LEGISLATIVE COUNCIL

Wednesday 24 September 2003

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the third report of the committee.

Report received and read.

The Hon. J. GAZZOLA: I bring up the fourth report of the committee.

Report received.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

State Supply Board—Report, 2002-2003
Interim Operation of the Rural B Zone (Concordia)—
Waste Disposal Anomaly Development Plan Amendment Report
Interim Operation of the Rural City of Murray Bridge Heritage (Town Centre and Environs) Plan Amendment Report
Rules under Acts—
Local Government Act 1999—Local Government Superannuation Scheme—
Council Elected Member
Present Day Super Benefit.

ADELAIDE FESTIVAL DIRECTOR

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement relating to the 2006 festival director made today in another place by the Premier.

GAMBLING

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to early intervention orders made today by the Hon. Jay Weatherill in another place.

MOUNT GAMBIER HOSPITAL SELECT COMMITTEE

The Hon. A.J. REDFORD: I seek leave to make a personal explanation.

Leave granted.

The Hon. A.J. REDFORD: In last Friday's *Border Watch*, an article by Mr Frank Morello reported comments made by me regarding the proposed Mount Gambier Hospital select committee and suggested amendments by the minister, the Hon. Rory McEwen, and the Democrats. In the article, I was correctly quoted as saying:

> If they (Mr McEwen and the Democrats) want to go down the path of what happened pre-July last year, if we can do that next year I don't have a problem with that, but I just want to get what's happened since July last year and see what we can [achieve before Christmas].

Unfortunately, the paper's editorial describes this as a backflip. Further, the editorial suggested:

> [my] backflip on extending the inquiry period could only be viewed as another round of politicking . . .

Whilst I was correctly quoted in the body of the article, to describe my views there expressed as a backflip is simply not correct and misrepresents what I said. I am grateful that, after a discussion with the general manager, Mr Graham Greenwood, he acknowledged the unfairness of the use of the term backflip and apologised. It is rare for a media outlet to apologise and, in that respect, the speedy acknowledgment of the error and the apology have drawn my respect for Mr Greenwood and the *Border Watch* and its tireless and unremitting campaign for regional health justice in this state.

The PRESIDENT: Normally, a personal explanation relates to what you were quoted as saying and how it affected you. Congratulations and gratuitous remarks to the press are not normally part of a personal explanation.

QUESTION TIME

MURRAY RIVER FISHERY

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about Public Service behaviour.

Leave granted.

The Hon. CAROLINE SCHAEFER: As we know, the sorry saga of the river fishers has gone on in this place for 18 months or so now, during which time these fishers have been placed under a great deal of emotional strain and stress. I think we also all know that they have continued a campaign of emails to many of us, particularly to members of the government and government departments. I would like to quote from a reply to one of those fishers in the name of Will Zacharin, the Director of Fisheries, which states:

> PIRSA Fisheries will not be responding to any more of your manic emails unless they concern the management of the non-native fishery in which you have a licence.

Does the minister believe that that is an appropriate reply for a senior public servant to send a member of the constituency and, if he does not, what action does he intend to take?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): There is no doubt that within the river fishery a number of fishers have been incapable of accepting the decision that has been made by the government in relation to a restructure of the fishery. I must say it applies to only one or two of the fishers. A number of them have taken the package the government offered, and four or five in fact are trying to participate in the carp fishery. There is one in particular of those fishers who has made it quite openly known that he intends to basically sabotage the efforts of those fishers remaining in the industry to conduct a viable carp fishery. That particular individual has been embarking on a massive email campaign raising basically the same issues over and over again.

I believe that the time of the officers in my department will be better served if they deal with the real issues in relation to the fishery than in answering hundreds of pointless emails. Whether a response should use some of the words that were allegedly put in that particular email is a matter for judgment but, certainly, I can understand and I support the Director of Fisheries in that, where there are a number of emails being sent that do not raise any issues, I do not believe the department should have to respond to those. PIRSA,

Fisheries and I and my office are always happy to communicate and, indeed, have communicated with the river fishers and others if there are genuine issues in relation to that fishery. That offer remains open. But in relation to a number of some of the quite pointless pieces of correspondence, including emails, that have been sent, I think it is entirely understandable and appropriate that the department should not further respond to such correspondence.

The Hon. CAROLINE SCHAEFER: As a supplementary question, does the minister have any knowledge of any qualifications that Mr Will Zacharin might have to determine whether someone is or is not manic? If he does not, does he believe that that is appropriate language to use in a written reply to a bona fide taxpayer and constituent and, if he does not, what action does he intend to take?

The Hon. P. HOLLOWAY: I have only the honourable member's word that that term was used. I answered that question previously when I said that, in relation to the terms that one uses, they might not be terms that I would use. I think it is appropriate that the department should not endlessly correspond with people in relation to the same issue. However, if the honourable member cares to provide me with a copy of the email that was allegedly sent using those terms, I will certainly take up that matter with the director and suggest that, if he in fact used that language, he use more appropriate language in the future. However, I do understand why he would not wish to further correspond with particular correspondents in the river fishery.

ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about ATSIC.

Leave granted.

The Hon. R.D. LAWSON: The Patpa Warra Yunti Regional Council, one of the three regional councils established in South Australia under the Aboriginal and Torres Strait Islander Commission Act, has just published its excellent annual report for the year ended 30 June 2003. The report outlines the activities of the Patpa Warra Yunti Regional Council, which has responsibility for the Adelaide and south-eastern regions of South Australia, and it outlines how the council has disbursed over $10 million in excellent programs for the support of Aboriginal people. In the zone commissioner's overview, mention is made of the Tarndanyangga agreement, which is being negotiated between the state Minister for Aboriginal Affairs regarding enhancements to the partnering agreement that already exists with the state government.

I will ask my first question about that in a moment, but by way of further explanation I mention, for the benefit of the council, that the commonwealth government has established a review of ATSIC. That review is being conducted by a panel of three distinguished Australians, the Hon. Bob Collins (a former Labor senator), the Hon. John Hannaford (a former attorney-general in New South Wales) and Ms Jackie Huggins AM. My questions are:

1. Can the minister report on what progress has been made in relation to the Tarndanyangga agreement? When will it be finalised and when will results be delivered?

2. Did the state government make a submission to the ATSIC review panel and, if so, what was the substance of that submission?

3. Does the minister agree with comments that have been widely made that relations between this minister and ATSIC in South Australia are at a low level?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his important questions. I will answer the last one first. I am not sure who is saying that the relationship between the current minister and ATSIC are at the lowest level or from where that is coming.

The Hon. R.D. Lawson interjecting:

The Hon. T.G. ROBERTS: It is generally said; okay. In my experience, the relationship between ATSIC and any elected government, both at a commonwealth or state level, is always tested during difficult times and when there is no agreement with ATSIC—and now ATSIC and ATSIS. We do have agreement. Generally, personal relationships are more cordial than the more formal relationship you have with the organisation and its members.

Certainly not ATSIS because, at this point, I have not done anything to upset ATSIS. I will be meeting with members of ATSIS as soon as that is able to be arranged, that is, ATSIS members will be getting around the states talking, I understand, to state ministers shortly. We have general agreement with ATSIC with respect to a number of issues, and we have had some amicable round table discussions. We have some different views in relation to priority setting, but I would not be one of those ministers who would tell ATSIC how to go about its business because it is a capable organisation.

The last meeting I had with ATSIS representatives was quite cordial. We discussed a range of matters, including the Tandanyangga agreement which, we hope, will be signed shortly. Some matters are still to be discussed. The time frames will be towards the end of the year, probably November. I suspect that the signing will be done in Victoria Square, which will be Tandanyangga Park. I am not too sure what the final name will be. That agreement will be signed by the government and ATSIC, and I expect that to be completed reasonably shortly. The state government did make a submission to the ATSIC review. We also met with the ATSIC review commissioners.

We made a verbal and written contribution, which has been made public to the members of ATSIC. If the honourable member would like a copy of the submissions that we made, I will see whether I can make one of those available to him. From time to time we do have our differences in relation to funding regimes. However, we have said that, in the future, because of the changes to the funding formations and the responsibilities that are now with the regional ATSIC bodies and the administration of funding at a federal level through ATSIS, we now will need to have a different form of engagement.

We want to make sure—and ATSIC members have agreed to this—that the funding targets that are set by ATSIC at a state level are able to be considered by the state government in setting its priorities so that we are not shooting across each other's bows in relation to how money is spent. There will be more cooperation, more discussion and, hopefully, we can aggregate the funding targets that the state government puts in place and augment the priorities that ATSIC set with discussions with the broad community. Although it probably sets up a more difficult arrangement in relation to how funding priorities are being set, that is, ATSIC having the two

bodies (ATSIC and ATSIS), we will have to work harder to coordinate our activities.

We want to ensure that the funding that ATSIC, ATSIS and the state government target actually hits the mark, and that we are able to measure the results and the degree of success in relation to targeting those funding areas and measuring the results. I would hope that we can build up relationships with the new ATSIS as soon as possible. I would like to be able to say that ATSIC and regional commissioners are on side with the state government. As I said, we will have different views and opinions, but I hope that they and the state government—that is, the minister's office—are big enough to be able to work through those differences.

VISITORS TO PARLIAMENT

The PRESIDENT: I draw members' attention to some very important young South Australians in the public gallery today. They are senior students from Temple College, and they are present today with their tutor Mr Brenton Prosser. I understand they are being sponsored by the Hon. Kate Reynolds. My understanding is that they are here as part of their studies. I hope they find their visit both enjoyable and educational and that it plays some positive part in their future role in society in South Australia.

TRANSPORT MINISTER, COMPUTER

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about office computers.

Leave granted.

The Hon. D.W. RIDGWAY: It is usual practice for all government departments to renew IT hardware such as computers and printers. In fact, shortly after the election the computer and screen in my office were updated, and just recently the printer in my PA's office was also upgraded. It has come to my attention that the computers in the Minister for Transport's ministerial office were replaced recently. The normal process is to remove all files from the hard drives of these computers and then sell them through the government auction. However, a reliable source informed me this morning that the minister's computer was not decommissioned and, in fact, was sold with all files intact. It is my understanding that the department then had to locate the computer and negotiate to buy it back from the member of the public who had purchased the computer at the government auction. My questions are:

1. Will the minister explain how and when this obvious breach in procedure occurred?

2. Will the minister inform the council of the sale price of the computer and its subsequent repurchase price?

3. Will the minister assure the South Australian public that any sensitive files on his computer were not accessed by the purchaser of the computer?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister responsible and bring back a reply.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. It was the practice of the previous government not to sell government computers but to donate them to disadvantaged and charity groups to be used in administration. Has the government policy changed?

The Hon. T.G. ROBERTS: Although I am not the minister responsible, I do know that many government owned computers are given away to community groups and organisations, and to some charities. I will get a more detailed response to that supplementary question and bring back a reply.

WORKCOVER

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to WorkCover made earlier today in another place by my colleague the Minister for Transport.

CAULERPA TAXIFOLIA

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about Caulerpa taxifolia in West Lakes.

Leave granted.

The Hon. CARMEL ZOLLO: Recently the pumping of freshwater into West Lakes to eradicate Caulerpa taxifolia in the lake began. Will the minister inform the council of the progress of this program?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The program called for 3.7 gigalitres of freshwater to be pumped into West Lakes and salinity levels to go down to two parts per thousand. As of Monday 8 September, 2.6 gigalitres or 69 per cent of the planned total had been pumped. I believe that now closer to 3.5 gigalitres or 90 per cent of the planned volume has been pumped into West Lakes. The rising main between the pump station and the stormwater system continues to operate without incident. Two barges are assisting with the pumping of water from the lake; one was pumping water out of the lake and the other was pumping to circulate water within the lake.

Since 15 September, both barges have been pumping saltwater from the lake. Before this time one had been pumping close to the Bower Road end of the lake and the other had been pumping near the centre of the lake near Football Park. Salinity levels are falling, more or less evenly, across the lake. Large areas of the lake, down to 2½ metres, are less than 10 parts per 1 000. There have been no incidents of flooding, even with heavy rainfall. Drains in the stormwater system are functioning normally. As best as can be determined, there appears to be a complete loss of Caulerpa taxifolia from the shallow waters, across the lakes, at depths of up to 1½ metres. At depths below 1½ metres there is significant overgrowth of fungal matter.

Significant decomposition is taking place; however, oxygen levels in the water are still high and no smells are evident. Very poor light conditions at depth are also contributing to the dieback. No further new outbreaks of Caulerpa taxifolia have been located in the Port River and physical removal and spot treatments will continue to be the preferred treatment in this area. The project is on track, to be completed by 30 November, and the program is within budget. I am pleased to release a video, taken recently, of conditions below the surface of the lake which demonstrates the impact that the freshwater treatment has had on Caulerpa taxifolia. Obviously, removing this weed in the deepest parts of the lake is

going to be a big challenge. We are pleased that at this stage the program appears to be working exactly as planned.

ASYLUM SEEKERS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about the treatment of asylum seekers in South Australian hospitals.

Leave granted.

The Hon. SANDRA KANCK: In August, a pregnant woman who went into premature labour was airlifted to Adelaide from a detention centre and admitted to the Women's and Children's Hospital. In the time-honoured way, supporters arranged for flowers to be delivered to that woman in hospital. They attempted to visit her at the hospital the next day. I will quote from an email I received that relates what then occurred, as follows:

> We asked general reception where she might be, and were told by a woman, who was a very bad liar, that no such person existed, and had never existed in the hospital, and that they were sending all the flowers back to the people who had sent them, as they had no idea where she was. I tried to appeal to her humanity, and as a woman, and she kept denying and looking red-faced.

The supporters continued to be told that there was no person by that name in the hospital. They were asked to leave by security guards who said they would call the police if they did not leave. They were then escorted off the premises. My questions are:

1. Does the minister consider that being denied visitors when an in-patient in a public hospital is damaging to the wellbeing and mental health of the patient? Does she consider the refusal to deliver flowers to a patient to be in any patient's best interest?

2. Why has the government been acquiescent in the inhumane treatment of asylum seekers in South Australia? What is the security role of the Department of Human Services and the Women's and Children's Hospital in caring for asylum seekers who are in their care?

3. Has the minister been informed of the details of this incident and the public relations exercise to deny that the woman was an in-patient? Does she consider that having to lie would sap the morale of administrative staff at the hospital?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer that question to the Minister for Health in another place and bring back a reply.

The Hon. KATE REYNOLDS: As a supplementary question: will the minister table, in parliament, the memorandum of understanding between the federal government and the state government or the Department of Human Services and the Department of Immigration, Multicultural and Indigenous Affairs?

The Hon. T.G. ROBERTS: I will refer that question to the Minister for Health in another place and bring back a reply.

The Hon. T.J. STEPHENS: I have a supplementary question. Does the minister consider the use of security guards to remove a person from a public place, such as a public hospital, an appropriate way of dealing with the public?

The Hon. T.G. ROBERTS: I will refer that question to the Minister for Health in another place and bring back a reply.

RETIREMENT VILLAGES

The Hon. J.M.A. LENSINK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Social Justice, a question about the review of the Retirement Villages Act.

Leave granted.

The Hon. J.M.A. LENSINK: On 15 September, I asked a series of questions in this place of the Minister for Social Justice regarding the review of the Retirement Villages Act 1987. It seems that I may have been a little too oblique in my line of questioning, so today I will try to be more direct.

It has been put to me that a draft bill has in fact been prepared for limited circulation; hence, my questions last week to ascertain whether there has been a proper process of consultation, or whether the government in its wisdom has instituted a token consultation process whilst thinking that it already knows the answers. This morning, all members would have received the same letter that I received from the Hon. Stephanie Key in relation to the review of the Retirement Villages Act. Attached to the minister's letter is a document dated 19 September 2003 entitled 'Foundation document for the development of legislative amendments to the Retirement Villages Act 1987'. My questions are:

1. Is this foundation document the paper referred to in the June 2003 document entitled 'Progress report on review of the Retirement Villages Act 1987'?

2. If the minister has not received that document, when does she expect to do so and when will it be released for public comment?

3. Has a bill to amend the Retirement Villages Act 1987 already been drafted and given limited circulation?

4. Did the minister give approval to approach parliamentary counsel for the drafting of amendments to the act? If not, will she be taking any steps to pull anybody into line?

5. If a bill has been drafted, what is the purpose of the foundation document?

6. How much of the subsequent feedback to the government in response to its circulation will be taken into consideration?

7. Furthermore, why has a full and proper process of consultation not been adhered to prior to its drafting and in accordance with the processes outlined in the government's June document 'Progress report'?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Social Justice and bring back a reply.

HOME AND COMMUNITY CARE

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Social Justice, a question about HACC funding.

Leave granted.

The Hon. J.F. STEFANI: On 27 June 2003, I received a letter from Mr Trevor Goldstone, Chief Executive Officer of Aged and Community Services South Australia and Northern Territory Incorporated. In his letter, Mr Goldstone

expressed his concerns about the Rann Labor government not fulfilling its election undertaking to support the elderly, frail and disabled in the South Australian community. Mr Goldstone's letter also stated:

> We are concerned at the implications of this decision in terms of the perception that the ALP has developed a position that seems to undervalue older people in our community and their need to access the support required to maintain their dignity and quality of life.

The decision by the Rann Labor government not to match HACC growth funding flies in the face of the published policy position of the ALP prior to the last election. At that time, the ALP distributed a copy of Labor's plan for older South Australians which specifically covered its policy under the heading of Home and Community Care. The ALP policy stated, as follows:

> The availability of growth funding from the commonwealth will be central to funding the existing unmet need and growing demand for Home and Community Care services for frail older people and younger people with a disability in South Australia.

The PRESIDENT: Order! I ask members not to move around the chamber, unless it is absolutely necessary; although I understand that the whips have to. There is too much conversation, and it is very difficult for me to hear the Hon. Mr Stefani speaking. I ask all members to maintain the dignity of the council.

The Hon. J.F. STEFANI: The policy goes on to state:

> It will be a priority for Labor to ensure that future agreements with the commonwealth address unmet and growing demand. Because South Australia has a higher proportion of elderly compared to other states there is a strong need for funding to be above the national average levels.

Mr Trevor Goldstone observed that, in HACC history, on two occasions the Labor government decided not to match the commonwealth HACC growing fund option, causing the level of support for the elderly in this state to fall behind the service level options available in other states. My questions are:

1. Will the minister urge the Premier, and the Labor government, to redress the decision and provide the much-needed $1.9 million from the contingency fund in the state budget to match the commonwealth HACC offer, as promised by the ALP during its election campaign?

2. Will the minister ensure that the Rann Labor government reverses its decision, which has caused the elderly to be given a low priority?

3. Will the minister fulfil the social inclusion policy of the Rann Labor government by ensuring that the large number of elderly and disabled South Australians will receive the basic level of home care, in order that they can maintain their independence, dignity and choice?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I am not sure of the date on the letter, but some of those issues have been addressed by the government. However, I will get an update on the situation, as outlined by the honourable member, and refer the question to the Minister for Social Justice and bring back a reply.

INDIGENOUS ACTION ZONES

The Hon. J. GAZZOLA: I seek leave to make a brief statement before asking the Minister for Aboriginal Affairs and Reconciliation a question regarding indigenous action zones.

Leave granted.

The Hon. J. GAZZOLA: I recall that earlier this year the government launched the 'Doing it Right' Aboriginal Affairs policy paper aimed at setting the agenda to tackle entrenched problems faced by indigenous South Australians. I understand that the minister is establishing indigenous action zones to help with that aim. Can the minister outline how these action zones are intended to operate and the benefits that might flow from them?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and his continued interest in this matter. As the honourable member said, back in May this year I launched the government's 'Doing it Right' Aboriginal affairs policy paper. The policy aims for cooperative development, implementation and strategies to improve living conditions in Aboriginal communities, reduce the contact by Aboriginal people with the criminal justice system, and improve educational and health outcomes.

As part of this commitment, we are now in the process of establishing our first indigenous action zones, and others will follow. Action zones, as outlined in the Rann Labor government's Aboriginal affairs policy 'Doing it Right', will be created throughout South Australia to improve the safety and wellbeing of individuals, families and communities.

Zones will see government agencies, headed by the Department of Aboriginal Affairs and Reconciliation, work together to provide quick responses and solutions to priority issues identified by metropolitan, regional and remote Aboriginal communities. Zones will be geographic areas with significant indigenous populations, as identified by Aboriginal people. All members of the communities will be encouraged to participate in local planning and decision making. There will also be a local community capacity building program to go with those responsibilities that will be expected.

Our first action zone is being set up on Eyre Peninsula and the coastal areas to the west and will be known as the West Coast Action Zone. More than 50 representatives of key Aboriginal organisations and government agencies met in Port Lincoln last month to discuss the West Coast Action Zone and the priorities for action. The establishment of the West Coast Action Zone should be completed by the end of the year. Priority issues for the zone, and those to be responsible for taking action, will also be in place by that time. Hopefully, the concept, pioneered in the AP Lands where government agencies and community bodies work in partnership to find solutions can serve as a model for other states. We are looking at developing partnerships throughout those programs, neither to work in isolation nor, hopefully, to be accused of not empowering communities through the partnerships that we build up.

SURF LIFE SAVING

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the minister representing the Minister for Emergency Services a question about the neglect of surf life savers.

Leave granted.

The Hon. IAN GILFILLAN: I refer to a letter that was written to the minister (Hon. Patrick Conlon) on 12 September this year from Surf Life Saving South Australia Inc. Before reading these extracts, I just hope that the minister is a good swimmer, because I must reflect that the surf life saving community is far from pleased at the minister's neglect of it in relation to the Emergency Services Levy. The letter states:

We wrote to you on 23 June 2003 and, amongst other things, raised certain concerns relating to the Emergency Services Review:

'We note the recently circularised emergency services review. Whilst acknowledging that it was commissioned to deal with matters principally relating to the respective fire services, we note that Surf Life Saving is not recognised within that review as being a nominated party under the legislation. The review recommends changes of process in respect of funding and legislation and we seek your assurance that Surf Life Saving will remain a named entity within the act and will not be prejudiced by any review in its ability to continue to seek appropriate levels of funding for its activities.'

We have not been favoured with such an assurance.

'Our concerns are further heightened by the lack of any mention of Surf Life Saving and/or its thousands of members within the context of a document released on 20 August 2003, 'SA Fire and Emergency Management Commission—Commission Implementation Plan.'

We find our apparent exclusion, given the content of the minute forming enclosure re government's expectations of emergency services quite alarming. This document, amongst other things, states that, in respect of emergency services, the expectations of the government directly reflect the expectations of today's community. The same sentiments seem to be conveyed in your speech to the house on 17 July 2003—

and this is emphasised—

we would be most surprised if the services provided by Surf Life Saving do not fall within the expectations of today's community.

My questions to the minister are:

1. Does he recognise the value of Surf Life Saving and the community involved in South Australia?

2. When will he assure the state life saving association that they are recognised as an emergency service?

3. When will he take the necessary steps to ensure that the state lifesaving association will not be prejudiced by any review of emergency services and will receive their fair share of the Emergency Services Levy?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer that question to my colleague in another place and bring back a reply.

