an expectation that someone will get a licence. We seem to have a mindset here (even at the moment within the Department of Transport) that everyone will get a licence.

Members might find it amazing, but we still have a situation here where people who are illiterate (and that is a sad situation) can get a licence, and I know for a fact that they do. There has been intervention. I know of at least one case through the Ombudsman where the department eventually relented and allowed a lad to get a licence even though he cannot read. I do not know how he will go when he is confronted with 'Wrong way, go back'; I do not know what he will do then, but I hope that none of the people I care for are on the road at the time.

We have a funny mindset in this state which says that everyone will get a licence; it is largely a matter of time. I got my licence on the day I turned 16. Members might say, 'Well, that is nothing to be proud of', but I was driving at the age of 10 or younger. All the lads in our area used to drive on the farm properties. We could drive and do all sorts of things well before the age at which you could get a licence. However, times have moved on and most young people now do not have that experience of being able to drive on farm properties and other rough conditions before they get onto our road network.

I applaud the minister and the government for what is happening in relation to this bill. I am not saying it just because the minister is here, but this transport minister has done more for road safety than any other minister I can think of who has held that portfolio. She has done a lot more. Some would say, 'Well, the community attitudes have changed'

and, to some extent, they have. I am sure that in her mind the minister (who has two young boys) does not want to be in a situation in a few years where she is confronted with a knock on the door at midnight from a police officer bringing bad news.

I applaud this measure. It goes a long way. It is not the total answer to dealing with the issue of new drivers and learner drivers. It is not an anti-youth measure. The reality is that young people will be mainly affected by it because they are the people who are most likely to be getting a licence as new drivers. It is not inherently an anti-youth measure: it is simply the reality that, in the main, it will be young people seeking to get a licence for the first time. There will be people of other age categories, and people from other countries will also be affected.

The graduated approach with respect to licensing, I think, is a good approach. I think that it will do a lot to help reduce the number of accidents and road trauma caused by inexperienced driving. I have been campaigning for this for a long time, and I am delighted to see the introduction of modern technology simulation electronics to replicate situations that are currently not put in front of young people when they learn to drive and when they are tested, that is, situations on country roads and wet roads.

The current testing arrangements have been focused on whether someone can drive a motor car on a sunny day in downtown Kurralta Park. That is as far removed from the Dukes Highway as you could possibly get. A member of parliament said to me that his wife—and he was not being sexist—was driving to Melbourne for the first time in her life on a highway. She had had her licence for a period of time and she was frightened of how she would cope with B-doubles and other heavy vehicles on a major arterial road.

It can be scary, particularly when the weather is really rough (fog abounds and heavy rain), and you have these big lumbering monsters coming towards you with very little room for error. Where in the current training schedule is there any provision or understanding of what to do in that situation? What do you do when someone has their lights on high beam drilling your eyes through to the back of your head? We do not train people in how to drive a vehicle in incredibly dangerous situations; nor do we make people aware of the consequences of basic physics.

The minister would know a lot more about physics than I do (she probably knows a lot more about other things than I do), but a case was reported to me about a strip of road where, to her credit, the minister has just ordered the speed limit reduced to 60 km/h. The speedo in a utility last weekend was jammed at 170 km/h. It hit a car doing a U-turn. How no-one was killed I do not know. I think that we could probably thank the manufacturers of Holden and Mitsubishi vehicles—

Mr Brokenshire interjecting:

The Hon. R.B. SUCH: On Black Road. The speedo was jammed at 170 km/h in a 60 km/h zone. No-one was killed. If you go there and you look at the markings on the road you would need a degree in navigation to work out where they went. The police have carefully marked out the trail those vehicles took when they collided, and so on.