The Hon. KATE REYNOLDS: As a supplementary question, will the minister undertake to properly acknowledge the work and value of the surf life saving volunteers in all future publications and documents?

The Hon. P. HOLLOWAY: In every document? I am not sure that that is necessary, but I will pass the question on to the minister.

Members interjecting:

The Hon. P. HOLLOWAY: In every document? Even the police annual report? We will see: I will pass the question on.

The Hon. J.F. STEFANI: As a supplementary question, will the minister establish by appropriate inquiries how many lives have been saved by the life savers in the last two years?

The Hon. P. HOLLOWAY: I will pass the question on to the minister and bring back a response.

DEBT COLLECTION AGENCIES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General, questions about South Australian debt collection agencies.

Leave granted.

The Hon. T.G. CAMERON: A recent article in the *Sunday Mail* exposed a growing level of illegal methods debt collection agencies are using to recover debts in South Australia. According to the article, intimidation and harassment is becoming endemic in the debt collection industry, with claims increasing numbers of unlicensed investigators are operating in this state. Consumer and community groups have reported a surge in complaints from people claiming they have been victims of standover tactics by debt collectors seeking to recover outstanding payments. Illegal behaviour ranges from people being threatened over the phone and abused at their front doors all hours of the day and night, aggressive letters of demand being sent to their workplace, collectors failing to provide details of the amount of money owing and collectors threatening to send people to gaol and their children to welfare agencies if they do not pay up.

The increase in complaints is as a result of a growing number of companies contracting out or selling their debts on. Scare tactics are used by these rogue agencies because they know people do not know their rights. While there are existing regulations governing the behaviour of debt collectors, they need to be much better enforced. Therefore, my questions are:

1. Is the Attorney-General aware of this growing problem? What steps have been taken to stamp out this illegal activity? Will the government consider tightening the current regulations so the law has some real teeth?

2. Will the Attorney-General outline what current information is available to people advising them of their rights and responsibilities in relation to debts and debt collection agencies, including any examples of written material, web site, hotlines and so on?

3. Will the government give urgent consideration to a public education program to ensure consumers are better informed of their rights and know who to contact if they believe they are being harassed or threatened by debt collection agencies?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will pass those questions on to the Attorney-General and bring back a reply.

QUESTIONS ON NOTICE

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government a question about Rann government promises of openness and accountability.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware that the issue of a significant number of unanswered questions has been raised by the opposition, my colleague the Hon. Angus Redford in this place and members from another place as well. Amongst the unanswered questions are almost 100 questions in relation to the costs of overseas trips, the numbers of public servants in departments and agencies, the number of public servants earning more than $100 000, the number of public servants earning bonus payments, and what some would consider to be a relatively simple question, that is, the name and salary of officers who work in each minister's office, that is, their own personal ministerial office.

I refer the Leader of the Government to the question on notice which is currently numbered 19 and which was directed to him in February this year, almost eight months ago. The question which has been put to the minister is just to name the officers who work in his own personal office, what they are paid, what the budget is and what the cost of any renovations to his personal office has been since March last year. My questions are:

1. Why is it so difficult for the Leader of the Government in this place, given the Rann government's claims of openness and accountability, to answer a simple question as to the names and salaries of the officers in his own personal office, the budget and any amount of money that might have been spent on renovations to his office?

2. Will the minister give a commitment to ensure that an answer to the question that relates to his particular office is provided to the parliament before the council sits again in 14 days?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): As the leader says, there have been some suggestions by members opposite about unanswered questions. We had one the other day—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Yes, they are suggestions, quite wrong suggestions in many cases. We had one the other day when the Hon. Caroline Schaefer asked a question alleging that I had not provided an answer when, in fact, a detailed answer had been provided. In fact, there have been a number—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I can name the officers in my office. Look, I am surprised that that information has not been provided. Perhaps this is one of those cases, as I said earlier, where the opposition keeps saying that questions have not been answered and, when we have a look, in fact the question was answered at the time but members opposite did not like the answer and wanted another answer.

The Hon. R.I. Lucas: It is a question on notice.

The Hon. P. HOLLOWAY: As I said, I will have a look at that particular question, but if—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I went through the questions from my department that had not been answered. I do not believe that any are now outstanding in relation to questions on notice. We were awaiting information on one or two questions—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: They are questions to ministers representing other ministers, are they?

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, we will see.

The Hon. R.I. Lucas: This one is asking you how much money you spent on overseas trips.

The Hon. P. HOLLOWAY: If there is any delay in relation to any of those questions it would only be because we are seeking information that was not available to my department. That may be the case, but I will check it out and get back to the member.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: We will just check that out because, as I said, this allegation has been made on a number of occasions. The reality is—

The Hon. R.I. Lucas: It is on notice.

The Hon. P. HOLLOWAY: —that many questions were—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, it has been on notice since—

The Hon. R.I. Lucas: February.

The Hon. P. HOLLOWAY: You say that it was not answered but we will have a look at that. As I say—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: No, let me repeat what I said so that there can be no misunderstanding. On a number of occasions in relation to questions without notice where the government has been accused of not answering, in fact, it has turned out that, for some reason, the honourable member who asked the question has not been aware of it, but they are certainly there. In some cases with respect to questions with notice they are in *Hansard*.

The Hon. A.J. REDFORD: I rise on a point of order, sir. The minister has been here long enough to know that questions on notice when answered fall off the *Notice Paper*, and what he is doing—

The PRESIDENT: Order! A point of order is not an explanation.

The Hon. A.J. REDFORD: —is implying that the table staff are not doing their job.

The PRESIDENT: Order! The Hon. Mr Redford is not raising a point of order: he is stating an opinion.

The Hon. P. HOLLOWAY: I am talking about the accusation that members of the opposition have made, including the Hon. Angus Redford, in relation to this government answering questions. They have been asked in the parliament without notice, and also those that are on—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I will deal with those on notice in a moment. There are two sorts of questions. I am well aware—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I have checked all the questions that were answered. As I said, there are a number of occasions where this government has been accused of not providing answers to questions that were asked, particularly those that were asked without notice. It has turned out that answers were made available or, alternatively, they were answered at the time but the opposition did not accept those answers. That is why one needs to be careful about the sorts of accusations that have been made. The only questions of which I was aware that were outstanding in relation to my department were those where we are awaiting some information from Treasury.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, if it is in relation to salaries, or something, that information—

The Hon. R.I. Lucas: Don't you know what you pay your own staff? What sort of minister are you?

The Hon. P. HOLLOWAY: If that is what the honourable member wants to know, it is all in the budget papers. The total budget is there. I will investigate the matter and, if this is one of only two or three questions I believe have not been answered—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, in relation to my department because I checked.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: If it is one of the two or three questions that I asked my department to check. I asked my department to check the number of questions in relation to Primary Industries and Resources—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: In relation to my department, and there was only a handful of those. In those cases we are awaiting information from other departments for a particular part of it. I will look at the matters raised by the

honourable member and endeavour to provide him with the information as soon as possible.

The Hon. A.J. REDFORD: I have a supplementary question. Will the minister explain why it is so hard for this government to answer the question on notice that I put as to how many teachers and how many police officers we have in this state?

The Hon. P. HOLLOWAY: As I have explained on a number of occasions, far more questions were asked by the Liberal opposition last year.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Not really—and I will tell you why it isn't. Parliament is sitting a lot longer than it ever has before. If the parliament is sitting an extra 20 or 30 days a year—

An honourable member interjecting:

The Hon. P. HOLLOWAY: If the member wishes to do this, I will tell him one way. If the positions were reversed, the previous government would be having lengthy and tedious Dorothy Dix questions to reduce the number of questions asked each day. During the previous government, nearly every day we had members such as Legh Davis spending 15 minutes asking lengthy questions to take up question time. This government will stand by its record. We are far more accountable. I think any member of the public would understand the fact that this government has been far more accountable. It is like chalk and cheese.

The hypocrites opposite made an abuse of question time in parliament. I am proud of the fact that under this government we have restored some integrity to the question time process—and we will not be diverted by the sort of grossly dishonest nonsense we have had from members opposite. Anyone who might doubt it need only look at the record, and it stands like chalk and cheese—the appalling performance of the previous government; lengthy tedious Dorothy Dix questions to take up question time; and minimal sitting times. They reduced the time. There have been far more questions. I am sure that would be the first question the Hon. Angus Redford would be asking if the government were to increase staff by 30 or 40 per cent to deal with the 30 or 40 per cent increase in the number of questions. This government will apologise for nothing as far as honesty and accountability is concerned. We have absolutely nothing for which to apologise.

The Hon. J.F. STEFANI: I have a supplementary question.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: Will the Leader of the Government obtain and provide information in relation to any expenditure that ministers, including the Premier, have made to upgrade or refit their office since taking office as a government?

The Hon. P. HOLLOWAY: This is the abuse of question time which I think should come to an end. That is not a supplementary question. I think what I need to do now is to say that I will not answer that question because it is not a genuine supplementary question.

Members interjecting:

The PRESIDENT: Order! There are always opportunities for all members to put questions on notice.

BUS STRIKE

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Correctional Services, representing the Minister for the Southern Suburbs, a question about the imminent southern suburbs bus strike.

Leave granted.

The Hon. T.J. STEPHENS: Members would be aware that the TWU has given notice of an imminent bus strike in the southern suburbs this Friday. Members would also be aware of the hardship such public transport disruptions cause the travelling public. I have been advised of many people who find it virtually impossible to make alternative arrangements to attend either educational institutions or their place of employment. Of course, my sincere sympathies are extended to all such people and, indeed, everyone in the southern suburbs who is inconvenienced in any way. My questions to the minister are:

1. What representations has he made to the Minister for Transport and the parties concerned in the dispute to avert this extremely undesirable disruption?

2. If he has made none (and I suspect that to be the case), why not?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Transport in another place and bring back a reply.

HOMELESSNESS AND SCHOOL RETENTION

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Education and Children's Services, a question about homelessness and school retention.

Leave granted.

The Hon. KATE REYNOLDS: The government's social inclusion initiative is looking at the issue of school retention in relation to homelessness. Many homeless young people are highly transient and, therefore, have received only fragmented education. I have been informed that the Department of Education and Children's Services' administration system is unable to track transient or homeless students from school to school. This means that homeless students can cease to exist in the state's public education system, meaning that they miss significant periods of schooling without any contact from school authorities.

My office has learned that primary school principals are not required to follow up on a student if that student leaves the school to live elsewhere. These students also have difficulties in relation to literacy and numeracy which are often exacerbated by moving between schools which do not have continuity in teaching, literacy and numeracy related subjects. My questions to the minister are:

1. Will the Department of Education and Children's Services change its system to enable students to be traced when they move between schools, ensuring that transient or homeless children continue to receive some education?

2. Will she allocate additional resources for literacy and numeracy intervention for homeless young people in schools?

3. Will the government ensure that intensive remedial attention, which is standardised and available in different formats, is provided for homeless young people who manage to continue attending school?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Minister for Education and Children's Services in another place and bring back a reply.

DEMENTIA

The Hon. A.L. EVANS: I seek leave the to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about dementia.

Leave granted.

The Hon. A.L. EVANS: A report recently released by Access Economics states that dementia will be the biggest disability burden of all diseases by 2016, mainly due to Australia's ageing population. The dementia issue strikes people after the age of 65; however, people in their 40s and 50s can also have dementia. Regrettably, there is no known cure for the disease. Dementia is a progressive disease, which means that the person with the condition will become increasingly frail as the years pass. Most people in the latter stages usually require total care. If a person is unable to access residential care, then that person's family and possibly personal carers must provide the care and support needed.

I understand that the Department of Human Services is drafting a state dementia plan. In 2002, 162 000 people were recorded as suffering from dementia in Australia. Of that figure, 12 500 sufferers were from South Australia. I understand that the governments of Victoria and New South Wales have dementia plans that plan forward spending over several cycles. Clearly, the approach would result in resources being allocated more effectively across the areas of planning and service delivery, as well as towards educational resources for health professionals. My questions are:

1. Will the minister advise of the broad level of funding and resources currently being spent in the area of support services for sufferers of dementia, including the families of sufferers?

2. What is the funding allocated per adult in the year 2002-03?

3. Will the minister provide a list of the specific service providers who have been approached to provide submissions to the plan?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister in the other place and bring back a reply.

MATTERS OF INTEREST

BUCHIW, Ms C.

The Hon. R.K. SNEATH: I would like to take this opportunity to speak about a brave, inspiring and positive South Australian who suffered a bad fall which put her in a coma—24 year old Cheree Buchiw. Only last Saturday, Cheree suffered another race fall that resulted in her losing her right leg below the knee. Despite all these injuries, Cheree has been magnificent with her positive attitude, and she has set a great example for people injured in workplace accidents and other unfortunate incidents. At the age of only 24, Cheree's courage, together with her personality, has shone through, belying her age. Her positive attitude is something that will hold her in good stead on the road to rehabilitation. I am sure that all members of both houses wish to see Cheree successfully rehabilitated and able to participate in the sport she loves so much.

Of course, according to today's *Advertiser*, that will not be impossible for Cheree if she chooses to return to riding because, in 1978, another young man by the name of Dick Chapman returned to riding with an artificial leg, displaying the courage and positive attitude for which Cheree is renowned. I am sure we all wish her the best of luck in her fight back to the track, if she chooses to do so. However, I am sure that there will be some opportunity for her to seek another role in racing so that she can be around the horses and the people in that industry.

This also gives me the opportunity to speak about the insurance that covers jockeys in this state. I understand that this insurance cover pays jockeys a maximum wage of up to $750 per week for two years. If they cannot ride after two years, they can get a lump sum of approximately $180 000, plus $50 000 for the loss of a limb. I understand that, in at least three states in Australia, jockeys are covered by the Workers Compensation and Rehabilitation Act. This provides a similar rate of pay as the jockeys' insurance, but for higher paid jockeys it provides average weekly earnings up to a certain limit; however, the wages can continue well after the two-year period. It also covers medical, hospital and rehabilitation costs, which the jockeys' insurance, unfortunately, does not. In Cheree's case, I imagine that rehabilitation would be a large expense. I understand that a number of generous people have pledged contributions and have put on some events to help Cheree with financial issues as they arise during her rehabilitation. I congratulate all those who have come forward to help and to put on fundraisers.

Some years ago, when I was secretary of the AWU, after talks with the jockeys association I approached the Liberal government at the time (and I think that the Hon. Graham Ingerson was minister) to look at bringing jockeys into the workers compensation and rehabilitation system. That was many years ago, but nothing happened. However, I understand that a few years ago Victorian jockeys came under this system. In South Australia, the apprentices are under the Workers Compensation and Rehabilitation Act but not the fully-fledged jockeys.

I am pleased to hear that, by way of a committee, finally the Minister for Recreation, Sport and Racing has started looking at this option and talking to the relevant groups. It is nice to see the Rann Labor government taking this on board. If the Thoroughbred Racing of South Australia (TRSA) became a group employer, I am sure it could register with WorkCover and the same compensation and insurance that apply in three other states would become a reality.

When cup carnivals are held in this state, it is very difficult and unfortunate that jockeys such as Gauci and Oliver who come over from Victoria are not covered here by Victorian workers compensation. That causes hardship and requires negotiation to have those jockeys covered while they are riding here in South Australia.

Time expired.

LM TRAINING SPECIALISTS

The Hon. J.M.A. LENSINK: I want to speak today about an Adelaide business that, through the untiring work of its directors and staff, has made an outstanding contribution to improving the literacy of adult migrants over the past 12 years. LM Training Specialists (also known as Adelaide's English Language and Employment Centre for Migrants) was set up in 1990 by the directors and co-owners, Lynn Oxlad and Eleanor Bourchier. I would like to declare an interest—not so much in the firm but having poached one of its staff members (Eileen Fisher) to come and work for me.

LM identified the need for a service to help adult migrants to gain the language and literacy skills needed for employment in Australia. The decision to set up the company was taken at personal risk, especially to Lynn, who gave up the security of a full-time job as a teacher to undertake this venture. The company began by running factory skills courses in which migrants learned the necessary language, safety and cultural skills to work in factories, as there was a great demand for workers in industry.

Next, the company designed and offered English courses for overseas qualified engineers who were arriving in large numbers at that time and who were finding it difficult to get work as engineers. The courses offered intensive advanced English language as well as job search skills and work experience in their profession. These courses were highly successful, with an average of 75 to 80 per cent of participants gaining employment upon course completion.

By successfully tendering for funding from both state and federal governments, LM has also run a range of innovative, vocationally oriented language courses, often in partnership with other training organisations. Vocational language courses have included welding, furniture making, food preparation, motel/hotel housekeeping and aged care, according to workplace demand.

For new migrants, LM provides the Adult Migrant English Program, and most other migrants can access the Language, Literacy and Numeracy Program. However, some migrants and, in particular, holders of temporary protection visas, are often not eligible for English language training. Without these skills, their ability to gain employment is limited, thus making them more dependent on welfare payments and charitable organisations.

At a state level, there is limited funding for mainstream ESL courses to help migrants. The state government needs to review its policy regarding funding for these groups who cannot access federal funding for English as a second language. This will provide opportunities for migrants to be economically independent and contribute their valuable skills to the South Australian economy.

When LM Training Specialists won the Adult Migrant English Program tender for the first time in 1998, it was one of only three private organisations in Australia to do so. I would like to echo the comments of Kevin Liston from the Australian Refugee Association when he said that LM 'brought a fresh approach to teaching English to migrants and was a stimulus towards a higher standard of service provision in SA.'

LM ensures that it is responsive to the changing needs of migrants, the job market and the state plan. Over the past two years, it has set up computing suites and employed trainers specifically to teach computing skills to students at the centre. It is also a model of 'collaboration', which is a word that is bandied around government departments ad infinitum. Through its meetings with various agencies, such as Centrelink, DIMIA, DEST, the Migrant Resource Centre, and so on, LM is able to sort out issues between the agencies on behalf of its students. It is a model of collaboration.

Volunteers are also an important part of the centre, providing additional support to those students with learning difficulties or special needs. Many recent refugees might have been denied access to education in their home countries and require specific assistance to learn literacy skills to integrate into Australian society and the work force. The generosity of volunteers allows these students to receive one-on-one support.

Beyond the classroom environment, students are taken on excursions and learn the basic skills we take for granted. They visit places such as the Central Market, the post office and shopping centres where they can learn about shopping practices and the Australian currency.

Over 600 students attend LM Training Specialists each year, many of whom are recommended to the centre by friends or relatives who have previously attended English classes there. Comments by students at class graduations and in letters of thanks truly present the difference this organisation has made in the lives of many migrants in South Australia over the last 12 years. Many students refer to LM as more than an English language centre: it is a home. I commend it as a private sector organisation to which these services have been outsourced by the government. It is providing a leading example of what can be done. I commend it to the council.

Time expired.

VOLUNTEER DAY

The Hon. G.E. GAGO: Earlier this year, I attended the Volunteer Day celebrations. The Rann Labor government held this celebration to show South Australian volunteers just how much they and their work are appreciated. The celebration was held at the Festival Centre and approximately 1 800 volunteers from right across the state attended.

The celebration included fabulous performances by Dennis O'Neill, Michael Lewis, Gisele Blanchard, Timothy DuFore and Anke Hoppner. All the guest artists were performing leading roles in a State Opera production. These artists, accompanied by Adelaide pianist Anthony Hunt, generously gave up their time to perform a selection of famous pieces, and their performance was truly inspirational.

The reason why this Volunteer Day celebration was particularly special, apart, of course, from the fabulous performances, was the signing of the document 'Advancing the community together: a partnership between the volunteer sector and the South Australian government'. This partnership was the end product of 12 months work in which a state volunteer reference group was established to oversee and steer the establishment of this agreement. A subcommittee of the reference group, the compact development task force, developed a consultation strategy and process which ensured that a wide range of volunteers, volunteer managers and members of the community could be involved in the partnerships development. Over 700 people participated in the development of the partnership. The document, signed by 29 representative volunteer organisations and the Premier on behalf of the government, is an important step in establishing a positive connection between the volunteer sector and the South Australian government.

With 38 per cent of South Australians involved in some form of volunteer work, they make an enormous contribution to the good of our state. We apparently have the highest rate of volunteer participation in the country and without these many volunteers many organisations would not be able to provide their current level of service—or any service at all. It can be seen just how vital volunteers are to our state and why this partnership, which provides a framework to address matters impacting on volunteering in South Australia, is so important. As Ms Jennifer Rankine, Parliamentary Secretary to the Premier, chair of the Ministerial Advisory Group and host of the celebration, said on the day:

> We [the government and volunteers] share common aims and objectives: that is to help and support those in need; to provide happy, healthy environments for our children to grow up in; and keep our communities safe and make them places we enjoy living.

The overall aims of the 'Advancing the Community Together' partnership are to:

- Acknowledge the value of volunteering in our community.
- Develop a vision for the future of volunteering in South Australia.
- Establish a framework for ongoing partnership.
- Promote and facilitate volunteering in a manner that benefits the community.

The desired outcomes and benefits of the partnership include:

- The advancement of volunteering.
- Redressing of issues that impede volunteering.
- The establishment of communication protocols between the volunteer sector and the public sector agencies.
- The development of appropriate policies and practices, including ensuring that future policy directions take into account any potential effects of the volunteer community.

The newly formed Volunteer Ministerial Advisory Group will ensure that the partnership works in the best interests of our community and will play a vital role in the implementation of the partnership. As honourable members can see, the partnership is an important document for a very important group in our community—people who contribute considerably to our community and help to advance our community.

I wish to add my thanks to those volunteers who make so much possible by giving of their time and energy to others. I hope those who were fortunate enough to attend the Volunteer Day celebration enjoyed themselves as much as I did. I also congratulate the member for Wright (Ms Jennifer Rankine) for assisting to organise such a successful and enjoyable event.

PARLIAMENTARY COMMITTEES

The Hon. A.J. REDFORD: One of the most interesting issues to come out of the recent Constitutional Convention was the endorsement by the delegates of the importance of the committees of this parliament and the work that they do. We know that much of this work is done in a bipartisan fashion. However, all members will acknowledge that many issues generally do not attract bipartisan support, and in particular I refer to areas such as industrial relations, workers' compensation and issues associated with the workplace, which are issues that often bring dispute between the two major parties. As such, when parliamentary committees deal with issues that fall into that category, the committees nevertheless have in the past, despite the disagreement between the parties, generally worked well together.

The reason for that is that, unlike meetings of factions in major parties or proceedings in lower houses of parliament, numbers on committees are generally used only when it comes to the actual report. It is rare that a major party would use its numbers to have its way on procedural issues and other associated matters. Further, the major parties have, almost without exception, allowed individual members to raise issues and call the witnesses of their choosing. In my nearly 10 years in parliament I do not recall ever seeing the numbers used to prevent the calling of witnesses or, indeed, the putting of questions by a member to a particular witness. Alas, there appears to be a trend in which that parliamentary tradition is changing, and that is unfortunate. The integrity of the committee system in this parliament is in my view under serious challenge, because numbers are being used to stop members from calling specific witnesses or to stop members from questioning specific witnesses.

That is unprecedented and in my view a grave attack on the unwritten rights and privileges of members of parliament, particularly those who serve on committees. I refer to examples arising from the standing Occupational Safety, Rehabilitation and Compensation Committee and the proceedings that have occurred in that committee. First, members may recall that this council passed a motion to charge the Statutory Authorities Review Committee with inquiring into WorkCover. Not withstanding the passage of that motion, the Minister for Industrial Relations wrote to the chair of the Occupational Safety, Rehabilitation and Compensation Committee and referred the Statutes Amendment (WorkCover Governance Reform) Bill and Occupational Health, Safety and Welfare (SafeWork SA) Amendment Bill to the committee pursuant to section 16(1)(b) of the Parliamentary Committees Act. In other words, it was done by the government by notice published in the *Gazette*.

Thus we now have two inquiries into overlapping and similar issues, something I have never seen occur in the nearly 10 years I have been here; indeed, a thumbing of the nose at a strongly supported Legislative Council motion. A report to that effect was noted in this place on 16 July this year, and I refer members to *Hansard* at page 2 904. After the referral, I sought to have the minister called. Unfortunately, my view did not prevail, the government using its numbers to prevent the person who actually wanted the committee from appearing. Indeed, the numbers are now being used to prevent me from questioning a particular witness, which is an unprecedented act that can only bring the whole committee system into disrepute.

It is not a practice that is conducive to open and accountable government. Indeed, whilst there might have been occasions on which I disagreed with a particular member wanting the presence of a particular witness, in my capacity as chair, despite what might have been an embarrassing statement on the part of the previous government, I always supported the right of the member to call that particular witness. Unfortunately, that strong parliamentary tradition, that strong support, has been significantly undermined in this case, and in that respect I call upon the chair of the Occupational Safety, Rehabilitation and Compensation Committee (Mr Paul Caica, the member for Colton) to make himself more familiar with the traditions of this parliament and to protect the backbenchers and people who wish to raise those issues, because what goes around comes around, and some of those traditions may well disappear in the face of the member's attack.

Time expired.

FOSTER CARE

The Hon. KATE REYNOLDS: The Rann government has claimed over and over that the protection of children is one of its highest priorities. I remind members that the government has still, seven months later, not responded to the Layton report. The Democrats say once again that there has been enough talk and now it is time for action. In this state there are now many more children needing foster care than there are available carers. In 1995 the 967 foster children almost equalled the 980 foster carers but, under a Liberal government, by 1999 the number of children had risen to 978 and the number of carers had dropped to 704. The alarm bells should have been heard.

Under this Labor government the number of foster parents has fallen even further, to around 640, and the number of children needing care has increased to twice that number, at 1 200, and it is continuing to climb. In this state too many children are caught in the revolving door of multiple placements, such as the child who had 35 placements before he turned 10, and foster carers remain frustrated with a system that offers them little training or support, totally inadequate payments and, as members will recall from my speech in this place on 2 April, foster carers are even denied natural justice. Foster carers are well aware that fostering today is, in the words of one foster parent, a risky business, and yet these people continue to open their homes and families because they are committed to the children and young people in their care.

To make a difficult situation even worse, some foster parents are being asked to care for children with multiple behavioural and psychological problems that are well and truly beyond their skill and endurance level. Members may not know that payments to foster carers, at only about $90 each week, are made to reimburse the child-related costs that foster carers have already paid out on behalf of the child. The payments are not related to the personal expenses incurred by foster carers, which may include having to leave paid work opportunities to provide ongoing care for the child. Many families subsidise from their own income or savings the incidental costs of the care of the state's most vulnerable children and young people.

The Rann government's offer to increase the minimal subsidy payment by 2.5 per cent has only added insult to injury for those brave foster carers who struggle on. The dilemma now is that the recruitment of new foster families will become even more problematic when potential families consider, and understandably so, that the very emotional and financial costs attached to fostering in an inadequately supported environment are not worth the risk. I refer to a letter written by long-term foster carer Nina Weston to the Social Justice Minister's chief of staff in February this year, as follows:

> It seems that we are forever on a roundabout of reviews, restructures and initiatives that rarely get off the ground to make a real impact. A case in point is the Foster Carers Charter. The commitments from stakeholders were never implemented, monitored or updated to be of real value, yet the serious problems seething underneath continue to be sidestepped and dumped in the too hard basket. There is no doubt that foster carers are at boiling point and are ready to explode, due to many years of being patronised, neglected and disrespected.

It has been suggested to me that, because the system is grossly deficient, already vulnerable and disadvantaged children may, as a result of either inaction or totally inappropriate responses by the department, have experienced further damage, abuse or neglect and, in at least one case previously raised by me in this place, death. One of the submissions to the Review of Alternative Care in South Australia, prepared in 2002 for the DHS, said:

> The system has been left to deteriorate by authorities who have seen the continual warning signs yet chose not to prioritise the need to access adequate funds to act urgently and decisively to ensure the safety, stability and wellbeing of all children and young people who require alternative family-based care.

The government has recently called for tenders for the provision of alternative care services, despite the fact that there is clear evidence that the use of a competitive tendering procurement process undermines much-needed cooperation between agencies and service providers.

I will be raising other issues related to the alternative care tender at another time. I call on this government to ensure that when a child cannot be properly and safely reared by its parents and must be placed into care, that the benefit is greater than the risk. A failure to take urgent action will reveal the government's words as simply more empty rhetoric.

HOMELESSNESS

The Hon. NICK XENOPHON: An article by Colin James in *The Advertiser* of 26 August this year headed 'Homelessness linked to gambling' set out the findings of a report which the Social Inclusion Board put to cabinet in relation to the link between homelessness and gambling, as well as the broader issues of homelessness. The article refers to the board as saying:

> Problem gambling has devastating impacts on the individual, family and broader community and is a particular issue for low income earners, the elderly and Aboriginal people.
>
> In addition, it can precipitate many problems known to be associated with pathways into homelessness such as poverty, family conflict, relationship breakdown, substance abuse and unemployment.

In a country as wealthy as Australia, having any form of homelessness is unacceptable, but for that homelessness to be linked to problem gambling, particularly due to poker machines, which is something that we as a community have, in many respects, sanctioned, is even more tragic.

It is also important to pinpoint the government in terms of its commitment to dealing with homelessness generally. I note that the government committed itself to reducing the number of the homeless in our state by 50 per cent. Father David Cappo, Chairman of the Social Inclusion Board, previously gave a figure of there being some 7 000 homeless people, and the board thought that 50 per cent reduction was achievable. I note that, earlier this week, the Leader of the Opposition in this chamber asked a question about whether the government was backing down on its commitment by narrowing the definition of homelessness. I certainly hope that that is not the case because not only is this issue particularly tragic but I believe that it is quite avoidable with a concerted community commitment.

In terms of the link between gambling and homelessness, in an article in *Parity* Dr Paul Delfabbro of the University of Adelaide makes the following point:

> An insidious feature of problem gambling is that very often no-one (including the individual gambler) knows that a problem exists. Unlike alcoholism or drug addiction where there can be obvious physiological symptoms of the underlying dependence, this is frequently not the case in problem gambling. As a result, significant gambling-related problems often remain hidden. For gamblers, this

often means that their gambling is often not detected or forced out into the open until they are facing almost complete financial ruin.

Dr Delfabbro goes on to make the point that often the manifestation of that is when someone loses their home because of their gambling problem.

In his article, Dr Delfabbro also notes that per capita expenditure on this form of gambling, that is, poker machines was particularly high in those areas with the highest proportion of Housing Trust housing. In areas where trust housing made up 15 to 20 per cent of the total housing stock, per capita expenditure was 1.5 times higher than the statewide level and three to four times higher than in wealthier areas where supported accommodation was either absent or very rare. Dr Delfabbro also makes the point that, given the easy accessibility to poker machines in this state in so many hundreds of venues, it allows people who lack social connections to make contact with others in similar circumstances.

He goes on to say that it may encourage homeless people to view gambling as an escape from their problems or, worse still, as a means of elevating their financial status. Of course, we know that it has the opposite effect, in the sense that it plunges people into a deeper sense of financial chaos and that there is a clear link between the two. John Dalziel of the Salvation Army in Victoria, a well-known campaigner on the issue of the problems associated with gambling, makes the point that, since the advent of poker machines, approximately 10 per cent of all people come to the Salvation Army because of debt caused by gambling. Up to 11 per cent of people reporting to their homeless crisis accommodation centres are estimated to come because they have lost their money gambling. I urge this government to maintain its commitment to deal with the issue of homelessness and, in particular, to look at the issue of gambling related homelessness because I believe that, with the appropriate response and support, it is something that is avoidable.

REGIONAL MULTICULTURAL COMMUNITIES NETWORK

The Hon. J.S.L. DAWKINS: Earlier this month, I was pleased to attend the 'Sharing a Vision' Regional Multicultural Conference at Berri. Organised by the Regional Multicultural Communities Network, 'Sharing a Vision' built upon the work of the first regional conference that was held in Port Lincoln in 2000. More than 150 people attended the three day event. The conference focused on strategies that would facilitate and support:

- dialogue and cooperation between regional multicultural communities;
- responsive services, more effective use of community resources and the support and engagement of the broader community; and
- optimal participation of people from diverse cultural backgrounds living in regional areas or migrating to these areas.

The conference coordinating committee was made up of representatives of the Regional Multicultural Communities Network's constituent bodies. These included the following: the Ceduna Multicultural League, which aims to progress multicultural and indigenous issues in the local region; the Coober Pedy Multicultural Forum, which provides a broad range of services and programs and actively supports local multicultural events; and the Migrant Resource Centre of South Australia, which is the state's peak community settlement agency. It provides advice and practical assistance to regional multicultural communities.

Other participating organisations included: the Port Lincoln Multicultural Council, which promotes cultural diversity, community harmony and the active participation of migrants and refugees in all spheres of the community; and the Riverland Multicultural Forum, which has organised events such as the Riverland Multicultural Festival. It also coordinates a community settlement services program. Other organisations were: the South-East Multicultural Network, which is comprised of community representatives committed to the participation of migrants and refugees in the life of the region; the Whyalla Multicultural Community Centre, which was the first migrant centre in South Australia, and which has addressed the changing needs of the Whyalla population over the last 25 years; and, finally, the Broken Hill Multicultural Women's Resource and Information Centre, which was established in 1986 to respond to the needs of migrant and refugee women.

Each of these organisations works closely with a range of service providers and strives to promote the richness of cultural diversity in our regional communities. The conference was held in the facilities of the Berri-Barmera council, with sponsors including a range of state and federal agencies, as well as the three Riverland councils. Topics discussed at the conference included:

- the role of local government in coordinating an environment which promotes and integrates cultural diversity and community harmony;
- settlement infrastructure and support for enhancing migration to regional areas;
- enhancement of communication systems to inform and encourage the participation of people from diverse backgrounds;
- provision of public amenities and services, including housing, transport, health, education and the arts; and
- supporting and encouraging sustainable volunteer and entrepreneurial initiatives that drive regional development.

One of the features of the conference program was the launch of 'Mapping a breast cancer journey after diagnosis'—a resource for service providers to women from culturally and linguistically diverse backgrounds. Another highlight was a visit to Guru Gobind Singh Gurdwara in Glossop. This distinct white domed building is the place of worship of the Riverland Sikh community. I commend the work of the Regional Multicultural Communities Network, led by chairperson Petar Zdravkovski of Port Lincoln and his—

The Hon. Carmel Zollo interjecting:

The Hon. J.S.L. DAWKINS: Yes, he is known as 'Petar Z'—and his deputy, Kay Karklins, of Mount Gambier, in coordinating the conference. The contribution of Eugenia Tsoulis, Executive Director of the Migrant Resource Centre, and her team must also be acknowledged.

MOTOR VEHICLES (ROADWORTHINESS INSPECTION SCHEME) AMENDMENT BILL

The Hon. T.G. CAMERON obtained leave and introduced a bill for an act to amend the Motor Vehicles Act 1959. Read a first time.

The Hon. T.G. CAMERON: I move:

That this bill be now read a second time.

Today I introduce the Motor Vehicles (Roadworthiness Inspection Scheme) Amendment Bill, which was introduced in the last session of parliament but which lapsed when parliament was prorogued. The roadworthiness inspection bill is intended to make South Australian roads, cars and families safer by requiring cars to have roadworthiness certificates at the time of sale if they are older than five years, or every two years if they are older than 10 years. Whilst we cannot catch every deficiency in a car, some may form between inspections. Roadworthiness inspections give a degree of safety by uncovering or discovering those problems that have already occurred and reducing the time a person drives around with those problems.

It will also help identify developing problems and nip them in the bud. It is not meant to be a perfect scheme. Nothing possibly could prevent every car accident, but it should make a difference. In other words, it should save people's lives. It will also educate South Australians about roadworthiness and the importance that driving a roadworthy vehicle plays in road safety. We have had a lot of window dressing in the past years from successive state governments which consider that the way to make our roads safer was to put more speed cameras on every major road where we know people are speeding.

This strategy has quite clearly failed. Speed may be a major factor in road accidents, but without government's having unlimited resources and a will to look after motorists before the Treasury coffers this factor will not be mitigated. There are, however, other factors leading or contributing to motor vehicle accidents. One of them is the unroadworthiness of a vehicle. By its own definition, an unroadworthy vehicle is one that is not worthy to be driven on the road: it is unsafe in that it causes or contributes to crashes both fatal and not fatal, yet there is no mechanism in South Australia to test whether or not our vast fleet of cars—the oldest in Australia—are safe to be driven.

Unsafe and unroadworthy vehicles are estimated to be major contributing factors in between 1.5 per cent and 10 per cent of all road accidents. It is logical to conclude that getting unroadworthy vehicles off our roads could lead to a cut of up to 10 per cent in our road fatality rate, and will stop some accidents altogether and could stop some from being serious. In a recent survey by McGregor Tan, on behalf of the Motor Traders Association, 72 per cent of all people surveyed are in favour of some form of motor vehicle inspections, while 20 per cent were opposed and 8 per cent were undecided.

I understand that the latest survey that it has conducted recently showed that that figure rose from 72 per cent to 74 per cent of people in favour of some kind of roadworthiness inspections; 83 per cent agreed that compulsory inspections would result in having safer cars on the road, 80 per cent believed that compulsory inspections would guarantee the purchase of a roadworthy vehicle, and 75 per cent believed that there would be environmental benefits from such a scheme. The South Australia Police has launched an advertising blitz to bring the issue of unroadworthy vehicles to the public's attention.

In the brochure, *Unroadworthy Vehicles Cause Injuries and Cost Lives*, the five main defects contributing to a crash are tyres, brakes, lights, suspension and rust. What would amaze most South Australians is that simple things such as poor tyre pressure, an absence of cuts on the side walls of tyres, inoperative brake lights and unseen corrosion can mean the difference between a safe journey and a disaster. Indeed, it can make the difference between a minor prang and a major accident, yet the state government is prepared to allow road users to place themselves and their passengers—innocently, admittedly—in unnecessary jeopardy by driving unroadworthy vehicles.

For those who are more than content to drive without knowing the nuts and bolts of car mechanics, these defects are not immediately apparent. Only a good and thorough inspection can identify these faults and give a driver the ability to rectify them before they cause or contribute to an accident. This bill is not just about safety: it is about giving car buyers confidence; it is about revitalising our car fleet; and it is about bringing South Australia up to speed with the rest of the country. With this scheme in place, South Australia will be in line with the rest of Australia in having some form of roadworthiness testing for passenger vehicles.

We have the oldest fleet of cars in Australia. Junk cars, old cars, from other states are dumped here with impunity. This bill also has environmental benefits, bringing unroadworthy vehicles up to code and will save on petrol and pollution emissions. I am sure that every member of this house, at some stage or another, has driven down the road behind a vehicle that is belching out black smoke. These inspections could stop fuel leaks and smoking engines—it could save families money. I would like to outline the position of other states with respect to motor vehicle inspection regimes.

New South Wales and two territories have annual inspection regimes. All other states, apart from South Australia, have random roadside inspections. Victoria and Queensland have change of ownership inspections. Change of ownership inspections are good for consumers: they allow them the confidence that they are buying a good quality, roadworthy vehicle; however, their main deficiency is that they do not capture all unroadworthy cars. Owners can hang on to unroadworthy cars instead of selling them because they do not want to get an inspection.

Annual or regular inspections are good for car owners and fellow motorists; they ensure that a car kept for a long period of time is roadworthy. Using these two types of inspections in tandem is a method this bill employs to correct the deficiencies in the change of ownership model but still provide the consumer benefits that model provides. I will now go through the major provisions of the bill. This bill establishes the Roadworthiness Inspection Scheme. It applies to all prescribed motor vehicles over five years old, and that is calculated from the date of first registration.

A prescribed motor vehicle is one that is designed for the principal purpose of carrying up to eight adult passengers, including the driver. Any car that is older than five years that is sold or has its registration transferred will need to have a current and valid roadworthiness certificate. It is an offence punishable by a $10 000 fine or imprisonment for two years to sell a prescribed motor vehicle without a valid roadworthiness certificate. There are two exemptions to this: transfers between licensed vehicle dealers and sales. Where the car is not expected to be driven again, that is, motor wreckers, a certificate must be displayed on the vehicle if it is offered or exposed for sale.

When a car reaches the age of 10 years and every second year thereafter it must have a valid certificate of roadworthiness before its registration can be renewed. This provision is complementary to the requirement of a certificate as at time of transfer of sale. A car of 10 years will need a roadworthiness certificate if it is to be sold or registered in every second

year. Roadworthiness inspection certificates are valid for two different periods: the first is in the case of a licensed motor vehicle dealer or credit provider. The certificate is valid for up to 1 000 kilometres or for three months, whichever comes first. In any other case, that is, private sales, a certificate is valid for up to 2 000 kilometres or for two months, whichever comes first.

These time limit provisions are identical to the Queensland scheme. They are designed to recognise that cars subject to private sales are more likely to be driven further than cars in car yards, or more likely to be sold over a longer time frame. Inspectors must forward a copy of the certificate to the Registrar of Motor Vehicles. The Registrar may overturn the decision of an inspector and may issue replacement certificates of roadworthiness. Roadworthiness is defined in the bill as a car that does not have deficiencies. A car has deficiencies if:

(a) it does not comply with the vehicle standards under the Road Traffic Act 1961;

(b) it has not been maintained in a condition that enables it to be driven or towed safely;

(c) it does not have an emission control system fitted to it of each kind that was fitted to it when it was built;

(d) an emission control system fitted to it has not been maintained in a condition that ensures that the system continues operating essentially in accordance with the system's original design; or

(e) it is not maintained in a condition that enables it to be driven or towed safely if driving or towing the vehicle would endanger the person driving or towing the vehicle, anyone else in or on the vehicle, or the vehicle attached to it, or other road users.

Roadworthiness certificates are issued by accredited vehicle examiners once a car has passed a roadworthiness inspection and the owner pays a prescribed fee. Accredited vehicle examiners are accredited by the Registrar of Motor Vehicles. They must follow a code of conduct set out by the Registrar. They may not carry out an inspection on a vehicle in which they have a direct or indirect pecuniary interest or which is owned by an associate of the vehicle examiner. The penalty for breaching this section is $10 000 or two years' imprisonment. However, second-hand dealerships, which also are licensed inspection stations, may have their own inspectors issuing roadworthiness certificates for vehicles owned and sold by the business.

Examiners are exempt from liability if they act in good faith and with reasonable care in carrying out their inspection duties. A person who obtains or attempts to obtain an accreditation, or forges or fraudulently alters or uses an accreditation, or fraudulently allows an accreditation to be used by another person, is guilty of an offence and could be punished by up to two years' imprisonment or a $10 000 fine.

These examinations must take place at a licensed inspection station. These licences for inspection stations may be issued to a person or company by the Registrar of Motor Vehicles. They are valid for three years. Licensed inspection stations must have appropriate equipment, as prescribed by regulation, a permanent building that is suitable for use as an inspection station and a secure office area and comply with any prescribed conditions in the regulations. The bill also establishes the roadworthiness inspection committee. The committee has broad functions to review the operation of the scheme, as well as to provide advice to the minister as to regulations made for the scheme and to carry out any other functions assigned to the committee under the act or by the minister. The committee consists of five members appointed for up to three years by the minister: one member must be a man; one must be a woman; one must be nominated by the MTA; one must be nominated by the RAA; and one must be a person nominated by the Australian Manufacturers Workers Union.

There is a general regulation-making power also included in the Motor Vehicles Act. Accredited vehicle examiners may, if after an inspection they are of the opinion the vehicle has deficiencies and further use of the vehicle may give rise to an imminent and serious safety risk, inform the Registrar, a member of the police force, an inspector under the Road Traffic Act, or a person with the powers of an inspector under that act. The safety risk is defined as a danger to the person's property or the environment.

I have received a response from the RAA since I originally introduced this bill. It is a rather self-interested and disappointing response, but I will go through some of the objections of the RAA. The communication from the RAA outlines its opposition to the bill, and I thought it appropriate to respond to some of its concerns, which might assist the ongoing debate on this issue. The RAA has attacked the statement that figures which suggest between 1.5 per cent and 10 per cent of accidents are in some way caused by vehicle defects and thus are a major cause of crashes is not supported by evidence.

I am afraid the RAA is suffering from selective vision in choosing which words and figures to analyse. The statements were intended as a broad range, as different studies show different figures. The figures are open to many possible interpretations, but one cannot ignore the basic fact that between 1.5 per cent and 10 per cent of crashes or, as the RAA would have it, between 1.1 per cent and 8 per cent are in some way caused or contributed to by vehicle defects. In fact, the RAA quoted a report stating that up to 8 per cent of crashes had unroadworthiness as a causal factor. Whether it is 8 per cent or 10 per cent, it is still a significant figure.

Roadworthiness does not cease to be an issue just because it is a causal factor in 8 per cent, rather than 10 per cent, of crashes. The range of crash figures include those crashes that are actually caused by unroadworthy vehicles—those where unroadworthiness is a serious contributing factor and those that are compounded as a result of unroadworthiness. The RAA has not adequately refuted these figures but merely smudged my arguments to meet its end and then suggested a range of figures that more or less square with mine. It has used my high-end estimates as its baseline whereas, if it used my low-end estimate, it would have had to conclude that I was being conservative.

Inspections could reduce dramatically the number of accidents caused by unroadworthy vehicles. They could slash the road toll and they could cut into the cost of motor accidents. It is probable they will. It is certain they will have some impact. The fact is that accidents are caused by vehicle defects. They are contributed to by vehicle defects and the damage, not only to the vehicle but also, more importantly, to drivers and passengers, is increased by vehicle defects. Inspections will not stop all these, but they will help prevent some of them. They will not stop every crash caused or contributed to by defects, but they help weed out unsafe and unroadworthy cars.