But people do not understand the consequences of hitting something at 60 km/h, let alone 170 km/h. I do not want to pass judgment because it could end up in court, but if it is demonstrated that that person was doing 170 in a 60 zone, then they need the book literally thrown at them. And it is not just young female drivers. People tend to say that young female drivers zip around in these little imports, tailgating. But the young lads are getting round in Commodores, which have incredible power. There were two lads killed on Homestead Drive in Happy Valley a couple of years ago, two young lads associated with the West Adelaide Football Club. The car they were driving was an imported sports car.

If members look at the short distance from the roundabout to the tree they hit and how it killed both of them, the distance is so short, barely 250 metres, and the car accelerated enough in that time to kill both of them: two young lads who had the whole world in front of them, including AFL football, wiped out in the space of 250 metres. But people just do not understand what happens when you hit a tree or another vehicle at speed. Our training programs have been totally inadequate in terms of the reality of what happens when you hit an object even at a modest speed. Anything that can highlight that and impress it upon young people is well worth doing.

I am pleased that we are going to use some high-tech computer simulation, as I read it, in terms of making people aware of some of the dangerous road situations and how to handle them. Even with this measure, our driver testing and training will still be modest compared to, say, the United Kingdom or many European countries, whose standards are a lot higher and much more rigorous than here. In the United Kingdom it is not uncommon for people to be refused a licence and never to get one because they do not measure up. We have not quite reached that point.

This proposal also has incentives in it, and it is good that you reward good driving. Most of our young people are good and sensible drivers. We could still go further. The French have a very good system. If in your early years of driving you are prepared to have a supervisor with you (a parent or someone like that: an experienced driver), you get a whopping reduction on your insurance as a young person. That is a pretty good incentive, and the French have been doing that for a while. It is not something that the minister can legislate for but it has obviously paid off in terms of having fewer claims and fewer injuries in France. Maybe one day we might look at something like that here: that if you are prepared to be responsible, to have an experienced driver with you for a longer period of time, a year or two or whatever, you would pay a lot less to insure your vehicle when you get your own car.

The curfew concept I think is good. As I read it, it does not go as far as in New Zealand or the situation in some states of the United States, where they have very strict provisions relating to young people in a motor car, especially after midnight. Unless you are going to work, say, and there is some special justification, you are not allowed to get around in a group, especially late at night, when peer pressure will tend to come to the fore and young drivers will do things they normally would not do.

In essence, I commend this measure. I am absolutely delighted that it is coming in. I am pleased that the opposition is supporting it, because this will save lives. I do not think there is any greater reward for a minister than to know that you are doing something that will save lives. I cannot think of anything more worthwhile than that. The next best thing would be enriching lives, but this will save lives. We will not know who they are; they will not know who they are; but there will be people who have a fulfilling life as a result of the measure that this parliament is dealing with. This will save many lives.

Unfortunately I do not have the figures all collated at the moment but, if you look at the number of people killed in

Australia since the introduction of the motor vehicle, it must approximate the number of people killed in both world wars, because the number killed in recent years on average is about 3 000, although I stand to be corrected if I am wrong. It has been dropping in recent years because of things like breath testing and the introduction of radar. Despite what some people say, those measures have helped a lot, but we can still go further in terms of drug testing, and I am pleased that the minister and the government are committed to introducing that as soon as possible, hopefully later this year, and we will get off the roads people who are drug affected.

There is no doubt that they probably equal in number those who a few years ago were alcohol affected. If you look at the statistics from post-mortems and so on, you will see that the number of people who have had drugs in their system that resulted in their death is somewhat equal to those who are killed as a result of a high concentration of alcohol. There are a lot of other things: this is not the sole answer; but it is one big step forward in terms of saving not only young people but other people on the roads. We have a long way to go. Every day you read in the paper where someone, through stupid behaviour, has taken the lives of others.

I noted a recent case in New South Wales where two young lads were killed and the driver survived. The driver fronted up to the family of one of the lads who was killed, in tears, saying, 'I've lost my best mates.' But it is too late then. Once again I congratulate the minister and the government on this. I am pleased that the opposition is supporting it. Let us get this measure through, because the sooner it is in place the more young people's lives will be saved and the fewer injuries and trauma will be inflicted on the community.