This bill is not a perfect solution—I do not think even the omnipotent RAA could come up with a perfect solution—but it is part of a package of road safety laws designed to save lives. That is why I am introducing the bill—not to quibble

over how many people will die or be injured or have their cars written off because of vehicle defects, but to do something about it. The RAA makes many other arguments against this bill based on periodic motor vehicle inspections. It stated that my argument is based on the premise that defects increase with age. I have not used that premise. It is simply not true. My argument is based on the premise that, if a car has a defect, the longer you drive around with that defect the more likely it is you will have a crash because of that defect.

The RAA also stated that defects leading to crashes are not necessarily identifiable and preventable by inspections; that they can develop weeks after an inspection. Well, I do understand that—just like I understand that the sun is coming up tomorrow morning. Of course, that is a problem. One figure it uses is underinflated tyres and bad brakes. What the RAA does not tell us is how many inspections identified underinflated tyres; and how it educated drivers about the dangers of underinflated tyres and worn brakes and the importance of checking tyre pressure regularly.

Of course, what the figures cannot tell us—it is impossible—is how many lives have been saved by roadworthiness inspections. Remember, periodic inspections is a baseline requirement. Of course, we would encourage and expect people to maintain their vehicles, but the fact of life is that there are people who just do not do this. They will drive around in any type of vehicle.

What I am talking about is probability and likelihood. The RAA seems to support random inspections over periodic inspections. I wonder why this is. It would not be money, would it? The RAA also claims that certificate exemptions for transfers between vehicle dealers would undermine buyer confidence. This is ridiculous straw grasping from an organisation that is trying to protect its own interests. If a dealer has to have a roadworthiness certificate before they transfer a car to another dealer, and the second dealer then has to have a current certificate before they sell the car to a buyer, then the cost of the car will increase because of the inspections with no benefit to the buyer.

As long as there is a valid certificate at the time of sale, there is no need to have a roadworthiness certificate for vehicle transfers. They are an unnecessary and costly duplication. The RAA also claims that there is no correlation between jurisdictions which have periodic inspections and lower crash rates. Having studied mathematics, I do know about correlation and the law of probability. In its response, the RAA published a table: South Australia, the only jurisdiction with no inspection scheme whatsoever. The same document also states that South Australia had a road accident fatality rate of 10.1 people per 100 000—which is the highest of any state. Even the RAA admits that we are the only jurisdiction with no inspection rate. Well, that correlates perfectly with the fact that we have the highest accident fatality rate, although that would be a misuse of statistics. But there is evidence there.

Except for the Northern Territory—where they have an unlimited speed limit—South Australia has the highest rate of road fatalities in the nation. The RAA attributes the ACT and Tasmania's low fatality rate to random inspections. As evidence that periodic inspections do not work, it claims that the Northern Territory has the highest rate of fatalities, yet it has the most stringent periodic inspection scheme. This is not only poor evidence, it is also false and misleading evidence which the RAA is using in an attempt to shore up or justify its own inspection schemes—which drag in millions for it. The only evidence which would show that periodic inspections do not work would be to compare the fatality rate of the Northern Territory if they had inspections to the rate if they did not have inspections. It appears that the RAA has not grasped the legal ramifications of this bill. Although perhaps that is the problem: it has grasped the legal ramifications and realises the impact it would have on the RAA.

Whilst vehicle dealers are obliged to sell roadworthy vehicles, private citizens are not. This bill broadens that duty to private citizens. All the roadworthy certificates say to a consumer is that the car has been inspected and is roadworthy at the time of sale. However, the RAA raised some valid points. It shows a report which states that some people deliberately and temporarily change a vehicle to suit the roadworthiness test then, once the test is done, change it back. This is certainly a problem in some instances. I understand it can be a problem with exhaust systems, but they are doing that now, anyway. Therefore, I will be proposing an amendment to the bill making it an offence punishable by two years imprisonment and a $10 000 fine to mislead an inspector deliberately as to the state of a vehicle.

However, the RAA has failed to fully declare its own conflict of interest in this debate. It stated in *The Sunday Mail* on 13 September that approximately 20 000 vehicle inspections are conducted annually. This means an income stream of somewhere between $2.44 million and $3.16 million to the RAA, based on inspection costs of between $122 and $158. It is not hard to imagine this income stream disappearing—although perhaps not completely—when compulsory inspections are introduced and privately licensed inspection stations are throughout South Australia. The danger to the RAA lies in the decentralisation and operation of market forces which would cut its market share. It also lies in the fact that a roadworthiness inspection, based on interstate figures, would cost less than $100, thus cutting into its profits.

It is hard to believe that the RAA opposes periodic inspections but tends to support or prefer random inspections when random inspections do not catch out everyone. The RAA is supposed to represent the interests of its members, not act in a way that protects its revenue stream. I urge members of the RAA to attend its annual general meeting. Nobody goes to the annual general meetings of the RAA, they are like the old co-operative building societies—the Hon. Mr Gazzola nods in agreement—which were run like personal fiefdoms of the boards of directors. I submit that that is what the RAA board is doing.

It is no coincidence that John Fotheringham, who is the current Managing Director of the RAA, as I understand it, was also a director of the old South Australian Cooperative Building Society. So, he has had plenty of experience in turning up at annual general meetings where they can hardly raise a quorum. In a small exercise with Ralph Clarke for the old federated clerks union, we managed to fix that problem and unionise the Cooperative Building Society. However, that is another story.

I do not think that it is in the interests of the membership of the RAA for a person to be killed or injured by an unroadworthy vehicle that has slipped through the net of random inspections. It would be much safer if, apart from deliberate fraud, biennial and change of ownership inspections caught everyone. The RAA's submission completely ignores the change of ownership aspect of this scheme, except for a reference in passing to consumers being falsely confident that they are not buying a lemon.

Certainly, there will be people who believe that a roadworthiness certificate is a guarantee of mechanical soundness

or vehicle quality—it is not. Heaven forbid! I have even had people ring my office and object to the fact that they have to get their vehicle registered. One lady told me that she was disgusted with the state government, because she had bought a vehicle, it was registered, but she found out that it required a lot of work. In her opinion, this was the fault of the state government. As much as I would have liked to hold it responsible, I had to advise her that that was not the case.

Quite clearly, we cannot reject every law because a few people may misinterpret it. Perhaps under the regulations certificates could have printed on them the proviso that it is a certificate of roadworthiness at the time of inspection and that it is no guarantee or indication of the quality or soundness of the vehicle; for that, they would need a full mechanical inspection, and that is where the RAA comes in. It should not be afraid that its revenue stream will be reduced because of this bill and run a bogus campaign using spurious arguments.

Despite the RAA's somewhat lame and self-interested arguments, the fact remains (and it is indisputable) that this scheme would be far better than what is being done at the moment. South Australia has a worse road toll than the other states. It is also the only state without some form of vehicle inspection regime. We have blended the two types of schemes operating in the other states—namely, change of ownership and periodic inspections—to ensure that a person who buys a second-hand car, or a person who registers an older car, has had their car inspected and any defects fixed. At the moment, that does not occur and, the longer a person drives a car, the more likely they are to have an accident if it has defects. The longer a person drives a vehicle with a defect, the higher the probability that they will have a crash. It is simple mathematics, probability and commonsense.

Whilst this bill is not a cure-all, it has many positive effects. I can recall the Hon. Bob Such saying that no stone should be left unturned if it would save the life of a South Australian. I believe that the new transport minister (Hon. Michael Wright) has made a refreshing start in recognising that accidents are caused by a multitude of factors and not just by speeding motorists. I am confident that this bill will be considered with an open mind by the minister, whereas I do not believe that that would have been the case with the previous transport minister.

This bill will improve the age of our state's motor vehicle fleet. It will help stop our state being the nation's dumping ground for defective motor vehicles. It will have small but cumulative benefits for the environment by helping get rid of smoking cars. It will give second-hand car purchasers some peace of mind and confidence that they are not purchasing an unroadworthy vehicle—particularly in relation to the 50 per cent of sales that occur privately. It will even help create employment and business for those in the motor trade. Most importantly, it will benefit this state's road users by assisting in getting unroadworthy cars fixed or put out of circulation. That benefit will show itself in the road toll and the accident statistics and, in the end, that is the figure that South Australians care about. I commend the bill to the council.

The Hon. J. GAZZOLA secured the adjournment of the debate.

WOMEN JUSTICES

The Hon. J.M.A. LENSINK: I seek leave to move this motion in an amended form.

Leave granted.

The Hon. J.M.A. LENSINK: I move:

That this council congratulates the government on its appointments of Justice Ann Vanstone, Judge Trish Kelly and Magistrates Maria Panagiotidis and Penny Eldridge to greatly enhance representation of women in the South Australian judiciary.

This motion is also being moved by the member for Bragg in the other place and I commend it to the council. In August and September 2003, four women were appointed to the bench of the South Australian judiciary. These women have been outstanding performers in the legal profession and their appointment will bring a wealth of experience and greater depth to the judiciary. Their appointment will also go towards addressing the gender imbalance in what is a traditionally male dominated field.

Justice Ann Vanstone was appointed to the Supreme Court of South Australia on 21 August 2003 and is only the third woman to receive this honour after Justice Nyland and the late great Dame Roma Mitchell. She graduated from the University of Adelaide law school and was admitted to the South Australian bar in 1978. Justice Vanstone has extensive experience in the areas of criminal, commercial, family and administrative law in South Australia, Victoria and Western Australia. In South Australia, she was the deputy crown prosecutor from 1989 to 1992 and the associate director of public prosecutions from 1992 to 1994. In 1994, she was appointed a queen's counsel and, in 1999, she was appointed as a judge of the District Court of South Australia.

Judge Kelly was appointed to the bench of the District Court on Wednesday 10 September 2003. She is well known for her strong advocacy of minority groups and prosecution of sex offenders. She was instrumental in the introduction of social workers to ensure support for victims of child sex crimes during the legal process. Judge Kelly has worked in the Northern Territory, Queensland and South Australia. She has made an invaluable contribution throughout her career to the Aboriginal and Torres Strait Islander Legal Service, the Equal Opportunity Commission, the Crown Solicitor's Office and the Crown Prosecutor's Office. She was first admitted to practice in 1974 and was appointed a QC in 2002.

Both Maria Panagiotidis and Penny Eldridge were appointed senior magistrates, filling the vacancies of retiring magistrates Kevin Rogers and David Gurry. Maria Panagiotidis was admitted to the bar in 1982 and has had extensive experience practising as a barrister and solicitor in South Australia. She has given senior legal counsel across a broad range of areas, including administrative law, statutory interpretation, constitutional law and disciplinary inquiries. She commenced her legal career working for the Crown Solicitor's Office, eventually returning there and becoming a managing solicitor.

Penny Eldridge has practised in the Supreme Court of South Australia and the High Court of Australia since 1977. She was a senior associate for 10 years with Minter Ellison, where she practised principally in the area of litigation. She worked in the area of commercial disputes, industrial and employment issues, media communications law and wills and estates. In her last five years at Minter Ellison, she practised widely in the area of defamation law, acting for the publisher of the daily and weekend newspapers in Adelaide and the ABC. Since 2002, she has been a managing solicitor at the Crown Solicitor's Office.

These women bring with them extensive legal experience. They have been respected by the legal profession for their strong roles in practice and have had their achievements

rightly acknowledged through these appointments. They bring with them to the South Australian judiciary not only their knowledge, experience and decision-making skills but they also enhance the representation of women. The legal profession has traditionally been and still is a male dominated field. Despite women making up the majority of law graduates, only 15 per cent of barristers are women. Statistics from Adelaide and Flinders universities show that women represent 63.4 per cent and 70 per cent of law graduates respectively. However, there is a discrepancy between graduating in law and practising it compared to the number of women in senior roles and represented in the judiciary. In South Australia, of 79 judges, 14 are women; of 182 barristers only 28, or 15 per cent, are women; and of the state's 35 Queens Counsel, only six are women.

The expectation that barristers must devote 100 per cent plus of their life to the profession poses a significant barrier to women who also wish to raise children. Some might say that it is a biological fact that women need to take some leave during their pregnancy and in the period following the birth of a child. However, new mums are not the only victims of the long hours imposed by the demands of their profession: families pay the price, too.

Justice Gleeson, Chief Justice of the High Court of Australia, was recently quoted in *The Australian* as saying:

> It is a great pity that the Bar cannot find better ways of accommodating women and children.

He believes there is a link between the lack of child care for women and the lack of female barristers and judges. In his own experience, he has witnessed his daughter quit the bar due to the inflexibility of the profession at the highest level.

In closing, I would like to reiterate my congratulations to Justice Ann Vanstone, Judge Trish Kelly and magistrates Maria Panagiotidis and Penny Eldridge. These women have worked hard for their profession and, no doubt, have made numerous sacrifices to reach where they are today, but have been recognised for their effort, commitment and professionalism. Their appointments are a significant step towards enhancing the representation of women in the judiciary. I am sure that I have the support of all my colleagues when I wish them well for continued success in their careers.

The Hon. R.D. LAWSON: I rise briefly to support the motion moved by my colleague the Hon. Michelle Lensink, and to add my congratulations to those offered to the four excellent appointees to the South Australian judiciary. The appointment of the four new members of the various courts is a significant personal triumph for them and is a mark of their professional competence, personal qualifications and qualities.

I do not see these as being token appointments to redress the gender imbalance which exists within the legal profession. Looking today at figures just published by the Law Council of Australia, I see that the proportion of male to female barristers practising in Australia is still, I think, over 78 per cent male, notwithstanding the fact that more than 50 per cent of entrants into the legal profession are women.

In the fullness of time, I certainly look forward to a judiciary and a magistracy that better reflect that relative proportion of persons entering the profession. I think the most important thing we in this parliament ought recognise is that the South Australian community will be well served by four individuals whose qualifications are exemplary and whose qualities are such that they will perform well the difficult tasks they will face in the various courts.

The Hon. G.E. GAGO secured the adjournment of the debate.

DENTAL PRACTICE ACT

Notices of Motion: Private Business, No. 6: Hon. J. Gazzola to move:

That the regulations under the Dental Practice Act 2001 concerning supervision requirements, made on 12 June 2003 and laid on the table of this council on 26 June 2003, be disallowed.

The Hon. J. GAZZOLA: I move:

That this notice of motion be discharged.

Motion carried.

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANNUAL REPORT

The Hon. R.K. SNEATH: I move:

That the report of the committee, 2002-03 be noted.

This is the eighth annual report of the committee. It provides a summary of the committee's activities for 2002-03. Apart from its annual report for 2001-02, the committee has tabled one report. On 19 March 2003, the committee tabled its 32nd report, 'Inquiry into the Passenger Transport Board'. On 8 May 2002, on a motion by the previous Minister for Transport (Hon. Diana Laidlaw MLC), the committee received a request from the Legislative Council to inquire into the effectiveness and efficiency of the Passenger Transport Board under the Passenger Transport Act 1994.

The committee took the opportunity to conduct a broad inquiry into the PTB and advertised for submissions prior to inviting witnesses to give verbal evidence to the committee. Advertisements were placed in South Australian newspapers in July 2002, and 30 written submissions were received by the closing date (16 August 2002). I will not go through the witnesses' names or their evidence, because that is available in the completed report on the PTB.

On 29 August 2002, the committee received the terms of reference for an inquiry into the South Australian Housing Trust on a motion from the Hon. Nick Xenophon MLC. The committee received the following terms of reference. Pursuant to section 16(1)(c) of the act, the committee resolved to inquire into and report on the South Australian Housing Trust in relation to:

- The policies and practices of the South Australian Housing Trust in relation to dealing with difficult and disruptive tenants; and protecting the right of South Australian Housing Trust tenants to the peaceful and quiet enjoyment of their homes and neighbourhoods.
- Reforms to South Australian Housing Trust policies and practices of dealing with difficult and disruptive tenants to ensure the basic right of neighbouring tenants and residents to the peaceful and quiet enjoyment of their homes and neighbourhoods.
- Any other relevant matter.

In September 2002, the committee placed advertisements in all South Australian newspapers inviting written submissions. It received 98 submissions and a large number of verbal inquiries. The committee commenced receiving verbal evidence on 27 February 2003, and these hearings continued until 1 July 2003. The inquiry was high profile and received

a great deal of interest from the general public and the South Australian media. It is anticipated that the final report and recommendations will be tabled in late October or early November 2003.

In the past week, the committee has also tabled its report on the management of the West Terrace Cemetery. In relation to the fifth inquiry into the timeliness of 2001-02 annual reporting by statutory authorities, on 17 July 2003 the committee adopted terms of reference for further inquiry into the timeliness of 2001-02 annual reporting by the statutory authorities. That inquiry is ongoing.

Since the committee was formed in 1994 it has published 32 reports, covering the operations of particular authorities and examining issues of significance to all statutory bodies. These reports are listed in appendix II. In terms of the general activities of the committee in the last 12 months, in the period 1 July 2002 to 30 June 2003 the committee undertook the following activities. It held 33 meetings, tabling the following reports: the Annual Report of the Statutory Authorities Review Committee for 2001-02, on 12 November 2002; and, as I said, the Inquiry into the Passenger Transport Board, on 19 March 2003. It adopted the terms of reference for the Inquiry into the South Australian Housing Trust (29 August 2002) and the terms of reference for an Inquiry into the Operations of HomeStart Finance (15 July 2002).

The committee visited the regional towns of Murray Bridge, Port Augusta, Port Pirie and Whyalla in relation to the inquiry into the Housing Trust, and I and the Hon. Mr Stephens and our committee secretary Gareth Hickery attended the biennial Australian Council of Public Accounts Committees in Melbourne. In terms of the activities planned by the committee for the financial year 2003-04, the committee expects to report to the parliament on its Inquiry into the South Australian Housing Trust in October 2003. On 15 July 2002 the committee established terms of reference for an inquiry into HomeStart Finance, as I said. The committee has taken initial evidence from the chief executive officer of the authority and expects this inquiry to continue later in the financial year.

On 16 July 2003 the committee also received a motion for an inquiry into the WorkCover Corporation of South Australia. The terms of reference were adopted on 17 July 2003 and it is anticipated that the inquiry will commence before the end of 2003. It is expected that the committee will table a report after its Fifth Inquiry into Timeliness of 2001-02 Annual Reporting by Statutory Authorities. As I said, the committee recently tabled its report on the West Terrace Cemetery and was happy to receive the plan.

In conclusion, I would like to take the opportunity to thank the staff for their dedication over the last 12 months. They are Gareth Hickery, committee secretary; Tim Ryan, research officer; and Cynthia Gray, administration assistant. I would also like to take the opportunity to thank all the members of the committee for their significant contribution to the committee's proceedings. They were the Hon. Andrew Evans, the Hon. Caroline Schaefer, the Hon. Terry Stephens and the Hon. Nick Xenophon. With that, I have much pleasure in noting the report.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

LOCHIEL PARK

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): On behalf of the Hon. Carmel Zollo, I move:

That the Legislative Council congratulates the government on retaining 100 per cent of the open space at Lochiel Park.

And what a wonderful job they have done! I know that everyone will be in support of that. I know that some people are not satisfied and think that 100 per cent was too much, but I think that overall everyone has been satisfied by the government's move.

The Hon. G.E. GAGO secured the adjournment of the debate.

MOTOR VEHICLES (EMERGENCY CONTACT DETAILS) AMENDMENT BILL

The Hon. J.M.A. LENSINK obtained leave and introduced a bill for an act to amend the Motor Vehicles Act 1959. Read a first time.

The Hon. J.M.A. LENSINK: I move:

That this bill be now read a second time.

This bill seeks to make two optional changes to drivers' licences through amendments to sections 77A and 136 of the Motor Vehicles Act 1959. The two options are, first, to include contact details on drivers' licences and, secondly, to include blood type details on drivers' licences. This bill arose from a rather sad situation that was highlighted by the member for Davenport in his second reading explanation on 4 December 2002 in moving this bill in another place. A couple whose son had been injured in a car crash did not find out for about 16 hours because the authorities were unable to notify the parents. This bill was also previously on the *Notice Paper* in the name of the Hon. Robert Lawson but has lapsed, so this has been reinstated.

Currently, drivers' licences include information such as name and address (which must be updated within 14 days if those details change), a photograph, and whether the person has chosen to be an organ donor. The proposed measures will not require complex systems changes or technological changes and are relatively simple and commonsense. I turn first to the contact details. The proposal is that the name and telephone number of a family member or friend or chosen person be placed on the back of the licence. In the unfortunate situation of an accident occurring, the authorities can then notify this person more quickly, so reducing the time that it takes to notify, reducing the use of police resources to trace next of kin, and improving the accuracy of choice of victims' next of kin due to their having nominated them.

A family member or friend then has the opportunity to be informed of the situation earlier and can attend a hospital or medical facility more promptly. I would like to reiterate that it is not compulsory: it is a voluntary option which people can choose to take up. Secondly, in relation to blood type details, again this is optional and it is particularly important for people who have a rare blood type. In cases of a large number of people being involved in an accident, particularly in regional areas, hospitals will be able to be notified earlier about large quantities of blood being required—and in emergency situations obviously time is critically important. Hospitals would still be required to check the blood type prior to administering it and, particularly in the situation of a

remote area, it will allow time to organise large quantities of blood to be flown to that particular site.

According to the Red Cross Blood Service, a successful blood transfusion is dependent upon the compatibility of the blood type of the donor with that of the recipient. Incompatible transfusion results in the destruction of red blood cells, and not all blood types, as most people would be aware, are compatible. The best result is always obtained from the identical blood type, and this is particularly important for those people who have a rare blood type. In terms of the logistics of implementing this measure, it can be done on the issuing of a new licence or the renewing of an old licence. Details can be placed on the licence at other times as well, and there will be no fee for the service. There is already the capacity under the heading 'Conditions' to have other information such as corrective lenses or the eligibility of driving certain types of vehicles put on the back of a licence.

However, I am informed that Transport SA does not have the authority to include this information and, if this bill is passed, it will instruct the government to institute a system that allows the above information to be written on the back of licences. If the emergency contact details change, they can be amended in the same way as a licence holder's change of residential address is currently amended, that is, by visiting a Transport SA branch and having a sticker with the new details placed on the back of their licence. I commend the bill to the chamber.

The Hon. R.K. SNEATH secured the adjournment of the debate.

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

The Hon. A.J. REDFORD obtained leave and introduced a bill for an act to amend the Industrial and Employee Relations Act 1994. Read a first time.

The Hon. A.J. REDFORD: I move:

That this bill be now read a second time.

This is a bill that is in precisely the same terms as a bill that was introduced by the member for Davenport in another place late last year. In that respect, I propose to repeat much of what the honourable member said in introducing that bill on that occasion. We believe that this is an important bill for the Legislative Council to consider. It is important because it has significance for the business community in South Australia. It will be one of the first tests of the government's resolve in relation to standing up to the unions and putting on record a view about industrial relations. This bill seeks to ban unions from charging non-unionists bargaining fees for services undertaken by the union but not requested by the non-unionist. If a union negotiates a particular outcome, it cannot seek a payment from a non-unionist who might benefit from that outcome.