Mrs REDMOND (Heysen): It is my pleasure to make a few brief comments in relation to this bill. I am always pleased to support initiatives I think will improve the road safety record in this state, and I believe the measures the government is planning in this bill will improve the road safety situation. The P1 and P2 situation I have observed in a number of other states is operating already, and that is a good thing. Members might be aware that I was a member of the Road Safety Advisory Council for this state for a number of years. It was clear from the statistics consistently coming to the Road Safety Advisory Council that it was not the age of the driver but the amount of experience they had that was the indicator as to their accident probability. From time to time, I hear people suggesting that perhaps we should increase the driving age, but that varies from place to place. Nevertheless, it is quite clear that people who have not had their licence for very long and have not had a lot of experience behind the wheel are the ones who have accidents.

As a parent, I have been lucky not to have had that dreadful situation of my child being involved in an accident. However, time and time again, I have observed that young males, in particular, seem to be pretty tentative when they first get their licence and they are driving alone. However, once they have had their licence for a couple of months they suddenly think they are indestructible and away they go and, more often and not, they are involved in some sort of accident. Luckily for us, most times they do not do themselves or anyone else too much damage.

I congratulate the government not only for the P1 and P2 initiative, and the 'carrot and the stick' approach that seems to bring, where if you behave properly and do the right thing you progress through your P2 stage more easily, but also for this idea of a person having a level of driving experience before they get their licence. Both my sons are now off their P plates, but I used to observe my eldest son when he was on L plates. He was having lessons from a professional instructor, and I would see him from my office window as he drove by and it seemed to me that he was able to drive comfortably at 60 km/h in the main street and so on. When I took him out for a practice drive, it then appeared, though, that whilst he was competent to drive a car, change gears and drive along at 60 or 80 km/h on the freeway, or wherever, he had not been taught anything about access and egress on the freeway; he had not been taught about overtaking; he had not been taught about night driving, dirt driving or wet weather driving; and he had not been taught about controlling the car at very low speeds in the supermarket car park, which has to be one of the most hazardous places around.

It was quite an adventure when, two days after he finally got his licence, we set off to drive to Queensland. He was my co-driver, and I had to teach him a lot of that stuff along the way. So, I really welcome this idea that there has to be more training. I have always had the view that it is appropriate not to teach your own children and much preferable to get them into the hands of a competent driving instructor. However, one of the gripes I have always had about driving instructors is that I find the driving instruction these days is somewhat at odds with what I would consider to be good driving practice. When I was taught to drive (and I have always driven manual cars), if I saw traffic at a standstill 400 yards up the road, I would gradually slow the car down through the gears and bring it down to a crawl as I approached the traffic. When the traffic started to move off, I would gradually increase the speed, going up through the gears again.

That is no longer the way in which driving instructors teach students to drive. These days, driving instructors teach their students to continue driving at 60 km/h and put on their brakes when they get near the traffic where they have to stop, their rationale being that brake shoes cost less to replace than gears and gear boxes. That is why so many of our young drivers drive like hoons. They are actually taught by the driving instructors to come screaming up behind you and to then slam on the brakes, rather than changing down through the gears and changing up through the gears.

Equally, they are taught that, when they take off after taking an intersection, they have to get up to 60 km/h, or whatever the speed limit is, as quickly as possible. So, they race up through the gears to get themselves up there. They are actually taught that. My eldest son, for instance, when he learnt to drive, was much more comfortable with driving the way in which I had always been taught to drive. However, in order to get his licence, he had to go through this process of driving in this insane way of coming to a sudden stop behind the traffic and then taking off as rapidly as he could. When he got his licence, he immediately switched to driving in a much more sedate manner. That is one of the comments, minister, that I would make about this issue. At some stage, we may need to look at driving instructors and exactly how they are teaching our youngsters to drive.

As I have said, I welcome the idea that we have this 50 hours of experience. I really cannot see how anyone could go for their licence without getting at least 50 hours experience behind the wheel. I know that someone can get their pilot's licence with less than that behind the stick of a plane. If a driver has to have their L plates for six months, it seems to me that it would be almost impossible to go through that six months and have sufficient experience of driving without getting to 50 hours. As I understand the way in which the bill

is structured, that is not 50 hours of paid professional instruction. In fact, I did not see the amount of time mentioned, but I am sure I saw in some notes about the bill that it will be 50 hours. It is not 50 hours with a paid instructor, but 50 hours with a qualified supervising driver, which includes parents.

One of my greatest joys when going through this process was when my second son decided to get his licence. His older brother, who was by then an experienced driver, decided he was going to take his younger brother out and do the big brotherly thing and teach him to drive. He came back fairly white faced and white knuckled, because he had never before got into a car driven by someone who had never steered a car or been on a road before. He discovered that it was rather a nerve-racking experience. Clearly, that is one of the reasons why I have always favoured professional driving instructors.

In relation to that area of qualified supervising drivers, whilst I am happy with most of the definition there was a section that I would like the minister to address. In the amendment to section 72A—Qualified supervising drivers, basically you can be one of those if, when you drive a motor vehicle on a road, you occupy a seat in the vehicle 'next to the holder of the permit or licence' or on the back as a pillion passenger if you are with someone learning to ride a bike. You must take 'all reasonable steps to supervise and instruct the holder of the licence or permit in the safe and efficient driving of the motor vehicle.' That is fine.

The person doing that has to be either the holder of 'an unconditional licence authorising the person to drive the vehicle', again, which is fine, or the holder of 'a foreign licence of a type approved by the registrar'. Now, I would assume that the foreign licence that the registrar is thinking of approving will be a foreign licence of someone, say, from another state or, perhaps, New Zealand. Of course, there are different road rules in different parts of the world and I would be a bit hesitant about the idea of allowing someone with a foreign licence to be authorised as a qualified supervising driver. I would like the minister, in her response, to put on the record just what they have in mind in relation to that.

I think I have probably covered my only other comment, and that is that we do not seem to spell out very much about what is required for instructors' licences, and I think there is a need to look at that in due course. I have no difficulty with the definition of instructors' licences, but I think we need to look at how we are going to go about staging the whole thing.

The whole time I was on the Road Safety Advisory Council, the council was, generally speaking, supportive of the idea of having graduated licences and this, at least, is a first step in that direction. The fact is that until now there has been no restriction, so that if someone got their licence they could get their P plates and, regardless of what experience they may have had, it would be lawful for them to go home, get into a turbocharged manual Range Rover (even if they learnt to drive on a 1 200 cc automatic 100-year old vehicle), put a caravan on the back, and hit a dirt road on a stormy night. The hazards you would lawfully be able to get into were stunning. Up until now I guess parents have mostly been the people who have said, 'No, you cannot actually do that,' and for the most part people who have just got their licences have been relatively simple, but I think this is a good first step in terms of introducing some staging.

As I said, I really approve of the carrot and stick approach and I think I recall that a driver will incur some sort of curfew restriction if they commit an offence, so that those who have not committed an offence are not penalised. I believe that is appropriate. A number of young people have contacted me about these proposals and I have to say that I think there is some cogency in the argument that if you are old enough to die for your country you should be old enough to drive a car in the country. I would really have some difficulty if we were simply penalising people by virtue of their age, but if the penalty is because someone has done the wrong thing then I have no difficulty with that. I support the bill.

Mr HAMILTON-SMITH (Waite): I rise to indicate that I will be supporting the bill. I think it is a fine measure and I commend the minister for the work she has done on this. I am sure it is in spirit and in sympathy with the views of all members on this side.