We introduce this bill because in 1999 the Victorian Electrical Trades Union inserted a clause into its federal agreement, which, for the first time, introduced the concept of a bargaining fee for non-union members. The employee organisations are so concerned about this concept that they, in conjunction with the federal minister, as I understand it, are now progressing this matter through the courts, or have indicated publicly their intention to take this matter to the High Court, if necessary, and fight this case. The courts have found that, even though the clauses breach the principle of freedom of association, they are not illegal. So, action is to go before the High Court—indeed it may even before the court now—that will appeal the legality of the clauses.

For those in the chamber who are unaware of how the bargaining fee principle works, the bargaining fee is usually levied at around $500—and I will come to a specific example later. It is usually significantly higher than the yearly union membership fee. Of course, the unions will claim that the fees are justified, as they are basically a fee for service and are charged when a non-union member employee benefits from an agreement negotiated by a union. To some that may sound logical. However, in reality, in relation to industrial laws, parliaments have not been successful in agreeing to giving employees the opportunity to choose the bargaining option.

Simply put, if a non-union employee benefits from an agreement negotiated by a union, the fee will be required to be paid. However, the union movement refuses to allow the employee the choice. In other words, it is a captive audience and the employee does not have the right to negotiate individually, so the union negotiates, even though the employee may not want the union to negotiate.

The union then sends the employee a $500 bill for the negotiation fee. They also might hint that the union fee is only $200 and it might be cheaper for them to join the union. That, of course, is compulsory unionism by stealth. Most people faced with a $200 bill to join the union, or a $500 bill as a bargaining fee, would take the $200 to save $300. So, it is a straight commercial decision and not one of great support for the union movement. I must say that the union movement has failed significantly in the past 15 years to sell its benefits to the broader Australian populace. We come to the argument based on the principle of freedom of association—

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and makes that bold assertion. He who sits there on about $100 000 a year—negotiated outside any enterprise bargaining or any union arrangement—has got a hide.

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: The honourable member is talking about introducing enterprise bargaining for members of parliament. The honourable member does very well under the current system, and I would suggest, Mr President, that he cease interjecting, in any event.

The PRESIDENT: I think that you ought to go back to your copious speech notes, Mr Redford. The Hon. Mr Sneath will have the opportunity to make a contribution, and I am sure he will. At this stage, he should cease interjecting.

The Hon. A.J. REDFORD: Thank you, Mr President. As I said, we come to this argument based on the principle of freedom of association; that is, that the non-unionist or employee who has not sought out the union to undertake the negotiations or enterprise bargaining agreement on their behalf should not be sent a bill by the union. Why should anyone be sent a bill by an organisation that they have not asked to undertake a service on their behalf? We argue that this bill will make it very clear within the South Australian law that bargaining fees are illegal and cannot be charged. I note with interest that the Stevens report released by the government mentions bargaining fees and basically says that it will put them on hold until the arbitration and court cases are resolved.

We do not see the issue as being that complex. We see no reason to wait for the court case to be resolved. If the government does not believe in bargaining fees, then support the legislation and bring in the law that makes them illegal.

If it does believe in bargaining fees it does not need to wait for the court case: it can come in and say, 'As a philosophy, we believe people can be charged for a service they have not requested,' and can simply argue that. By deferring it to the committee, it really shows that the government is yet to receive its instructions from the union movement as to what its response should be to the Stevens report—not only the report generally but to the report specifically in relation to bargaining fees.

It is interesting to note what the Hon. Bob Carr said about bargaining fees. When the Hon. Bob Carr was asked about bargaining fees, he said:

> You cannot put a tax on other members of the work force, and the state cannot require the collection of union fees from non-unionists.

It is pretty clear where the Hon. Bob Carr stands in relation to this issue: he is anti-bargaining fees. There is an opportunity here for the government to come out and display some positive initiative and direction on industrial relations. The parliament will not get any direction from the government in relation to industrial relations, and has not for some considerable time. Nearly one year has passed since the Stanley and Stevens reports and we have not had a definitive response from the government in relation to the large range of recommendations made in those reports.

We would argue that this bill helps protect people's freedom of association and people's right to choose, and it properly sets out the appropriate balance and the way in which this issue should be handled in this state. We believe that fees should be banned and, indeed, in so doing, members on this side of the chamber do recognise the important role unions play within a work force, as they recognise the important role played by the Employee Ombudsman within our system. We also support choice and back the people's ability to choose. We believe that those currently within government should also support this legislation and join with us to back people's ability to choose. We think that to support the concept of bargaining fees and vote down the legislation would be a retrograde step.

The Hon. G.E. Gago interjecting:

The Hon. A.J. REDFORD: The Hon. Gail Gago interjects and says that, over the last 100 years, the union movement has become stronger. I look forward to the honourable member presenting to this place evidence of how union membership, as a proportion of the total work force, has grown. In fact, Mr President, as you know, we have discussed this concerning trend in that there has been a massive decline, and largely that decline was overseen by the federal Leader of the Opposition who, I understand (and I will not go down this path, I will not be diverted) has his own unique set of problems.

The Hon. J.S.L. Dawkins: Still the Leader of the Opposition, is he?

The Hon. A.J. REDFORD: I understand that he is going to the next election. Interestingly, in a newsflash issued last week by the Public Service Association, we see exactly what sort of grab the union movement is talking about when it goes through this process. The newsflash is entitled 'Enterprise Bargaining Claim Lodged.' The newsflash talks about what improved wages and conditions the union will be seeking, and then states:

> Bargaining agents' fee $750 plus GST for non-unionists who benefit from the agreement negotiated by the PSA.

How could anyone say that that is a proper recovery of a fee for service, even if one accepted the principle of being able to take involuntary payments—some might call it theft—from other persons. It bears absolutely no relationship to any service that the union movement might purport to provide on behalf of the non-unionists. If we are to go down this path, the union should open its books and we should cost the value of the service that it provides.

Lawyers are expected to provide a service and it is expected that it be costed. We can have a very close look—and I am happy if that is where the union movement wants to go—at these books, to have some third party control these fees and to charge a reasonable fee, because one might think that, if one divvyed up the total cost amongst all members and/or non-union members, the fee might come to significantly less than what the union membership fee might be. If that is where the union movement wants to go, that is where it ought to say that it is coming from.

The Hon. R.K. Sneath: You support the freeloaders—unbelievable!

The Hon. A.J. REDFORD: The Hon. Bob Sneath says that we support freeloaders. I would suggest to the Hon. Bob Sneath that that is simply not the case. I stand here on behalf of all those hard-working South Australians, in fact, the majority of hard-working South Australians, who are not members of any union and say that they are not bludgers, despite what the Hon. Bob Sneath calls them. I say that, when he makes his contribution, the Hon. Bob Sneath ought to apologise to the majority of South Australians who are not union members for calling them bludgers. My experience is that they are not bludgers, they are not freeloaders: they are ordinary, honest hard-working citizens.

The Hon. R.K. SNEATH: I rise on a point of order, sir. The Hon. Angus Redford is suggesting that I said 'bludgers'. I did not say 'bludgers', I said 'freeloaders'.

The PRESIDENT: That is not a point of order but, certainly, the honourable member made an explanation.

The Hon. A.J. REDFORD: I am happy to adopt the honourable member's terminology, whether he calls them freeloaders, bludgers or whatever. I have to say on their behalf that I find that term offensive; and I call upon the honourable member, when he makes his contribution, to apologise to those hard-working people. In fact, I know that there are some members on the other side of the chamber who cringe every time the honourable member opens his mouth and puts his foot firmly in it. Interestingly, the last item on the newsflash states:

> Bargaining agent's fee: a bargaining agent's fee of $750 plus GST—

which is getting above $800—

> will be payable to relevant unions by all employees who are not union members in recognition of the union role in negotiating the agreement.

That is an outrageous claim, and it will be interesting to see how members opposite could justify it. Indeed, I would be happy if members opposite sought even to establish a select committee. We can get into the union books and have a look at just how much it might cost to present a claim. We can then have a bit of transparency and we can start telling some of the members of unions that, whilst they are being slugged $300 and $400 to be a member of the union, the service that could be provided would probably be worth only about $50 or $60. And if that is where the Hon. Bob Sneath wants to take us, I will be happy to get in and have the ride with him,

because I am sure that, once I get my hands on those books, I could have a bit of fun.

The Hon. J. Gazzola: You can have a look at the books at the Industrial Registry.

The Hon. A.J. REDFORD: The Hon. John Gazzola says that I can go down to the Industrial Registry. The Hon. John Gazzola needs to understand that we on this side are not stupid; we know exactly what goes on, and to have some of these people prepare these books before us in a select committee would be something that we would welcome.

The Hon. T.G. ROBERTS: I rise on a point of order, sir. The honourable member said 'we on this side are not stupid'. I think that he is misleading parliament.

The PRESIDENT: I think that is a subjective question and not necessarily a point of order.

The Hon. A.J. REDFORD: If I said that people on that side are not stupid, I apologise—

The Hon. R.K. Sneath: You said that the people on your side aren't stupid.

The Hon. A.J. REDFORD: —for misleading the parliament. If that is where the honourable member is coming from, he can make his own judgment about the quality of his colleagues. However, we do welcome the candour that the honourable member has displayed in raising that point of order.

The PSA wants to take $825 from the pockets of ordinary hardworking South Australians—money that these hardworking South Australians could use to educate their children and pay for doctors and the extraordinary range of increased taxes and charges that this government has inflicted on people. In fact, if we look at the 15 000 public servants who would be slugged with this amount, it would create a windfall gain of $11.5 million for the Public Service Association—a steal, if I can use that term, that we say is grossly unfair.

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: I am distracted by yet another irrelevant interjection, but I remind the Hon. Bob Sneath that, by far and away, the biggest slice of money went to ordinary hardworking South Australians within the TAB as severance pay. I know the Hon. Bob Sneath would have been strongly opposed to that if he had been in charge at the time, but we accepted the umpire's decision and we paid out these people in terms of what they got as a consequence of the sale. That was what was ordered by the conciliation commission.

In any event, I urge members to support this bill. To enable members of this union to have an $11.5 million windfall gain, for doing exactly what they were going to do anyway, would be outrageous. It beggars belief how members opposite can look anyone in the eye and say that this is an appropriate course of action to take. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

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

Clause 3: Amendment provisions

This clause is formal.

Clause 4: Amendment of section 4—Interpretation

This clause amends the interpretation section of the Act by inserting two new definitions. "**Bargaining services**" are services provided by or on behalf of an association in relation to an industrial dispute, an industrial matter or an industrial instrument. A "**bargaining services fee**" is a fee payable to an association (or someone in lieu of an association) wholly or partly for the provision of bargaining services.

Clause 5: Amendment of section 79—Approval of enterprise agreement

Section 79 contains provisions relating to the approval of enterprise agreements by the Industrial Relations Commission. This clause inserts a new subsection that prevents the Commission from approving an enterprise agreement if the agreement requires payment of a bargaining services fee.

Clause 6: Amendment of section 115—Prohibited reason

This clause amends section 115 of the Act by adding to the list of prohibited reasons for discrimination by an employer against another person the fact that the person has not paid, or has not agreed to pay, or does not propose to pay, a bargaining services fee.

Clause 7: Insertion of Chapter 4 Part 4 Division 1A

This clause inserts a new Division into Part 4 of Chapter 4 of the Act. Part 4 contains provisions generally applicable to associations.

DIVISION 1A—PROHIBITION AGAINST BARGAINING SERVICES FEE

139A. Association must not demand bargaining services fee

An association (or an officer or member of an association) must not demand payment of a bargaining services fee from another person. The maximum penalty for this offence is a fine of $20 000.

This prohibition does not prevent an association from demanding or receiving payment of a bargaining services fee that is payable under a contract for the provision of bargaining services.

"Demand" is defined to include "purport to demand", "have the effect of demanding" and "purport to have the effect of demanding".

139B. Association must not coerce person to pay bargaining services fee

An association (or an officer or member of an association) must not take, or threaten to take, action against a person with the intention of coercing the person (or another person) to pay a bargaining services fee or enter into a contract for the provision of bargaining services. The maximum penalty for this offence is a fine of $20 000.

139C. Association must not take certain action

An association (or an officer or member of an association) must not take, or threaten to take, action that has the direct or indirect effect of prejudicing a person in his or her employment (or possible employment) for the reason that the person has not paid (or has not agreed to pay or does not propose to pay) a bargaining services fee. An association is also prohibited from advising, inciting or encouraging a third person to take such action. The maximum penalty for this offence is a fine of $20 000.

139D. Certain provisions void

A provision of an industrial instrument requiring payment of a bargaining services fee is void to the extent of the requirement.

139E. False or misleading representations about bargaining services fees

A person must not make a false or misleading representation about another person's liability to pay a bargaining services fee, another person's obligation to enter into an agreement to pay a bargaining services fee or another person's obligation to join an industrial association. The maximum penalty for this offence is a fine of $20 000.

Schedule 1: Transitional provisions

Clause 1 of the transitional provisions provides that the amendments made by sections 4 and 5 of the Act apply for the purpose of any consideration of an enterprise agreement by the Commission after the commencement of the clause. Clause 2 provides that section 139D of the *Industrial and Employee Relations Act 1994*, as inserted by this Act, applies to any industrial instrument whether executed before or after the commencement of this clause.

The Hon. R.K. SNEATH secured the adjournment of the debate.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: STORMWATER MANAGEMENT

The Hon. J. GAZZOLA: I move:

That the 49th report of the committee on stormwater management be noted.

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

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

Planning is a central issue, and the committee believes that there is a need for close involvement between all stakeholders involved in urban planning, so that future planning of drainage, sewerage and water supply is carefully integrated. The stormwater planning amendment report has heralded the beginning of plans to change the way in which stormwater is managed across the metropolitan area.

The committee recommends the mandatory development of stormwater management master plans for all councils. The committee believes that a metropolitan-wide approach to stormwater management should occur; and responsibility for stormwater management in metropolitan Adelaide needs to be assigned to one body. The committee hopes that this will result in the maximisation of reuse opportunities while reducing flood risks. Another outcome would be the minimisation of discharge to coastal areas. The committee believes that aquifer storage and recovery should be encouraged.

There is a need for the development by government of appropriate guidelines and regulations. There also needs to be a technical and economic evaluation of the potential for aquifer storage and recovery across the whole state, and a determination of the aquifer storage capacity in the metropolitan area. The committee believes that the considerable cost of purifying water to the higher standard is not necessary when only a small percentage of use requires such a high level of purity. The committee believes that the use of potable water to flush toilets does not appear to be the best way to use this water. There is potential for stormwater clean-up and harvesting within the city. The committee believes that water sensitive urban design concepts should be applied when new buildings are being constructed or established buildings are being refurbished. Streetscapes could be improved with mini wetlands that clean up water before it is released to waterways. Roof gardens could enhance the city while reducing peak stormwater flows.

The cost of water was another issue raised by witnesses. Recycled water needs to be a cost-effective option, otherwise industry and the community will not be motivated to reuse the water. The committee believes that the community should be encouraged to use water where it can. Enabling residents to easily obtain advice about connecting rainwater tanks for in-house use should be a priority for local government. The committee believes that all new houses should have some form of rainwater tank or rain-saver guttering or fencing. New houses should have to achieve a water efficiency rating before receiving building approval.

The committee believes that the obligations of developers in relation to stormwater management needs to be clarified in both greenfield sites and infill development. Developers need to be encouraged to embrace water reuse in house and suburb design. Education is a key issue for stormwater reuse and the committee commends the Water Conservation Partnership Project for its onground and education work with regard to water conservation. This work needs to be continued by state and local government to educate the community about how to conserve and reuse water.

During the inquiry, the committee heard from 22 witnesses and there were nine submissions. As a result of this inquiry, the committee has made 35 recommendations and looks forward to a positive response to them. I do take the opportunity to thank all those people who have contributed to the inquiry. I thank all the people who took the time and made the effort to prepare submissions for the committee and to speak to the committee. Indeed, I extend my sincere thanks to the current and former members of the committee: the Hons David Ridgway, Sandra Kanck, Michael Elliott, Diana Laidlaw, Malcolm Buckby and Rory McEwen and Mr Tom Koutsantonis. I also thank current and former staff: Messrs Phil Frensham and Knut Cudarans and Ms Heather Hill.

The Hon. G.E. GAGO secured the adjournment of the debate.

LOCHIEL PARK

Adjourned debate on motion of Hon. Carmel Zollo (resumed on motion).

That the Legislative Council congratulates the government on retaining 100 per cent of the open space at Lochiel Park.

(Continued from page 195.)

The Hon. CARMEL ZOLLO: Lochiel Park, in the City of Campbelltown, has been the topic of enormous debate in the community of Campbelltown for some years—in particular, of course, prior to the last state election.

The then Liberal government made a decision to leave less than 20 per cent of the Lochiel Park site as open space. Lochiel Park is an excellent example of the previous government's neglectful representation of the constituency of Hartley; it was a government intent on selling anything and everything. We also had a local member who was not able to convince his colleagues in the Liberal Party to support his constituency—what absolute neglect of the constituency of Hartley. 'Abandoned' is another good word for the manner in which the constituents of Hartley have been treated by the previous Liberal government. It abandoned them.

I am not normally one to use such strong language, however, I am disappointed in the member for Hartley in the other place. He is not capable of being big enough, or generous enough, to congratulate the government on behalf of his constituency. The government has worked so hard in the last 18 months to come up with this very fair outcome. One would think the member for Hartley would be happy for his constituency. But, what did we see? We saw him put out a press release attacking the government. The Hartley community, he said, has been short changed and led astray by the Rann Labor government. Can you believe that? A member of a government who wanted to sell 80 per cent of Lochiel Park for housing! What nonsense.

Members interjecting:

The Hon. CARMEL ZOLLO: Well, the member for Hartley in the other place realistically had two options: he could have kept quiet—and we would have all understood; or he could have been gracious and generous enough to congratulate the government.

An honourable member interjecting: He could have taken ownership of it.

The Hon. CARMEL ZOLLO: He could have taken ownership of it. I understand, from members in the other place, that the member for Hartley has been in absolute denial since we announced our decision, refusing to believe that the Rann government has fully consulted the community and kept its promise. Not only will it keep all the open space, this government is also adding 1 000 square metres of River Torrens frontage to the amount of open space, along Linear Park at the Campbelltown site. The community is ecstatic. Everyone is ecstatic except the member for Hartley in the other place. This government promised a moratorium and it delivered; this government promised to consult, and it did; and this government promised that the open space would remain—

Members interjecting:

The Hon. CARMEL ZOLLO: I am not attacking him, I am telling you the truth about this government. It has kept its promise and added to it. Lengthy consultation was undertaken with the local residents, the City of Campbelltown and other stakeholders. An independent report was also prepared. One of the recommendations of that report by independent company, Connor Holmes Consulting, centred on the need for people to be living or working around the site to prevent undesirable activities such as the burning of cars and other acts of vandalism.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: The Hon. Mr Lucas interjects. The Premier stood on the site and looked around him and said 'I'm keeping 100 per cent of this park,' and he did. The report stated:

> There are significant security problems associated with the subject site and anecdotal evidence suggests these problems existed prior to the cessation of formal uses on the site. The security problems, which largely centre on the lack of existing casual surveillance in and around the site and the difficulty in patrolling such a large site, make the argument for 100 per cent open space with no other form of development (residential, community, educational or otherwise) untenable.

In March last year, the Rann government placed a moratorium on the development at Lochiel Park until a community consultation process could be carried out. For safety reasons, last year the government had to demolish the TAFE and the Metropolitan Fire Service buildings on the site, and residential development will be allowed around that four and a quarter acre area only. The total Lochiel Park site is 15 hectares, and 70 per cent will be left as open space.

The Hon. R.I. Lucas: Not 100 per cent!

The Hon. CARMEL ZOLLO: Well, you and the member for Hartley in the other place must be the only people who do not understand. The area where the buildings were not sited will all be left as open space, as promised and, an additional 1 000—

Members interjecting:

The PRESIDENT: Order! I think the Hon. Ms Zollo is more than capable of explaining her case on her own.

The Hon. CARMEL ZOLLO: Yes—I am having to yell, Mr President.

Members interjecting:

The PRESIDENT: The honourable member will do even better if she is left to her own devices.

The Hon. CARMEL ZOLLO: The government's Land Management Corporation, which owns the Lochiel Park site, will now discuss the management of the open space with the Campbelltown council. The two parties will also work on the master plan to decide how the open space should be developed. The independent report recommended the subdivision of most of Lochiel Park, but Premier Rann vetoed the recommendation and hopes that some of the open space can contribute to his urban forest plan, which involves the planting of a million trees. As Premier Rann said:

> I know that I'll be criticised in some sectors—

and members of this chamber are criticising him, as has the member for Hartley—

> for ignoring the independent report, but I wanted to put the local people first.

The Rann government has settled on a solution that appears to be the best outcome for everyone involved—a fair outcome. The decision is clearly a win for local residents who have campaigned really hard on this issue.

I am not normally in the habit of using constituents' names in parliament but, as both the group, Supporters Protecting Areas of Community Environment (SPACE) and their spokeswoman Margaret Sewell have been on the front pages of several newspapers, I think it is in order for me to do so. Margaret Sewell is, of course, now a councillor of the City of Campbelltown. The *East Torrens Messenger* of 10 September quoted Mrs Sewell as saying she was 'ecstatic, just over the moon' about the government's decision. 'This is a case of power to the people,' she said. What a good example of putting local people first.

The local member for Hartley supported the former Liberal government's decision to leave less than 20 per cent of the Lochiel Park site as open space. He obviously could not convince the then treasurer. The decision of the Rann government—a government which delivers—is clearly a win for the local residents who campaigned hard on the issue of Lochiel Park. As minister Conlon said:

> The decision does not come down to money—

as it did, obviously, for the previous government—

> otherwise we wouldn't have made the decision we did.

As a member of the Campbelltown community, I naturally welcome our decision, and I am pleased that the efforts of the local residents have come to fruition.

I attended a public meeting on the issue during the election campaign and, from memory, I think three members of this chamber attended: the Hon. Paul Holloway, the Hon. Nick Xenophon and I. I commend the Hon. Nick Xenophon for introducing his private member's legislation in the last session. I also commend the former councillor Steve Liapis for all his hard work in organising that meeting and ensuring that it went ahead. From memory, I think the Hon. Andrew Evans spoke to the Hon. Nick Xenophon's legislation at the time and I commend them both.

On other occasions, I have had reason to visit the park, particularly when I was part of the Murray-Darling Association group touring the City of Campbelltown several years ago. It is truly a beautiful part of Adelaide along the River Torrens, and Lochiel Park very much captures the essence of Elizabeth Warburton's history book *From the River to the Hills*, which was produced to record the history of the City

of Campbelltown in South Australia's jubilee year. I enjoy having it in my home as a reference book.

Sections 309 and 310 were acquired by Charles James Fox Campbell prior to his marriage in 1850. He came from Parramatta in New South Wales and was one of the first to bring stock overland. He is described as a hero in South Australia, and he was one of the sheep owners of the time who were struggling to establish runs in the new colony. Two significant properties were built on sections 309 and 310: first, Lochend and, secondly, Lochiel House.

Lochiel Park was sold in 1947, along with 55 acres, to the then social welfare department and, of course, Brookway Park came into being. Lochend now belongs to the City of Campbelltown and is on the classified list of the National Trust of South Australia. I thought that it was interesting that, in 1849, sections 309 and 310—some three and a half miles from the town—were described as parklike scenery with a beautiful view to the hills and an abundant supply of pure water. I think it would be fair to say that the pure water description of the River Torrens no longer applies.

However, this government has ensured that the rest of the description will still apply. The parklike scenery includes some 20 significant trees identified by the Kaurna Native Title Management Committee. The small housing development that will replace the area where the disused buildings were sited but that were demolished for safety reasons will, I agree, assist to prevent undesirable activities, such as the burning of cars and other vandalism that has occurred in the area without anyone living or working around the site.

I welcome the comments of the Mayor of the City of Campbelltown. He has said:

> The government is also to be commended on its decision. It is a win-win decision all round.

The mayor also commended the SPACE group and the other groups that fought long and hard for this outcome. I think it is also worth while quoting the mayor from the *Campbelltown Outlook* Spring edition of 2003, which I think arrived at my home yesterday:

> 'The Premier must be congratulated on responding positively to community views,' said Mr Woodcock. 'We're looking forward to working with the Government on an eventual management plan for the Park,' he said. 'This decision also allows Council to look to the future of Lochend which will have 12.5 per cent of open space attached to it.'

I also want to place on record all the hard work and the commitment that the former Labor Party candidate, Quentin Black, demonstrated to the cause of keeping a hundred per cent of Lochiel Park as open space. His passion in fighting for the community of Campbelltown needs to be publicly acknowledged and, whilst he did not win the seat, his commitment to the people has not diminished.

I think the most fitting manner in which to end my contribution is to read from the letter of congratulation from SPACE dated 12 September 2003:

> Dear Mr Rann,
>
> On behalf of Campbelltown SPACE and the many residents of the community who supported the retention of open space and revegetation of Lochiel Park, we thank you for your long-term vision for an urban forest in this unique area.
>
> We appreciate the difficulty you have experienced in addressing this issue that had already been decided upon by the previous government and sincerely commend the decision reached by you and minister Conlon to listen to the community and act upon it with such a positive outcome for all.
>
> Members of Campbelltown SPACE feel assured that you have honoured your commitment to retain 100 per cent open space for the community and acknowledge that at the time of your letter in February 2002 the land occupied by TAFE and MFS buildings, etc., was not considered by us as open space.
>
> We can only request that the sensitivity of the area be addressed when planning for housing development on the demolition site takes place, and that appropriate and sympathetic designs and allotment sizes will be in keeping with the surrounding urban forest.
>
> We understand you may initiate the commencement of the tree planting within Lochiel Park, and would look forward to meeting you at that time.
>
> With our most heartfelt appreciation.
>
> Yours sincerely,
>
> Margaret Sewell
>
> On behalf of Campbelltown SPACE

I am aware that a similar letter was also forwarded to Minister Conlon. I should place on record that, more than any other group or individual, SPACE was instrumental in keeping the issue alive and well promoted to the government. In particular, I commend Margaret Sewell and June Jenkins for their great passion and commitment on behalf of their group.

The Hon. A.L. Evans interjecting:

The Hon. CARMEL ZOLLO: The Hon. Andrew Evans agrees with me. I would also like to read to the chamber two very short and similar letters, emailed from another constituent, that congratulate the government. I have not consulted the person, so I will not use their name. The email to Minister Conlon states:

> Congratulations on the excellent decision to put in an urban forest at Lochiel Park instead of a range of crammed housing which would pressure the local infrastructure and increase road problems in the area. It shows commitment to an election promise as well as vision for the future and I commend you on that. Thank you for considering the people of this region.

The other email was to the Premier and it states:

> Dear Mr Rann,
>
> I wrote to you previously in regard to saving Lochiel Park from a fate as bad as urban infill. Thank you so much for doing just that and for going to the concept of an urban forest. There are many experts in indigenous plants living in this area as part of Landcare and the Friends of Black Hill and Morialta. It would be great to see an indigenous train of food plants as well.
>
> Congratulations for your vision and far sighted approach to this area. Those able to breath fresh air as a consequence will be grateful for a very long time.
>
> Regards

The Liberal Party did not deliver, and the member for Hartley could not deliver, but we have. The promise made by the Labor Party, while in opposition, has been kept. This government has preserved 100 per cent of the open space. As rightly pointed out by the Premier and the Minister for Infrastructure in another place, we have actually gone a bit beyond 100 per cent, because we have added open space to the linear park from a formerly demolished area.

The Hon. R.I. Lucas: You said 70 per cent; now it's more than 100 per cent.

The Hon. CARMEL ZOLLO: It is; we left 100 per cent and added more. I think it is a bit rich for the member for Hartley to suggest that this government lied about Lochiel Park, which was what he implied in the other place. He and his party would be the only ones making that sort of suggestion, because no-one else is. After all, the Liberal Party invented core promises and non-core promises—among the foremost was its promise not to sell ETSA, which we all remember.

The community of Campbelltown and SPACE, in particular, would be the first to agree that, at no time, did the open space encompass the area where the buildings stood. Indeed, they believed or understood there would be an alternative use of the buildings. The area where the buildings

stood was never in the equation as open space, and the member for Hartley is looking somewhat foolish in suggesting anything else. He is totally incapable of being magnanimous or showing some fairness—at least for his constituency in the community of Campbelltown—by welcoming the government's decision. I know I am joined by all the community of the City of Campbelltown in congratulating the Premier—

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Well, they have—and Minister Conlon for their vision and commitment in retaining Lochiel Park as open space, and I am positive that generations to come will also applaud them. I commend the motion to the council.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

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

The Hon. D.W. RIDGWAY obtained leave and introduced a bill for an act to amend the Industrial and Employee Relations Act 1994. Read a first time.

The Hon. D.W. RIDGWAY: I move:

That this bill be now read a second time.

This bill is designed to provide an incentive for business to employ people, specifically by removing the relevant clauses of the unfair dismissal legislation in relation to businesses with fewer than 15 employees and employees with less than 12 months service. I have had experience of employing people in my own business, but, thankfully, I have never had the difficult job of dismissing someone.

Members interjecting:

The Hon. D.W. RIDGWAY: The Hon. Mr Sneath had a shearing contracting business, and I am sure he dealt very severely with people in his business. However, he is an advocate against this. Federally, similar legislation has been stalled in the Senate by the opposition parties for reasons known only to themselves. Approximately 20 attempts to pass this legislation have failed federally, because the Labor Party is particularly beholden to the trade union movement and has no connection to or understanding of small business, the engine of Australia's booming economy. There are 81 000 small businesses affected by the unfair dismissal laws at a state or federal level.

Recently, the Institute of Applied Economic and Social Research at the University of Melbourne concluded that the cost to business as a result of these laws was in the order of $1.3 billion annually. This is a huge impost on the economy, especially when you consider the 'State of the State' report, delivered by the Chairman of the government's Economic Development Board, Mr Robert Champion de Crespigny. The report stated that South Australia is largely a small business driven economy.

The state government has repeatedly claimed that it will reform the economy to keep it strong and to maintain job growth. I can think of no better way to make it easier for businesses to hire new employees than by supporting this bill. To put this into context, the same report states that 77 000 jobs have been lost by business. Many businesses have decided that it is too difficult to deal with the complicated and unnecessarily unfair dismissal provisions. Instead, they have cut back their work force to family members only or they have not been prepared to expand their businesses. On the other hand, the Liberal Party is a great ally of business, and particularly small business. The Liberal Party is the party of lower taxation and cutting red tape.

We understand the needs and concerns of small business because many of our members have real world experience in business, unlike most of the members opposite, and we are not factional hacks rewarded for services rendered. We know that the key to growing a small business and, therefore, an economy is the ability to adjust quickly to changing conditions and to find the right person for the job. This bill allows for this to occur on both counts. It allows small business flexibility to hire people without the threat of penalising them when they need to adjust.

The state government shows signs of being no more helpful to small business than its federal colleagues, and I suggest to the government that taking its policy cues from the federal Labor opposition is a dangerous ploy, given its recent successes, or lack of them. The government has been an enemy to small business from its first day, with the pokie taxes on the hotel industry, higher stamp duty, new taxes and increased costs arising out of crown leases. But I believe there is hope, given that the state government ignores the pleas of the unions when it comes to transport strikes. I hope that the government will ignore their equally agitated response in regard to this legislation and pass it without delay.

The Hon. R.K. SNEATH secured the adjournment of the debate.

SUMMARY OFFENCES (TATTOOING AND PIERCING) AMENDMENT BILL

The Hon. CARMEL ZOLLO: I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

MEMBERS, TRAVEL REPORTS

The Hon. NICK XENOPHON: I move:

That travel reports of members of this council be made available on the parliamentary internet site within 14 days of any such reports being provided to the President as required under the Members of Parliament Travel Entitlement Rules.

This is an issue that was debated in this parliament in 1999, and I want to put on record that I support the view that MPs should travel to be better educated on issues and to bring back new ideas for the state. Rex Jory, in a column several years ago, wrote about this issue, in an article headed 'Go on, MPs, take that trip,' or words to that effect. In his column Mr Jory made very clear that it was important for MPs to travel abroad or interstate to get new ideas and to broaden horizons, and I adopt and agree with those sentiments. This is a debate we had in the previous parliament.

I should indicate that my travel bill last year was only $129.23, or around that figure, and I made clear in a letter I wrote to the editor of the *Advertiser* recently, which I do not think has been published, that the reason I did not travel was that I was simply too ill to do so: I was too busy travelling to and from hospital. My small travel bill last year should not be seen as an indication that I do not support the view that MPs should travel. Members of the public rightly expect that details of our travel be open and transparent. Having them on

the parliamentary internet site is a way of achieving that. It is a way of letting the public know what we have done on a trip, what information we have obtained, what recommendations we can bring back, and a whole range of other issues.

Openness and transparency are the issues here. I would like to think that this motion will be adopted quickly by members. It is not onerous: it simply means that if a report has been provided either for an overseas trip or for a trip of more than three days' duration, as is currently required under the rules, that report will be placed on the parliamentary internet site. Presumably, it means that members will have to provide such a report in an electronic format, and I cannot see that as onerous at all, given that the reports would presumably be prepared in an electronic format. This is something that this council debated a number of years ago. It is a matter that ought to be adopted.

It is something that I think will enhance public confidence in the whole concept of MPs' travel, and I urge members to deal with this motion expeditiously, because I believe we all believe in the concept of openness and accountability, and having these reports on the internet is clearly the right thing to do.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

[Sitting suspended from 5.57 to 7.45 p.m.]

FATHERS

The Hon. A.L. EVANS: I move:

1. That a select committee of the Legislative Council be appointed to investigate and report upon—
   (a) The status of fathers in South Australia by reference to the current level of recognition of their role in family formation and child rearing and in the support given to them by the public and private sectors and the community in general.
   (b) The current difficulties facing fathers in South Australia from an economic, social, financial, legal and health perspective in the formation and maintenance of the family unit.
   (c) The nature and availability of government and non-government support and services for fathers in crisis in South Australia.
   (d) The way in which the status of fathers and the level of support given to them in times of crisis can be improved.
2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.
3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidences or documents presented to the committee prior to such evidence being presented to the council.
4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

Since being elected to parliament, I have been increasingly concerned that there is little importance placed on fathers and fatherhood. At the outset, I acknowledge and thank the Joint Parenting Association for its substantial contribution and tireless efforts in promoting the cause of fathers and their children in our state. Shortly after being elected, the JPA, headed by Yuri Joakimidis, spoke with me and raised some very valid concerns relating to the lack of recognition for fathers in this nation and in this state.

Family First has spoken with many fathers over the past 18 months. The discussions only serve to confirm what we have already heard from many organisations. Fathers feel undervalued in our community and their status is a lot lower than what it should be. The evidence is insurmountable and undisputable. It all points to the fact that fathers are very important in the life and development of a child and to the health of the family unit as a whole. They play a crucial part in giving children a sense of identity and belonging. There is no doubt that fathers act as role models for their children. I was interested to read a speech recently by the Hon. Mark Latham, federal Labor shadow treasurer, in which he states:

> I must say as a father one of the great joys of my life was to become a dad. When I see my two and a half year old son, Oliver, follow me around the garden, if I weed, he wants to weed, if I get in the car, he wants to get in the car—you just understand instinctively that the father has such a big impact on the son.

No doubt, those of us who are fathers can relate to the comments of the Hon. Mr Latham.

A child needs their mother and their father. Wade Horn, founder of the National Fatherhood Initiative, in an article entitled 'The Importance of Fathers', comments:

> Moms and dads do things differently. We think that moms and dads ought to be interchangeable. We know, for example, that fathers are much more likely to be physical with their kids. They're more likely to get on the floor and wrestle with them. Moms are more likely to verbally stimulate their kids, to spend more time talking with them. We also know that fathers are more likely to encourage risk-taking and moms are more likely to encourage caution. Just go to any playground in America and watch the way moms and dads interact with the kids on the jungle bar. What you'll see is dad who will say, 'Keep going. Keep going. You're almost at the top.' You'll see a mom saying, 'Hey, be careful. Be careful.' Now it's not that one is doing it right and the other one's doing it wrong. Kids need both.

We as a community cannot say that one role is more important than the other—both are equally as important.

Women play an enormous part in verbally stimulating their children, in teaching them intimacy, in caring and nurturing. Men equally play an important role in giving confidence and meaning to a child, in helping them to come to terms with their identity and in encouraging them to take risks. Children are suffering in Australia because of the absence of fathers. According to the findings of Bruce Smyth and Anna Ferro from the Australian Institute of Family Studies, more than one million children in Australia live separately from their fathers. More than one-third of children who still see their dads never spend a night with him.

The problem of fatherlessness is having a devastating impact on our children and our nation. According to research conducted by Dr Bruce Robinson, author of 'Fathering from the Fast Lane', it is estimated that fatherlessness is costing Australia over $13 billion per year. In an article entitled 'The Facts on Fatherlessness' Bill Muhlenberg states that children who grow up in a fatherless household are more likely to experience poverty, lower educational performance, increased crime, increased drug abuse, increased mental health problems and increased child abuse. Boys from fatherless homes, according to a US study published by Rex McCann entitled 'Boys Growing Up Underfathered' are: five times more likely to commit suicide, 14 times more likely to commit rape, nine times more likely to drop out of high school, 10 times more likely to abuse chemicals, nine times more likely to end up in a state-operated institution, and 20 times more likely to be imprisoned.

In a study by Martin Daly and Margo Wilson entitled 'Discriminative Parental Solitude: Biological Perspective', it was discovered that a child is far more likely to be the victim of domestic violence if raised in a home with a single parent and a non-biological parent than in a home with both biological parents. Poor or no modelling of fatherhood to young men in particular will have devastating effects upon

those men when eventually they wish to form a family. The environment, modelling and learning in the early years—nought to seven in particular—can never be replaced or entirely erased should the child's experience be negative or incomplete.

The absence of a father, for whatever reason, will create a generation who have no idea how to form and support family life themselves. This is already endemic in parts of our northern suburbs where intergenerational unemployment is chronic and has caused major disruptions to young people's appreciation of work and family life. There is an increased inability for young men and women to form and maintain families. Low wages and the lack of permanency in employment are creating excessive delays in family formation and placing intolerable pressures on parents through longer working hours and multiple jobs in the maintenance of the family unit.

The weight of that pressure falls on mothers and fathers. Alan Baron from the Institute of Men's Studies, in a report prepared in June 2003, stated that the rate of suicide of men compared to women was nearly five to one. According to Professor John McDonald, Co-Director of the Men's Health Information and Resource Centre, separated fathers are six times more likely to commit suicide than married men. Government and the community generally are not standing up for fathers, despite the abundant evidence that they have a crucial role to play in a child's life.

The government recently commissioned the Child Protection Review, conducted by Robyn Layton QC. The report of the review is accurately entitled 'Our Best Investment'. Indeed, children are our best investment. One of the crucial ways that we can invest in our children is by recognising the important roles that fathers play in their lives. Things are no doubt improving. I was pleased to hear the announcement of the federal inquiry into child custody arrangements to examine the merits of shared parenting. In August this year a national fathering forum was held entitled Strengthening and Supporting Australian Fathers. The forum proposed a 12-point plan to turn the tide of fatherlessness in Australia.

I believe the initiative in that plan has merit and should be seriously considered by the governments of this nation, but there is still a long way to go. A journalist in *The Australian*, in an article of 7 May 2003, made an honest appraisal of the current situation when she stated:

> So often the deep bond between father and child goes unnoticed. It is underestimated and sadly misunderstood. How else do you explain a society where fatherlessness is so common?

She further stated:

> Fatherhood is still grappling to find a voice, let alone a foothold in the national conscience. Too often fathers are optional extras in children's lives.

The status of fatherhood in our society must be examined if we are to move forward. Clearly, its status is impacted by government and private sector policy and attitudes. There is an obvious inequity in funding for men's issues. I find it rather curious that there is an Office for the Status of Women with its own minister, yet there is no similar office for men. Last year the Premier established a Premier's Council for Women. I am not aware of any similar council for men. Men's services, and particularly services for fathers, in South Australia are sadly lacking.

Men's information and support centres receive from the government an annual amount of $12 000 to $16 000. One would be forgiven for thinking that their budget was a lot higher given the variety of services that it provides. Its services include a telephone help line for men, counselling, financial counselling, anger management courses, an information database of appropriate agencies and resources for men, advocacy with various government departments, promoting various support groups for men, maintaining up-to-date information on men's issues, publishing a journal and gathering and sharing issues on men's issues on a national basis.

The centres told me that the need out there is great. They cannot keep up and they are struggling on such a shoestring budget. Most of their workers are volunteers. Yesterday, I spoke to one of the workers who told me that he worked 50 hours per week on an entirely voluntary basis. I would like to acknowledge and put on record the huge effort and commitment of David White as chairman, Greg Moore and John Schneider at the centre. The government also provides $28 700 per annum to the Wesley Uniting Mission for male counselling.

The Department of Human Services men's health budget is $170 000 per year. Obvious questions arise concerning how this money is being spent and whether it is, in fact, being spent in its entirety on men's health. The minister, in response to a question I put to the house last year, said that no clearly defined moneys were targeted specifically to address the issues of supporting men and/or fathers experiencing family trauma. It has been astonishing to discover the discrepancy between services available to women in crisis compared to the services available to men. I should make it clear that the point of any comparative analysis between men and women is to identify properly the areas of lack in so far as men and fathers are concerned without detracting in any way from the need for recognition to be given to women.

There has, no doubt, been a welcome and improved change in the role and rights of women over the last 20 to 30 years, and this inquiry is not about taking anything away from women. There are at least five women's health community centres located in Adelaide, yet there does not appear to be any such centre for men. Women can obtain information concerning women's issues and counselling from the Women's Information Service. They can also contact an organisation called Women's Health Statewide for more information. The Domestic Violence Crisis Service also provides a counselling service. There is a women's legal service, yet no men's legal service.

Men must go to the Legal Services Commission for advice and assistance on legal matters. There are women's shelters, which provide housing for women who are victims of domestic violence. One of the shelters indicated that it provides housing mainly for women. If a victim is a man then he is placed on a waiting list for what is described as 'family accommodation'. That waiting list can be very long. Other shelters provide mid to long-term housing for women and children, nothing for men. There seems to be a distinct lack of crisis services available for fathers going through divorce or separation.

Forty three per cent of calls received by the Men's Information Centre relate to marriage breakdowns. These men are looking for support and advice yet, with its limited budget, the centre can do very little to help. A constituent recently came to see me. He separated from his wife almost 10 years ago. His wife and three children stay in the home and he is left homeless. For the last 10 years he has been staying at friends' houses, on the streets, in shelters, on benches and in parks. The Housing Trust has not provided

him with accommodation. This man, much to his great disappointment, barely sees his children.

The last time he saw them was 2½ years ago, and one of his great concerns is that he would have nowhere to house the children for a weekend, even if their mother did permit them to visit him. I am sure that there are many similar cases in South Australia. Separated and divorced fathers appear to have access to very few services, either by way of accommodation, counselling or general support. This is particularly the case where men have suffered domestic violence or need support immediately post-separation or who have children with nowhere to stay. Indicative of the level of need for fathers in our state is the sheer number of non-government funded associations that have been formed in recent years.

These organisations do not have any funding of any sort. Often their main workers are volunteers and they work effortlessly and selflessly to assist fathers who are in dire straits. They include the Fatherhood Foundation, which I have already mentioned. That organisation is the author of the innovative 12-point plan for fathers. Other organisations include Dads in Distress, the Lone Fathers Association, Dads Australia, Joint Parenting and the Shared Parenting Council, and I am sure there are more. These organisations are volunteering their time, resources and money on an entirely voluntary basis and they should be acknowledged.

The Lone Fathers Association receives 30 calls per week from struggling fathers. Bill Smith from the association says that it is not just fathers but social workers, Mission Australia, priests and grandmothers who contact the association for advice and assistance. To say that his resources are stretched would be an understatement. Bill tells us a story of a father who contacted him on Christmas Day. The father had just picked up his child from the Wakefield Street Police Station after a hand-over.

He found welt marks on the child's back and shoulders. The police refused to help because they had only two on duty and one was at lunch. They would not offer assistance to this man. They did not put the case on file, they did not take photos of the child. The only thing they did that day was to hand the father a pamphlet from the Lone Fathers Association. The father then contacted Bill from the LFA. The next day Bill went to the police station with the father and insisted that the child's case be placed on file. Up to this point the police had not been willing to record the incident.

Family First heard another story of a young boy kicked out of his home by his mother. The boy eventually found his father who, in turn, was homeless. The boy stayed in the men's shelter with his father, which was obviously not appropriate. As a result, the father was concerned and wanted some help for the child. He went to the Men's Information and Support Centre and the Salvation Army.

The Men's Information Centre referred the case to the Lone Fathers Association. We understood that it took seven phone calls for someone to take the matter seriously. This was a young boy 13 years of age wandering on the streets yet his father was unable to get assistance for him. The Lone Fathers Association was handballed from the police to Crisis Care to FAYS and then to the Child Abuse Centre. Only after there was a threat of going to the media did things happen and the Child Abuse Centre become involved. Due to his own circumstances, this father was unable to look after his child and he wanted some support to directly assist his child, yet no-one would give it until there was the possibility of media involvement—that is appalling.

Things need to change. Fathers are suffering and they are often silent. They are unwilling to admit that they are having difficulty and need support. Sadly, as statistics show, many believe that the solution is to take their own life. Clearly, that is not the solution. Parliament has a responsibility to examine the status of fathers in our society; to determine in what way they are not being looked after; and to determine what we can do to improve their status and their plight. I encourage members to support my motion.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

CROWN LANDS (FREEHOLDING) AMENDMENT BILL

The Hon. IAN GILFILLAN obtained leave and introduced a bill for an act to amend the Crown Lands Act 1929. Read a first time.