As we all know, new drivers continue to have a much higher level of crash involvement than experienced drivers. Young people aged 16 to 20 make up 7 per cent of the state's population but, unfortunately, constitute 15 per cent of all drivers killed and 19 per cent of all drivers seriously injured—and I would hazard a guess that a substantial number of those are, in fact, young male drivers. That is up to two or three times the rate of some older age groups, and I have spoken previously in the house about the problem of very elderly drivers losing control of their vehicles and careering through shop windows and running over children in car parks, as has occurred in my electorate. In fact, I had one drive right through my electorate office, in one side and out the other, a couple of years ago—cleaned up the restaurant, cleaned up my office, cleaned up the travel agent next door and cleaned up my poor trainee, drove her through the wall. Fortunately, she was not very seriously injured and no-one was seriously hurt. Driver safety is a problem that affects people of all ages, but this bill is focused on the young and I think it is commendable.

I note the key features of the bill with interest: a minimum of 50 hours of supervised driver training during the learner phases, including 10 hours of night training; additional conditions for the supervising driver in the learner phase; the concept of P1 and P2 provisional licensing; a requirement that the P1 driver must pass a computer-based hazard perception test to progress to the P2 phase;, and various other progression stipulations for provisional and learner drivers. I also note the provision of curfews for drivers who commit serious traffic offences, the idea being to keep them off the road late at night—which I think is another commendable initiative.

From July 2006 further measures will be introduced to include additional sanctions for provisional licence-holders who lose their licence, including regression to an earlier licence stage and subsequent retesting, and then a computerised theory test for applicants for their learner's permit. All existing conditions for novice drivers are to remain, including zero blood alcohol content levels; there will be a requirement to hold a provisional licence to age 20 if the person loses a demerit point during the provisional phase; and lower open road speed limits will apply. All of these measures are commendable and they are the reasons I will be supporting the bill. In my view the 50 hours of supervised training, the supervised driver requirements, the two-stage provisional licence system, the hazard perception test, and the driver incentives are all positive steps forward.

The state government continues to provide rewards and incentives for the vast majority of novice drivers who achieve good driving records. I think that is an interesting innovation in the bill. P1 drivers will be eligible for P2—that is, no P

plates are required after one year on P1—provided they pass the HPT test and either take an approved driver awareness course or have a demerit-free history in the last 12 months. Again, I think that, when taken together, all these measures will save lives.

It has been my observation, particularly having worked with and commanded a lot of young males as an officer in the Army, that a number of things seem to happen at around the time a young male turns 16 or 17. Quite often, they are making the step from the education system into the work force, and suddenly they have money. Suddenly, they have employment and an amount of money they have not hitherto been able to access. With that money, they are able to go out and buy a big motorbike or a big car and spoil themselves with some toys. However, they do not necessarily have the maturity level or the experience to manage those toys safely. At the same time, it is often when young males meet girls for the first time, the testosterone surges and the need to impress seems paramount. In addition, they become eligible to obtain a driver's licence. In 95 per cent of cases, this cocktail is managed well by young people.

I have great pride and confidence in our young people. So often, I have heard them derided by those older, saying, 'The youth of today,' and, 'What's wrong with young people today?' From my experience, young people are as fantastic today as they have ever been—in fact, better. They are better educated, fitter and more socially aware. They are more international in their thinking, and they are toughened by different family experiences. I think that the family today puts unique pressures on young people that make them grow up much quicker. They are terrific citizens but, as always, there is an element who, for one reason or another, cannot cope. Unfortunately, as MPs accustomed to the law-making process, we understand that quite often the majority has to make certain sacrifices in order to safeguard the minority. Once this bill becomes an act, I think it will hasten slowly these young people who are a little more reckless than most—the minority who need to be guarded and guarded against for their own benefit.

As a backbencher in government, and as an observer and a local MP, I have been a critic of the punitive nature of our road safety laws, particularly the need for us to rely constantly on fines, speeding camera offences and penalties in order to ensure that the roads are safe. I do not think that punitive measures work very effectively on their own. I think that they always need to be balanced by preventative and positive measures designed to encourage and persuade people to be better citizens and to behave better on the roads and elsewhere. In that respect, I think that this bill is a step in the right direction, because I believe that a young person will respond better to more thorough training and preparation for their career as a driver than they will to the threat of a fine or incarceration, or even the threat of confiscation of their car (although I have supported that measure most earnestly as well).

These training measures are vitally important. Members may be interested to know that to learn to drive a motor car and a truck in the Army is a six-week course, although it can be compressed into about two weeks. Admittedly, it covers every conceivable aspect of how to drive a car: the first and last parades, the inspections, the basic mechanics, the daily and weekly maintenance, the cleaning and all the issues that go into maintaining a vehicle, as well as driving in all conditions, day and night, across country, on and off road, and all those things. By comparison, the measures contained in this bill seem quite limited and minimal. Of course, that is necessarily so. It would be crazy to suggest that people should go off and do a two-week course in order to learn to drive. However, for those who may be concerned that these measures in the bill go too far, I say: compared with the level of training required to achieve a professional driver's licence in the military, or in industry, these measures are very limited. You would have to go far further in order to be a qualified crane driver, car driver or truck driver for a professional purposes in almost any field. I think these measures represent a minimum standard and, for that reason, I commend them. As we know, the vast majority of drivers will be licensed under this regime not under a professional one.

I welcome the onset of the concepts of courses and a package of training in this bill. I am moderately enthused by the computer-based hazard perception test, and I await with interest to see how it will work and how it unfolds. I have a stepson who is about to take this step. In fact, he turns 16 on Sunday, minister, so I hope we can rush this measure through the upper house so that by the time he gets off his L plates he is subject to this regime. To be perfectly frank, I will be worrying and spending a few sleepless nights. Admittedly, having a four month old baby, I get up to change nappies in the middle of the night, so I suppose it will not be too bad if I am having a sleepless night. You worry about their safety and, as other members have said, you worry about the knock on the door at midnight.

For that reason, again, I recommend the curfew measure. One thing that I note about these kids is that they are very computer literate. They play video games and they think that by the time they turn 16 they already know how to drive. They are absolute know-alls, in the nicest possible way, when it comes to what they think they know. If the hazard perception test is meant to leverage off that core base of knowledge and adapt some of it into the real world, then I think that it might be a good transition. I think that it is probably not a bad idea to get people behind some sort of computer-based training system to make that leap. They need to understand that once they get out on the real road, into a real car, into a real driving situation, in real driving conditions, where lives are at risk, it is quite different to the video game where you hit the side of the safety rail and you bounce back onto the road; when you have an accident and the car tumbles nobody is hurt. Well, it is quite a different regime when you get out there into the real world.

I would commend other measures to the minister, if she is looking at going further, that I believe would benefit not only learner drivers but also more experienced drivers. I think that there is scope to extend some of the ideas in this bill to mature drivers and more experienced drivers, in particular, those more experienced drivers who are facing loss of demerit points or who have a heavy history of fines. I would like to see measures that cause them to re-train rather than experience further fines or further loss of demerit points, perhaps with last-chance type options before you lose your last few points, where you go back to do a two-day training period, or go back into some re-training to try and correct the mistakes that you are making. I think that a lot of mature drivers and experienced drivers are making some silly mistakes that need fixing.

The other thing that I would suggest has to do with the shock and horror of safety and driving. I recall quite succinctly as a young man in my first year of employment—in fact I was a cadet at the Royal Military College, Duntroon—and

we had been (if you like) locked up in camp for three or four months, and we were allowed our first leave, and everybody was going to drive home from Canberra to various parts of the country: Melbourne, Sydney, Brisbane, Adelaide, for their first leave in their car, and most of us were 17 or 18. To its great credit, my employer called upon the ACT police to give us a lecture. That lecture included a couple of shock and horror films and that is the only way that I can describe them. They were American films, and they went along the lines of documentary with the lead characters being highway patrolmen, 'Hello, I'm Constable Bloggs. My job is to patrol Route 34 in Dakota for this long weekend.' The officers would go out over the long weekend, and the documentary crew would go with them, and they would film and video carnage after carnage: dead adults; dead children; screaming victims crashed in cars being cut free, limbless corpses and blood everywhere.