The Hon. IAN GILFILLAN: I move:

That this bill be now read a second time.

Members will recall that there has been a kerfuffle, to put it mildly, over the push by this state government and minister Hill to force land-holders who have perpetual leases to freehold those leases. This bill is a measure, at least in part, to counteract the bullying tactics of the minister to have his way. The irony is that when the government offered the opportunity to freehold perpetual leases for a fee of $2 000—and that also embraced several perpetual leases if they were contiguous and held by the same landowner—it did not seem too bad a deal. Many landowners, quite cheerfully, would have taken the step to freehold their perpetual leases.

I say again to the couancil—as I have previously—that I have a personal interest in the matter. The family farm has a perpetual lease of approximately 100 years' standing, and the rent was set at that time in time in perpetuity. The document itself stated that there was no measure to change the rent. A letter I received in 1964 from the then director of lands repeated, again for my assurance, that there was no way, no measure and no possibility that the rent could be changed. Obviously, the rent was low.

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: I certainly do in this case, Angus. I will not accept that compliment for everything I say. In this case I do claim to be an expert. Because the rents were fixed in perpetuity they were modest. The government's claim was that it was costing too much to collect the rent and it was out of pocket. A very simple solution is to forgo collecting the rent. It seems to me that if some practice is hurting a lot and you could give up the practice to relieve yourself of the pain that would be the prudent way to go.

The Hon. T.G. Roberts: Like bus tickets?

The Hon. IAN GILFILLAN: I will ask the minister to explain. I wanted to be encouraged by the President to do that. I will not ignore the issue because the issue is important. The minister got my advice and recognised that a lot of land-holders were voluntarily moving to freehold their perpetual leases; and they would have done so with dignity, self respect and goodwill to the government had the minister had the wisdom to frustrate this obsession he appears to have to beat people around the ears to do what he wants them to do.

He made two threats. The first was that if we did not register to freehold our perpetual leases by the end of this month, the fee for freeholding would treble; it would rocket up from $2 000 to $6 000 or 20 times the rental—whichever

was the greater. As well as that little bit of bad news and drum beating, he said he would impose a $300 a year service fee for collecting the rent. I would have offered to outsource that and take on that particular job myself.

The Hon. J.F. Stefani: For less money?

The Hon. IAN GILFILLAN: Well, I do not want to cut my profit level from 1 000 per cent to 500 per cent, but under the circumstances I think I would have. The point is that the service fee charged was ridiculous and obviously a measure to brow beat the landowner into taking a step which he or she or they (if a corporate entity) would not have otherwise felt like taking.

There are two ways in which to have some effect on this. One clear measure is to knock out the possibility of raising the freeholding fee from $2 000 to $6 000. That is clearly spelt out in the bill. The second is a little more obscure, that is, to extend the time in which an applicant can withdraw the application for freeholding for five years. It may sound bizarre: why should that clause be significant and important in the bill? It is so because the threat of the minister imposing the $300 service fee is contingent on such legislation passing through parliament. It will have a rocky passage in spite of the very confident tone the minister has used in the past when bullying.

The fact is that he has not yet got any measure through parliament which will impose the $300. The five-year lead time enables the parliament to deal with the measure promised or threatened by the minister to impose a $300 service fee—either to defeat it or pass it. In fact, if it is defeated and the $300 service fee does not apply, those people who do not choose to freehold their perpetual lease would be able to withdraw their application and carry on with the perpetual lease as if nothing changed. There are those two measures in this bill.

Obviously, this bill does not deal with the $300 threatened service fee. That is a matter which will start in the other place and which will be dealt with by this parliament in due course. The two measures spelt out in my bill are important to safeguard a fair go, some integrity in government and some honour in complying with promises made (in some cases a century ago) that rents would not be changed, not even by devious means should they be changed—which is the measure this government has tried to impose. I ask members to support the second reading.

The PRESIDENT: Honourable members may be concerned as to why proceedings have come to a halt. The reason is that I am being advised that there may well be some complications with the introduction of this bill when it comes to the joint standing orders relating to private members' bills, in that it may contravene those rules and standing orders. As this bill has now been moved to be amended, I give council notice that I will be taking further advice on the validity and further pursuit of this bill. It may well be that it is clear and can be proceeded with, but there is some question that there may be some complications with the standing orders and the practices and protocols of the parliament.

The Hon. CARMEL ZOLLO secured the adjournment of the debate

STATE SUPPLY (PROCUREMENT OF SOFTWARE) AMENDMENT BILL

The Hon. IAN GILFILLAN obtained leave and introduced a bill for an act to amend the State Supply Act 1985. Read a first time.

The Hon. IAN GILFILLAN: I move:

That this bill be now read a second time.

This bill deals with the procurement of open source software, a matter which has been raised previously. I intend to speak to this bill, although I did introduce a similar bill in a slightly different form in the last session. We have covered much ground in the six months since I first introduced this bill in the last session of parliament. I welcome the opportunity to correct some of the misunderstanding that is circulating in opposition to the bill.

Proponents of the open source movement are familiar with the phrase 'fear, uncertainty and doubt', which is usually shortened to the acronym FUD. This is a rather older member of parliament being drawn into the newer generation of expression by some of his younger staff. I am sure you, sir, in your younger years, would be familiar with the term FUD which, as I said, stands for 'fear, uncertainty and doubt'. FUD is being spread around the world by large organisations, sometimes openly under their own name, and sometimes under the guise of their lobby group. One such lobby group is the Initiative for Software Choice (ISC). An open source supporter described the Initiative for Software Choice as an Orwellian named organisation, as it seems to be very supportive of a lack of choice when it favours its members. Its very name is indicative of the double-speak and FUD that is being used to deride this bill. ISC's position against the original bill was that it limited the choice of software. This is not true.

A government should always set the terms and conditions for a private company that wants to deal with the government. If a company does not want to comply with a government's conditions, it can always take its business elsewhere. My bill was originally introduced to increase choice to allow government information technology personnel to consider open source alternatives to expensive proprietary products.

Microsoft (a proprietary product) has been quoted as saying that it does not support legislative efforts that favour a single player. Absolute FUD! Open source software is not a single player: it is the combined resources of thousands of programmers around the world, and any company can choose to release their products under an open source licence. One pundit offered an argument that open source software is an anti-American movement, presumably using the term 'American' to mean the residents of North America, not the 300 million or so people living in South America.

The un-American argument claims that Australia faces economic sanctions if we pursue this approach. Arrant FUD and nonsense! Many of the greatest proponents of open source software are based in the United States—Sun Microsystems, Red Hat software and IBM, to name the three that most readily spring to mind. South America has, of course, already recognised the economic opportunity offered by open source software, and Brazil and Peru are already leaps ahead of our efforts.

What about the maturity of open source? Some major players seem to be funding reports that say that open source software is not mature enough to be used in a business setting. Well, that is a pile of FUD, so I will merely repeat a

quote from James Riley, writing in *The Australian* IT section on 12 August this year:

> . . . international banking group HSBC has debunked the theory that open source is not ready for mission-critical applications.

James goes on to explain how HSBC (the organisation formerly known as the Hong Kong and Shanghai Banking Corporation) uses an open source online trading system, and that same system is now in place for St George Bank here in South Australia (running BankSA, incidentally).

While I am quoting from *The Australian* IT section, perhaps I should direct members' attention to the article that appeared yesterday under the headline 'Authorities world-wide move on open source'. Honourable members who have not studied it might pick up a recent photograph of myself in that same article. I will now read some quotes from that article:

> In May, the city of Munich decided to oust Microsoft from the 14 000 computers used by local government employees in favour of Linux, an open source operating system.

It also states:

> China has been working on a local version of Linux for years on the grounds of national self-sufficiency, security and to avoid being too dependent on a single supplier. . . This month Japan said it would collaborate with China and South Korea to develop open source alternatives to Microsoft's software. Japan has already allocated $US9 million to the project.

I am sure that members have also noticed recent articles about Telstra's moving to open source products with an expectation of $750 million saved per year. I will repeat the figure because it is very significant, and it is not one that it throws about idly: it expects to save $750 million per year from changing to open source products. Clearly, open source software is ready for business.

Some of the fuddites suggest that open source is somehow inherently less secure because people can see how a piece of software does business. The IT security industry would appear to have the opposite view: if you have to keep the method secret, your security is automatically poor. You get strong security only with full and open peer review. At the risk of repeating myself, I will once again affirm a number of sound reasons for us to embrace open source software here in South Australia:

1. Open source software is usually cheaper than closed source competitors, with the potential for South Australia to save millions of dollars of public funds. Bear in mind that, whilst attractive, this cost saving is not the sole reason for switching to open source. The Munich government's decision to switch remained firm despite Microsoft suddenly being able to supply their software at a price below the open source competition—a strange move financially.

2. Having full and unrestricted access to the source code and compliance with open standards means that our data can never be held hostage by a vendor. Public information will always be available, even when departments need to switch from supplier to supplier. This is very important for any government. We must never lose sight of the fundamental difference between government and business. We are spending public money for the public good, and it is always in the public interest to ensure information is available for future generations.

3. Full and unrestricted access to the source code means that systems can always be customised to meet local requirements, either in-house or by hiring a contractor of the government's choosing. Many organisations have experienced the pain and frustration of having to adapt to software that is based on someone else's business model. Small inefficiencies become big costs in aggregate. Using open source software will always mean that the rough edges can be smoothed off and systems made to fit the business function—even worse, the frustration of dealing with companies that are unwilling to make changes because South Australia is too small to be worth serving.

4. Developing open source software here in South Australia will give students access to real systems and development cycles with ongoing benefits for all software development in South Australia. There is nothing like locked-up closed-source systems to frustrate the efforts of our educators in South Australia. Students are coding from one side of a curtain that excludes them from real knowledge. Access to the source code of real systems gives a real world example that students can get their teeth into. Open source applies to all levels of computer hardware, from embedded systems and hand-held devices to mainframe computers. When an open source project stalled, students would have access to discussion groups that could include the leading exponents of a particular development paradigm. Students who learn in this environment would have a ready-made CV proving their abilities to develop real systems for the real world.

I will now read the Open Source Initiative's definition of Open Source Software so that honourable members will have this as a term of reference in future discussion:

> Open Source Initiative—Open Source Definition
>
> Introduction
>
> Open source doesn't just mean access to the source code. The distribution terms of open-source software must comply with the following criteria:
>
> 1. Free Redistribution
>
> The license shall not restrict any party from selling or giving away the software as a component of an aggregate software distribution containing programs from several different sources. The license shall not require a royalty or other fee for such sale.
>
> 2. Source Code
>
> The program must include source code and must allow distribution in source code as well as compiled form. Where some form of a product is not distributed with source code, there must be a well-publicised means of obtaining the source code for no more than a reasonable reproduction cost, preferably downloading via the internet without charge. The source code must be the preferred form in which a programmer would modify the program. Deliberately obfuscated source code is not allowed. Intermediate forms, such as the output of a preprocessor or translator, are not allowed.
>
> 3. Derived Works
>
> The licence must allow modifications and derived works and must allow them to be distributed under the same terms as the license of the original software.
>
> 4. Integrity of the Author's Source Code
>
> The license may restrict source-code from being distributed in modified form *only* if the license allows the distribution of 'patch files' with the source code for the purpose of modifying the program at build time. The license must explicitly permit distribution of software built from modified source code. The license may require derived works to carry a different name or version number from the original software.
>
> 5. No Discrimination Against Persons or Groups
>
> The license must not discriminate against any person or group of persons.
>
> 6. No Discrimination Against Fields of Endeavor
>
> The license must not restrict anyone from making use of the program in a specific field of endeavor. For example, it may not restrict the program from being used in a business, or from being used for genetic research.
>
> 7. Distribution of License
>
> The rights attached to the program must apply to all to whom the program is redistributed without the need for execution of an additional licence by those parties.
>
> 8. License Must Not Be Specific to a Product

The rights attached to the program must not depend on the program's being part of a particular software distribution. If the program is extracted from the distribution and used or distributed within the terms of the program's license, all parties to whom the program is redistributed should have the same rights as those that are granted in conjunction with the original software distribution.

9. The License Must Not Restrict Other Software.

The license must not place restrictions on other software that is distributed along with the licensed software. For example, the license must insist that all other programs distributed on the same medium must be open-source software.

10. The Licence must be technology neutral. No provision of the licence may be predicated on any individual technology or style of interface.

Explanation of Clauses

Part 1—Preliminary

Clause 1: Short Title

Clause 2: Commencement

Clause 3: Amendment provisions

This part is formal.

Part 2—Amendment of State Supply Act 1985

Clause 3—Insertion of Part 3A

This clause directs government purchasers to consider open source software when making decisions about the procurement of software. Attention is also directed to favouring systems that adhere to open standards and the existence of independent sources of maintenance and development services.

I urge this parliament to support this bill. I think it might not be generally recognised that, although there may not be an overt and tangible policy which favours Microsoft and other proprietary products, the culture, generally, through government agencies and departments is to stay within the comfort zone. It is time that we as a state were jolted out of that comfort zone. Open source is an expanding area and at the cutting edge of computer technology, and I am convinced that we will gain not only financially but also intellectually as a state by widely adopting open source and opening ourselves up generously to looking at the open source alternatives. We are not pioneers in that sense, as honourable members would recall from some of the examples I gave in my previous second reading contribution.

Major players in the world, including our own BankSA and Telstra, are turning to and using open source technology. The Democrat bill I am introducing is a way in which we can lead South Australia into being recognised as the leading software computer state in the commonwealth.

The Hon. G.E. GAGO secured the adjournment of the debate.

THOMAS, PROFESSOR T.

The Hon. A.J. REDFORD: I move:

That this Legislative Council notes that the Attorney-General, the Hon. M.J. Atkinson MP, in a ministerial statement given to the House of Assembly on Monday 22 September 2003—

1. Acknowledged that he misled parliament in giving a ministerial statement on 1 April 2003.

2. Apologised for not including Justice Mullighan's ruling in the said ministerial statement.

3. Failed to apologise to Professor Thomas for suggesting that Professor Thomas was not a qualified forensic pathologist.

4. Failed to apologise to Professor Thomas for alleging that Professor Thomas had not carried out a post mortem investigation on a homicide case in South Australia.

5. Failed to apologise to Professor Thomas for suggesting that Professor Thomas was not a person inclined to give impartial or independent evidence to courts.

6. Failed to apologise to Professor Thomas for suggesting that Professor Thomas gave evidence to a court that was unreliable and unsatisfactory.

7. Suggested that a delay of nine weeks to partially correct a misleading statement to the parliament complies with the Ministerial Code of Conduct's requirement that ministers have a responsibility to ensure that errors are 'corrected or clarified as soon as possible'.

8. Blamed others for the incorrect facts alleged in the ministerial statement.

I do not move this motion lightly. It is a serious and important motion that goes to the heart of the way in which the Westminster system operates in this state. The Attorney-General's speech on 1 April was made in the context of certain events and certain things that had been alleged both in the media and in this parliament. It is my strong view that the Attorney, in those circumstances, needed to display extraordinary care in what he did and did not say.

I remind members that the speech by the Attorney-General on 1 April related to a series of programs conducted by Channel 7 concerning the Keogh case and some other cases that had come before the criminal courts in this state in the previous few years. It also related to matters that had been raised in the media by the Australian ABC program *Four Corners* (which is a highly regarded television program) concerning public confidence in our judicial system. Indeed, the Hon. Nick Xenophon moved a motion in regard to that *Four Corners* program, both in the last parliament and in this parliament.

Certainly, statements from the media about the conduct of our criminal justice system and public confidence in our criminal system continues in this state and, indeed, continues to the extent that it has now become a national issue. Many members in this place—and, indeed, 99.99 per cent of the public—would not realise that, some two Sundays ago, the well respected *Sunday* program on Channel 9 conducted a series of exposes on the way in which our justice system is operating in this state. Unfortunately, because of suppression orders, not one person who lives or resides in this state had the opportunity to see that program. On a serious note, not even the transcript of that program is available to anyone in this state because of suppression orders imposed by the courts.

I draw members' attention to some of the issues surrounding the Keogh case, the Channel 7 program and our criminal justice system when this statement was made on 1 April this year. I remind members that the Attorney-General appointed his barrister, who had provided free legal advice (or at least discounted legal advice) to him, to the position of Solicitor-General, a position second only to the Attorney-General in the hierarchy of criminal and other justice in this state. If the Attorney-General is known as the first law officer of this state, the position of Solicitor-General, held by Chris Kourakis QC on the appointment of the Attorney-General, is the second most senior position.

The third issue is that of the conduct and standard of service that was being provided to the people of South Australia by the Office of the Director of Public Prosecutions. Channel 7 raised a number of issues in relation to the director's position, and, indeed, the people advancing the Keogh case were also making serious criticisms of the conduct of Mr Paul Rofe QC. Further, I had raised, as far back as February this year, concerns about the way in which the Office of the Director of Public Prosecutions was operating; in particular, the substantial number of people who had left the director's office.

It was in that context that the statement was made on 1 April. Indeed, it was also made in the context of serious questions about the Hanna v Matthew District Court case in which Mr Hanna MP (the member for Mitchell) had issued proceedings against the member for Bright (Hon. Wayne Matthew), and a judgment was entered by Judge Rice for damages in favour of Mr Hanna, the member for Mitchell.

I do not propose to make any comment at all about that case, except about the Attorney-General's conduct. In relation to that matter, the Attorney had a number of responsibilities, the first of which was to consider whether or not it was appropriate to appeal. The second was to determine whether such an appeal, even if appropriate, was in the public interest to be lodged. The decision of Judge Rice was handed down on 24 May last year, for $65 000. In his judgment Judge Rice, found that the defamatory comments were made by the defendant on behalf of the government at the direction of the Premier.

Some three days later and, one can only make an extraordinarily confident assertion, certainly well short of the time it would take to properly consider whether or not a damages award to a member of parliament (albeit at that time to a member of the same party) was appropriate and, indeed, should be appealed, the Attorney-General did not make any reference to that. All the Attorney-General did was refer the matter to the Auditor-General to report on the indemnity. The only interpretation I can make in relation to that is that the Attorney put politics before his duty and his responsibility as Attorney-General of this state. Indeed, there was some criticism that the Attorney used the parliamentary forum and the status of his office to question Judge Rice's finding that the defamatory statements were made on behalf of the government at the direction of the Premier.

In other words, in that case, on his own motion, the Attorney-General decided that he would accept some parts of Judge Rice's decision and reasons for it, but not others. I know of no example where an attorney-general would quote selectively and accept or reject selectively parts of judicial decisions. There are two schools of thought in this country about what an attorney-general's responsibility is in so far as the courts are concerned. The first is that he has a responsibility to uphold the decisions of the court, and that is the one that was adopted by the former attorney-general in this state, the Hon. Trevor Griffin.

The Hon. J.F. Stefani: And the Hon. Chris Sumner.

The Hon. A.J. REDFORD: And the Hon. Chris Sumner, as the interjection correctly put. The alternative is to invite the judges to defend their own decisions and vacate the arena completely, which is the position taken by the current federal Attorney-General. I am not going to get into a debate now about which is the more appropriate course of action. Suffice to say that one or the other is appropriate but not both. It is inappropriate for an attorney-general to sit there and defend some parts of a court decision and reject others. When one analyses it, one can only see politics coming into it. It is in that context that these statements were made on 1 April to the House of Assembly.

So, there was a question mark concerning the appointment of the Solicitor-General. There were statements made and question marks in relation to the damages claim involving the members for Mitchell and Bright. There were question marks about the Director of Public Prosecutions. There were question marks about the conduct and the operation of the office of the Director of Public Prosecutions. There was a range of media statements critical of our justice system and the way in which it operated. Indeed, there were questions raised on a number of occasions by different people about the relationship and the Register of Interests of the Attorney himself and what he had and had not disclosed in relation to his relationship with Mr Kourakis QC.

The PRESIDENT: Order! I note that the Hon. Mr Redford has a substantive motion on the *Notice Paper*, and in those circumstances he does have some abilities in the areas within his motion to make some critical remarks or what may in other circumstances be considered to be injurious reflections or offensive words. I would ask him just to be mindful of his responsibilities under standing order 193. I point out that at this stage he has not exceeded them but he has gone close on a couple of occasions. I point out that the privilege that he has of those motions must fall within the confines of the motion, not actions that happened at some other time. The honourable member is constrained by 193 in respect of those matters, and I ask him to keep that in mind.

DISTINGUISHED VISITOR

The PRESIDENT: With the indulgence of the council, I recognise and draw members' attention to the presence of the Speaker of the House of Representatives, the Hon. Neil Andrew MHR, who is present in the gallery tonight. We welcome him to our parliament and hope that he enjoys his brief visit with us.

The Hon. A.J. REDFORD: Thank you. I am grateful for those wise words of direction. Just so that you follow what I am suggesting, Mr President, I am setting the context in which this statement was made to the House of Assembly under parliamentary privilege by this Attorney-General. It was important that the Attorney-General, when making his statements to the parliament on 1 April was, firstly, restrained and, secondly, accurate, because there were so many question marks over our criminal justice system in so many different areas leading up to the time that he made that statement that this was a very important statement. Indeed, it might even have been suggested that the Attorney-General was the one rock upon which the public could have confidence in our criminal justice system, bearing in mind some of the debates that had raged in this state during that time.

On 1 April the Attorney-General rose in another place and raised the issue of the *Today Tonight* program, and he made a number of statements. You, Mr President, have been here when the former attorney-general the Hon. Trevor Griffin made statements, and you would agree with me, I suggest, that the former attorney-general was always very restrained in what he said, and that he always understood the significance and importance of his position as attorney-general in this parliament. The standards that apply to an attorney-general are higher than one might expect would apply to us mere mortals who sit on back benches or, indeed, the mere mortals who might comprise the front bench in other positions. It is a very senior position.

He is the first law officer of this state and it is a position to which the public should have every right to look up and from which they could expect honesty, competence, no gilding the lily and no playing of politics, particularly when statements of this seriousness are made. So, what did he say in relation to the Henry Keogh case? He said that he had supported the conviction—and that he has every right to do. Indeed, unless there is good reason, he probably has a duty to support the conviction and the decision of the courts of this

state. He then went on to deal with the people who were advancing the cause that Mr Keogh was not guilty.

We live in a democracy, and it is every person's right in this community to make statements about their beliefs about the guilt or innocence of people. Indeed, there are some people in our community—they are called lawyers—who might even be charged with advancing the cause of a particular person who is found guilty. The Attorney-General referred to them as 'just a few people' and said:

> A couple of lawyers and a former law professor have questioned the competence of the prosecution and suggested that important pieces of evidence were withheld from the court.

He then went on and defended the personal conduct of Paul Rofe, the Director of Public Prosecutions in this case. Indeed, he said that the handling and conduct of Mr Paul Rofe in this case was 'skilled, scrupulous, fair and thorough'.

For the purpose of this contribution, I do not seek to go behind that statement, except to say, if that was what the Attorney was asserting, then it was the responsibility of the Attorney to be fair and scrupulous in the making of statements to the parliament upon which we in this place and, indeed, the community of South Australia are entitled to rely. Indeed, he went on and talked about the Channel 7 report. The evil in this statement was what he said about Professor Thomas.