They would reconstruct the accident with actors showing people the mistake that was made. The husband coming home from work, tired after a long day, throwing the family in the car, off for the long weekend on a Friday night to the lakes cottage, not planning to arrive until three, the kids and wife asleep in the car while the driver who had been working all day nodded off to sleep and had a head-on collision with a semi-trailer. Then it would cut to real life, the film crew would come in, and the blood and guts were everywhere. It was very graphic and it was quite shocking, but I tell you that there was not one of us in the audience that did not want to hang up our car keys after the end of that two-hour session. It was quite shocking, and it really brought it home to you, given that just about everybody has not been at the site of a blood-thirsty and gruesome car wreckage scene. We might have seen it on TV but the harsh reality for 99 per cent of the population has never really been known; for the 99 per cent of us it was really quite sobering.

I have put this to senior police officers and others, and I have heard arguments back that you could not possibly do that, it would be too psychologically shocking and that it might traumatise the viewer; or, alternatively, that young drivers might get some sort of a buzz out of it and they might respond to it in a flippant and disparaging way. I am not so sure. That was not the experience amongst a group of 17 or 18 year olds when we viewed it, and maybe a bit of shock and horror to bring home to young people the reality of road carnage would not go astray. If that sort of training was incorporated into these measures I think it would be a step forward, and there are people who do not agree with me, but I would like to have a debate about that. I think that a bit of shock and horror has a place in bringing home to young people that once they get into a car it is a killing machine, and that they are out there and they can kill at any time, 24 hours a day.

Another way to do that would be to get young people who have been exposed to this horror—and I heard the member for Fisher talk about his nephew: four 16 year olds in a car, two lived, two died—to come and talk to people about their experience, and I would consider that to be training. I would not consider that to be a visiting lecture or anything other than driver training. I think that there is scope for some of those, perhaps more dramatic measures, in terms of reducing the number of road deaths that we experience today.

For all of those reasons I think that this bill is a step in the right direction, but I think there are other directions in which we might go in our effort to reduce the number of lives lost. There is a danger that we members of parliament will be perceived by the public to be revenue raising if we continue our regimes of heavily penalising drivers through speed camera offences and red light offences etc., as our only and principal device of ensuring road safety. However, I think measures like this add some moral weight to what we are doing because we can actually say, 'We are not just fining you. We are also introducing sensible legislation that is designed to train you to save your own life, and to protect the lives of others.' This bill does add value to the basket of measures that we members of parliament are creating to make our roads safer and better.

The other thing that I like about the bill is that it does not go that far that it takes away the role of a family from driver training. I think it would be a mistake to go down a more regimented road to one where kids had to go away to do their training as a necessity, rather than for that training to be under the guidance of a supervised driver, quite usually their parent, and this bill provides for that. I think that is a reasonable step. I myself have been through the motorcycle driving regime run by Transport SA, which I think is a commendable and meritable process. There may be scope to look at that regime and that process for driver training.

Overall, I like the bill. I like the hoon driving bill. They are both measures that the Liberal Party has introduced previously or would have introduced, had it been in government. We completely support it. A number of these measures we had as draft legislation before the last election, so they are measures that enjoy the unanimous support of both sides of the house. I commend the government for bringing to life the joint wishes of us all in seeing constructive measures that save lives.

The Hon. P.L. WHITE (Minister for Transport): I thank all members for their passionate and sincere comments on and support for this bill. I thank all those members who spoke of their support of this bill, because it is very important. I thank the members for Mawson, Fisher, Heysen and Waite for their comments because this bill is about saving the lives of our novice drivers. They are grossly over represented in fatalities, as well as serious injuries, on our roads. The bill is all about putting more supervision and more training into the learning and provisional phases of a novice driver's early experience on the road. It is also a package of measures aimed at promoting and encouraging good behaviour on the road and really cracking down and punishing and penalising bad behaviour. The message that the government is really trying to push out to novice drivers is that if you do the right thing then you will progress through the system; and you will be rewarded for your good behaviour. If you do the wrong thing not only will you get penalties such as night-time curfews and suspension of your licence, and those sorts of things, but also you may find yourself going back to an earlier phase and having to do it again until you can demonstrate you are responsible on our roads.

This is a finely balanced package. It is one to which all the peak organisations have given support. I might emphasise that very strong in that support has been the Youth Affairs Council (YACSA) and the voice of young people, Surprisingly, when I initially came forth with this package I expected to get some condemnation from young people, but, instead, the strongest responses in terms of letters to me have been from young people. I might say the second strongest response has been from parents of children in the teenage group about to get their licence, and some of those people are members of our current parliament. I will not divulge the fact that some

members have asked the laws be made so tough that their children never get a driver's licence!

Mr Brokenshire interjecting:

The Hon. P.L. WHITE: Perhaps that is the case. I pay tribute to the member for Mawson, as he acts on behalf of the Liberal opposition in its support for this measure. It is a serious matter. These measures will save lives. I have a few comments in relation to issues that were raised. There were not too many outstanding issues on this bill. The member for Fisher raised issues about the training, and, of course, there are several areas in which, as he rightly pointed out, there is extra requirement on our novice drivers, including the minimum of 50 hours supervised driving. We have gone from a situation where prior to December 2003 it was possible to turn up, get a learner's permit one day and get a provisional licence next to the change our government made in 2003 whereby a person had to have a learner's permit for a minimum of six months and the test was improved to add safety questions into the test. That requirement is currently in our system.

This next phase adds 50 hours of supervised driving experience into the L phase, and there are additional requirements under this bill on the supervising driver. The supervising driver must have a minimum of two years on a full provisional licence without disqualification. That means that an older sibling teenager will not have that requirement and will not be able to supervise effectively. The supervising driver under this bill will have to be a minimum of 21 years of age.

That is all about making sure that the person doing the supervising is quite a bit more qualified than the learner. Also, after the young driver has been on the road on their own for a little time the hazard perception test presents them with some real-life situations, and they must demonstrate that they know what to do in those situations. Incentives and rewards are also in this package of measures for those who undertake driver awareness courses. The member for Heysen raised a question about clause 72A and what happens if a supervising driver holds an international driving permit or a foreign licence.

Essentially, that clause puts in place a system for the recognition of foreign or international driving licences. The clause extends that to apply also to the supervising driver which, at present, is not the case. The Registrar of Motor Vehicles, through agreements with other countries and an assessment of the driving standards of other countries, will oversee (as he currently does with a normal driver's licence) the admission and acceptance of international or foreign licence qualifications for the supervising driver. That is all that clause is about. I do not think that would be cause for concern.

I am not sure whether there was a misunderstanding with the member for Waite or whether I misunderstood one point in his second reading contribution. The honourable member talked about drivers who transgress going back to an earlier phase and doing some further training. If someone is disqualified during their provisional phase, under this bill there is a requirement that they go back to the previous stage.

Mr Brokenshire interjecting:

The Hon. P.L. WHITE: Okay. I am glad that is clarified. I thank all members for their contributions to the bill. It is an important bill. I hope that it will pass through its final stages promptly and through the other place so that, from 1 July, we can implement this very good package of improved safety measures, which will require not only more experience in driver training but also more experience in our novice driving system, as well as some real incentives for good behaviour on our roads amongst this very vulnerable high risk group.

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

ADJOURNMENT

At 9.50 p.m. the house adjourned until Thursday 3 March at 10.30 a.m.