I will go through who Professor Thomas is in some considerable detail later in this contribution, because it is my suggestion that Professor Thomas was defamed in an almost malicious sense by the statements made by the Attorney on 1 April under parliamentary privilege. The Attorney-General, the first law officer of this state, said that Professor Thomas was not a forensic pathologist when he appeared on *Four Corners*. I am sure that the Hon. Nick Xenophon, having made himself so familiar with the *Four Corners* program, will confirm that Professor Thomas claimed some skill as a forensic pathologist on *Four Corners*.

The implication arising from the Attorney's speech was that Professor Thomas was lying when he was claiming credentials on *Four Corners*. That is a very serious allegation to be made by anyone, let alone the first law officer of this state. On any standard, even if you take the Attorney's side and you cuddle right up to him, it is sloppy and incompetent to say the least that one would make an assertion such as that. However, the Attorney was not just happy with putting that, he went on and stuck the knife in, because he then said, 'I am told he has not carried out a post-mortem investigation on a homicide case in South Australia.'

I am not sure where the Attorney gets that from, except to say that you do not do post-mortems on homicide cases, you do post-mortems on dead bodies, and you may come to a conclusion, having done a post-mortem, that the dead body might be dead as a consequence of a homicide. However, when you begin a forensic examination, you start out with an open mind. But, anyway, perhaps the Attorney may accuse me of being a little pedantic in that statement, but I think it is fairly important—

The Hon. Carmel Zollo: It is slightly pedantic.

The Hon. A.J. REDFORD: The honourable member interjects and says, 'It is slightly pedantic.' There are some issues of principle which members opposite do not seem to get when it comes to standards, and this is one of them. It will be very interesting to see how members opposite go about defending the conduct of the Attorney-General and, at the same time, can manage to look anyone in the eye and say that, when it comes to the behaviour of attorneys-general, standards in this state have dropped dramatically. He further says, 'I am not sure of his current expertise in forensic pathology.' That is a bit of a slap, but perhaps one he might get away with until he says—and he could not put it more firmly than this:

> I can tell members that in 1998 Professor Thomas was called as an expert witness for a defendant charged with having made a false representation to the police. Magistrate Baldino's sentencing remarks are pertinent—

If I can just correct the Attorney, it is not that significant but it was not the sentencing remarks, it was the reasons for judgment. One would think that the first law officer in the state could tell the difference between sentencing remarks and reasons for a judgment made by a magistrate. I will not labour on that particular point either, I am a pretty reasonable man.

He goes on to say that Professor Thomas was prepared to question the veracity of forensic evidence in the Cheney case. That happens from time to time in a democracy. In fact, questioning and probing is what we should welcome, unless you are the current Attorney-General. He then refers to Magistrate Baldino's remarks as follows:

> I formed the distinct impression that the professor's views, opinions and hypothesis were not entirely impartial and independent.

I can say that the Attorney-General quoted this for the purpose of adopting as correct the statements made by Magistrate Baldino in this case. So, the implication that the Attorney-General was putting to the other place, the parliament and the people of South Australia is that Professor Thomas was not impartial or independent as a forensic witness. No greater attack on a forensic pathologist could be made.

Mr President, I know you would understand, but other listeners or readers of *Hansard* may not, but what a forensic pathologist relies upon is his expertise and credibility, and if they disappear, or if they are questioned, or if there is a question mark over them, the whole reason for their profession and their ability to carry out their task disappears. So, it is a very serious attack on that particular person. He then quotes, with approval, Magistrate Baldino's following comment:

> In this regard I am compelled to agree with the prosecution submission that Professor Thomas was 'obviously not an unbiased witness'.

He adopted that comment which means that Professor Thomas is a biased witness. Again as a forensic pathologist, no more serious allegation could be made under the cover of parliamentary privilege. The Attorney continues to refer to the comments of Magistrate Baldino and says:

> As a general principle it should never be overlooked that an expert's role is to assist the court rather than to go into battle for the party which hires his forensic skills. The absence of independence in an expert's evidence renders it unreliable and unsatisfactory.

What he is saying is that he was a witness who could give evidence and who would tailor his evidence according to whom was paying him, and as a forensic pathologist that is a serious allegation to be made under parliamentary privilege.

He contrasted the behaviour of this particular forensic pathologist with the extraordinary independence and impartiality of the witnesses called by the DPP in the Cheney case. I am not making this contribution to question the integrity or the expertise of those people who gave evidence in the Cheney case, but it was Professor Thomas's credibility which was attacked and which was put on notice in this particular case. As I said, on 16 July, more than two months ago, that

decision by Magistrate Baldino was overruled and, indeed, the statements made by Magistrate Baldino in that case were strongly criticised by Justice Mullighan—and any lawyer who understands how to read a judgment will note that the statements made by Justice Mullighan about Mr Baldino's assertions were very strong indeed. At page 10 of the judgment, what Justice Mullighan identified, unlike the first law officer of this state, is as follows:

> These are very serious findings so far as Professor Thomas is concerned. He is a specialist in his profession and holds senior and important positions at the Flinders Medical Centre and the Forensic Science Centre where he is an honorary senior consultant. He has a long history of working in forensic pathology overseas and in this state. The finding of the learned magistrate reflects poorly upon him.

I am not entirely sure whether Justice Mullighan was saying that the findings of the learned magistrate reflected poorly on the learned magistrate or whether the findings of the learned magistrate reflected poorly on Professor Thomas. In fact, I would suggest that they reflect poorly on both the magistrate and Professor Thomas.

What we have here is a decision made in 1999, some 3½ years before the first law officer in this state rose to his feet to attack and defame Professor Thomas in another place. On any standard in any parliament in this country, except the parliament of South Australia, that would be unacceptable; but for some reason, with this government, with the Speaker and everyone in another place continually talking about high standards of behaviour and the high standards expected in this place, it has been allowed to pass. On 16 July I rose to my feet in this place and pointed out the error of the Attorney's ways. I can assure members that, probably, most ministers in this government would have walked in within a day or two and corrected the record and apologised to Professor Thomas.

I am prepared to acknowledge that, certainly, we have seen some ministers in this government, when found to have made incorrect statements to parliament, come in immediately and correct the record. We have seen the Minister for Tourism do it on a number of occasions; we have seen the Hon. Paul Holloway, the leader in this place, do it on a number of occasions. The Hon. Terry Roberts the other day did it within five minutes of making an incorrect statement. On this side of the chamber we are prepared to be fair and reasonable, but the first law officer of the state in this case allowed this statement to remain on the record until July.

In the absence of any other evidence, I would be prepared to give the Attorney the benefit of the doubt that he did not know that this decision had been overruled. If that was the case, he should have gone into the house and said, 'I am sorry. I apologise for misleading this place. I particularly apologise to Professor Thomas, and I will take steps to ensure that this does not happen again.' You do not need to be a Rhodes Scholar or, indeed, an Attorney-General to work that out. Members of cabinet in this government who are of lesser intelligence than the Attorney-General, would quickly come to understand the importance of doing that—but that did not happen.

One contrasts this with the behaviour of the former deputy premier, the Hon. Graham Ingerson, who made a statement to parliament and later, on a second occasion, went in and corrected it (it sounded a bit more like a confession than a correction). He lost his job because the first time he made the statement it was incorrect. This Attorney is still here, as the first law officer of this state, defending a Director of Public Prosecutions under siege, defending the Office of Director of Public Prosecutions, which is under siege; defending the appointment of the Solicitor-General in this state; and, who is closely associated with one of the rare police investigations into corruption that we have seen in this state.

That is where we are at in relation to 16 July, and that was more than three months after the statement was made by the Attorney-General. While we had our winter break the Attorney was restored to his position on the front bench. A statement was issued by the Director of Public Prosecutions indicating that there was insufficient evidence to prosecute the Attorney-General. The Attorney-General—and we are used to this—came out and extrapolated that to say that his innocence had been proven, which is not quite the case. I accept the presumption of innocence and that therefore he was innocent. If it cannot be proved then you are innocent, and I accept that proposition for the purposes of this. But he ensconced himself back—

The Hon. Carmel Zollo: That is a disgrace.

The Hon. A.J. REDFORD: Has the honourable member got a problem?

The Hon. Carmel Zollo interjecting:

The Hon. A.J. REDFORD: I have not. Do you want me to repeat it? That is exactly what I said. I said that I accepted the innocence of the Attorney-General. What I do not accept is the fact that he misquoted what the Director of Public Prosecutions said in the press release of that day, but then he is a serial misquoter.

The Hon. CARMEL ZOLLO: I rise on a point of order, sir. The honourable member is reflecting on the character of an honourable member in the other place.

The PRESIDENT: There is no point of order on that particular point.

The Hon. A.J. REDFORD: I withdraw that he is a serial misquoter, but I will say that the record is clear, in that he says one thing in the parliament in another place, which only a couple of days ago he acknowledged was untrue knowing full well that, over the past couple of months, it has been untrue, and I will let the readers of *Hansard* draw their own conclusions. I look forward to members opposite standing up and saying that that is of a reasonable standard, because no member and no minister in this place in the former government or, indeed, in any former government that I can recall, has ever behaved with such a low standard and such a complete disregard for the standards, expectations and behaviour of people in parliament.

On 15 September I again raised the matter, and I can tell members what I did in relation to that. I went to another place and I checked to see whether the Attorney-General had given a ministerial statement, and he had not. Why? I do not know. But let me tell members what happened on the first day back in parliament. The Attorney-General went into the other place and answered a series of questions about yoyos and dummies, while handing out dummies and yoyos.

The Hon. R.I. Lucas: Quite appropriate, I would have thought.

The Hon. A.J. REDFORD: I have to say that the interjections of the Hon. Rob Lucas are usually absolutely spot on, but I have to take exception to the fact that there is a serious defamation hanging over a person who has worked hard to get skills, qualifications and a reputation, and the Attorney is running around playing with yoyos. It is a disgrace, on any analysis. So, we have the Attorney-General playing with yoyos and passing around dummies and having a wow of a time in the House of Assembly, having left this defamation hanging in the air.

We have a situation where a question was asked in another place on 26 June as to why the Attorney-General cannot answer questions about his register of interests, and the record has still not been corrected. But, anyway, we know what our priorities are: yoyos and dummies. But what is significant is that I drew the minister's attention to the Ministerial Code of Conduct. I pointed out that it was the minister's personal responsibility to ensure that any inadvertent error or misconception in relation to a matter is corrected or clarified as soon as possible and in a manner appropriate to the issues and the interests involved.

The Ministerial Code of Conduct is pretty clear. We all know that most members do not pay much notice to it, particularly members on the government front benches—the power of the white car, we call it on this side. It is pretty clear that the Attorney had a duty to come in, according to the Ministerial Code of Conduct, and correct the record immediately. What have we had since then?

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: He probably should have done it, or attempted to do it.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: No, he should have done it on the day he got back, but I accept—some others might even accept—that he might have overlooked the Ministerial Code of Conduct; after all, he had been in the middle of a police investigation.

An honourable member interjecting:

The Hon. A.J. REDFORD: Well, he had been in the middle of a police investigation. He may well have overlooked it. I raised it, but did he correct it on the Tuesday?

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: No, on 16 July he was the minister.

The Hon. P. Holloway: No, he was not. I was the Attorney-General.

The Hon. A.J. REDFORD: Sorry; I am not talking about 16 July. I am talking about 15 September. I have just quoted what happened on 15 September when I raised the Ministerial Code of Conduct. I remember very clearly because, at the time, I was not sure where the responsibility of the Hon. Paul Holloway began and ended, although I think that his responsibility in relation to this is to deal with alleged criminal conduct and involvement and the possibility of various members on the government front benches giving evidence, while the Attorney-General is responsible for everything else.

Ultimately, we all know that the Attorney-General is responsible for his own conduct and his own responsibilities in so far as the ministerial code of conduct is concerned. It was raised on the 15th. Did we get a ministerial statement on the 16th? No, we did not. Did we get a ministerial statement on Wednesday the 17th? No, we did not. Did we get a ministerial statement on Thursday the 18th? No, we did not.

On the 18th the member for Heysen asked a question and the Attorney-General's response was quite extraordinary. He said that he would get around to giving an answer in due course. This was said after the ministerial code of conduct and the importance of quickly correcting the record was part of this public debate. He did not do it; he had not done it; and he did not care.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: The honourable member interjects that he was checking out the situation. I suspect that the Attorney-General will not 'fess up. He has not got the courage or the character to do it. He is trying to trawl through Professor Thomas's history—and I look forward to the Hon. Paul Holloway's refuting this—to see whether there might be a minor error in his past. If he thinks the Attorney-General can escape our judgment, and hopefully the public's judgment, about his veracity and how he subscribes and ascribes to these standards of the conduct by trying to find some minor character flaw in Professor Thomas, he has another think coming.

Members interjecting:

The Hon. A.J. REDFORD: Yes, I am coming to that in a minute. I will take you through it line by line. He has yet to apologise to Professor Thomas. We will come to that in a minute. I digress for a minute because I think it is important to understand the constitutional role of the Attorney-General. The Attorney-General as part of his office is not simply a cabinet minister and/or a political operative. He is the first law officer of the state, and I am sure that most people would understand that that involves a higher duty than simply a political one to one's own cabinet. It also involves a duty that might be expected from the legal profession, that is, to be honest and frank and to ensure the accuracy of what is stated. Indeed, I invite members to consider the memorandum of findings of the Legal Practitioners Disciplinary Tribunal made on 28 January 1987 concerning a practitioner who failed to cite a decision which was pertinent to the court. In that case the chair of the Legal Practitioners Disciplinary Tribunal described that sort of conduct as 'unprofessional'. He said:

> . . . if such conduct is found to have been conducted—and conducted deliberately—that would be sufficient to strike that practitioner off the roll of practitioners.

What we have here is conduct on the part of the Attorney-General which, if deliberate and if he were a legal practitioner, would have him struck off the roll. He cannot get struck off the roll because he has not signed it.

The Hon. R.D. Lawson: It is still reprehensible.

The Hon. A.J. REDFORD: It is still reprehensible. What we have here is conduct on the part of the first law officer of the state—a law officer who is prone to go out and criticise the legal profession, describing them variously as clubs and gangs, people with vested interests and defenders of criminals. That is what he said on the public record. Yet it seems he is either incapable or unwilling to live up to the very standards which he demands they live up to. That does not just apply to this answer: it applies to various other things that are of concern to me and others in this area.

We have a situation where we come to last Monday. The ministerial statement is entitled, 'Reply to Questions, Delay'. There is one group of people in whom I have extraordinary confidence, that is, the people in *Hansard*. When they read a contribution, they usually get the title of the contribution accurate. What we have is, 'Reply to Questions, Delay'. What we do not have here—and this is the judgment of *Hansard*—'Attorney-General, Apology', 'Attorney-General, Admission' or 'Attorney-General, Ministerial Code of Conduct Statement'. We do not have anything like that: we have, 'Reply to Questions, Delay'. I will go through it in some detail, but the general thrust of what he said that day is, 'I'm sorry for not getting back earlier.' That is the net effect of what he said. He said:

> There is nothing sinister in the time taken to compile answers to the initial questions.

If one accepts there is nothing sinister in the time taken to compile answers to initial questions, then one must question

the competency or the respect that the Attorney-General has for the traditions of this parliament, and indeed for the requirements of the ministerial code of conduct. He then said:

> Moreover, the delay should not be seen as suggesting that my predecessor, the Hon. Paul Holloway, has done has anything untoward.

Neither I nor anyone else in the parliament has questioned or queried the conduct of the Hon. Paul Holloway in relation to this matter. This is classic smokescreen stuff; this is, 'Aren't I terrific? I'm defending the Hon. Paul Holloway.' Well, the Hon. Paul Holloway has not been criticised: the conduct of the Attorney-General is that which has been criticised. To say the very least, it is disingenuous to say, 'The delay should not be seen as suggesting that my predecessor. has done anything untoward'. No-one had suggested that the Hon. Paul Holloway had done anything untoward in relation to this issue. The Hon. Paul Holloway took a question from me when the Attorney-General was the Attorney-General. He took a question from me when the Attorney-General was not the Attorney-General. I have no criticism of what the Hon. Paul Holloway did because the responsibility was not on the Hon. Paul Holloway in this case: it was on the Attorney-General, the Hon. Michael Atkinson.

He then says that the crux of the question and assertions from the member for Heysen and me are that he 'acted improperly, contrary to the government's ministerial code of conduct'. That is correct in part. The ministerial code of conduct was not raised until two months after the initial question was asked. He had some two months to correct the record. His failure to correct the record on the first day back in this parliament, in my view, constituted a breach of the ministerial code of conduct in failing to correct the record immediately it came to his attention— because it had been brought to his attention. He acknowledges:

> The suggestion is that I made assertions about Associate Professor Tony Thomas that were deliberately misleading.

This is the evil and the nastiness of what the Attorney-General is doing and saying, and the way in which he is treating Associate Professor—as he called him; I will call him professor—Thomas. He said:

> Although I concede my assertions could be construed as misleading I deny that I deliberately misled the house or members of the other place.

If I had a young child at home and I had caught him out and said, 'You have to 'fess up,' I would not accept that statement. Nor would you, Mr President, from your own child. To say that it could be 'construed as being misleading' is tantamount to saying, 'Well, perhaps if I had been more careful with my wording I would not have misled the house.' That is an outrageous statement to make, on any analysis. Why can the Attorney-General not stand up, like a man, as we used to say, and fess up? He should say, 'I am sorry, Professor Thomas, I mucked up, or my staff mucked up, and I am going to make sure that it does not happen again, and I apologise for damaging your reputation.' He does not do that. He says, 'It might be construed.' On my standards, and I suspect that on the standards of most people in this parliament, that is simply not good enough. He then says:

> I had the content of my ministerial statement checked by several people before presenting it.

What a statement to make. We now have several people who are complicit in a very serious defamation of Professor Thomas. I would like to know who these several people are because, with all these question marks that we have in our criminal justice system, how is it that a statement which is so incorrect, so wrong and so defamatory can be looked at by several people in, I assume, the Attorney-General's office and yet still be so wrong? How are we to accept anything this Attorney-General says in the future if that is the sort of material he is going to present? He continues:

> I am not aware that anyone queried the content, including the comments that I quoted from Magistrate Baldino.

There is no evidence to suggest that what he says there is incorrect. There is no evidence to suggest that when he spoke in another place on April Fool's Day he was not thinking that what Magistrate Baldino said was the last word on Professor Thomas's credibility. No-one is suggesting that on April Fool's Day he did not know about Justice Mullighan's comments. He then states that, had he known, he would not have quoted Magistrate Baldino's remarks. What he does not say is that had he known about Justice Mullighan's comments he would not have made those very serious, defamatory statements about Professor Thomas. What we have here, when you start to analyse this ministerial statement, is an almost pathic desire, at any cost, to discredit Professor Thomas. If one reads very closely what the Attorney said in his ministerial statement of 22 September, this is the message: 'I am sorry for mentioning Magistrate Baldino; what I would have done is not mention him, but I still would have defamed him under parliamentary privilege.'

There is more evidence of that as we go through this ministerial statement—this failure to apologise, this failure to recognise that he had grossly slipped below the standards expected of the first law officer of this state, when making statements to this parliament. He goes on and says that he apologised for not including Justice Mullighan's ruling in his ministerial statement, and for that small mercy one must be grateful. However, he does not apologise to Professor Thomas. He says, however, that he has read Associate Professor Thomas's curriculum vitae several times. If he has read Associate Professor Thomas's curriculum vitae several times he ain't got a lot to do.

I have a copy of his curriculum vitae and I can assure members that it would take a full hour, without interruption, to properly read it. The Attorney is saying that he spent several hours reading Professor Thomas's CV. Why would the Attorney-General want to spend several hours looking through Professor Thomas's CV? I look forward to the Hon. Paul Holloway or any member opposite saying how it is productive of the time of the first law officer of the state to read Professor Thomas's CV, which goes for page after page—

The Hon. J.F. Stefani: How many?

The Hon. A.J. REDFORD: There are 52 closely typed pages of curriculum vitae. He decided that he would read it several times. I will not question the veracity of that. I will accept that this Attorney-General, in between playing with yoyos, sharing dummies, and making statements on the Bob Francis show, will spend several hours reading a curriculum vitae of a professor of the Flinders University, to the benefit of the people of this state.

The Hon. P. Holloway: He should not have taken your accusation seriously and bothered to go back over the statement. What do you want? Make up your mind!

The Hon. A.J. REDFORD: I have made up my mind. When one fesses up one should do it candidly and straightforwardly. Why is he going through Professor Thomas's CV? He made no reference to Professor Thomas's CV on April

Fools' Day in his statement in this place. He simply went straight to Magistrate Baldino's statements, which were highly critical, and said, 'That'll do me.'

The Hon. J.F. Stefani: Didn't bother until there was a decision against it.

The Hon. A.J. REDFORD: No. Had he taken the trouble to research the issue on April Fools' Day, as he read the 52 closely typed pages of CV on several occasions, he would not have got himself into this bother in the first place. If the minister opposite can possibly defend or rationalise this, then he makes himself complicit in this whole tawdry affair.

The Hon. J.F. Stefani: Why would he read it if it were meaningless?

The Hon. A.J. REDFORD: This is it. There is almost a mini confession within the statement. He goes on and says:

I have received some information of which I wish to check. . .

The only information that is relevant is the fact that Magistrate Baldino's comments were overruled and criticised by a superior court through Justice Mullighan's words. Only the Court of Criminal Appeal or the High Court can do that. Even this Attorney-General in 10 minutes could check whether that had happened because that was all that was on the record on 1 April.

This Attorney-General may be trying to find some small slip-up in relation to Professor Thomas and come back and attack his reputation another way. I assure members that, if the Attorney-General even thinks of doing that, his reputation will be absolutely shattered, and I for one will not rest until I see that a man who will fail to stand up, confess and apologise but who will go through and try to denigrate a citizen of this state on a second occasion, is brought to serious account.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: What is denigrating in that statement—the failure to apologise and the fact that the implication is that he is checking for more information because he wants to get Professor Thomas. If you want to get it that clearly, that is what it is about.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: How can you read anything else into it? If he reads the CV several times, is he going to give him a knighthood or something? Is he putting him up for a knighthood of Australia?

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Hon. Mr Redford should return to his text—we are not here for a conversation.

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Order! The minister will get his opportunity.

The Hon. A.J. REDFORD: He continues:

I have received some information of which I wish to check the veracity—

in other words, whether its truthful or not—

with Associate Professor Thomas himself.

It is a pity he did not do that in the first place. He then goes on and says that Professor Thomas is not due back until the end of the month. He then says:

In the meantime, I apologise to members of the house in the other place—

and the apology is accepted in that respect for any hurt on my part. However, I remind members that I was not called the equivalent of a perjurer. My professional qualifications were not called into question. I was not falsely accused of having been judicially criticised for being a biased witness. Whatever offence the Attorney has given me pales into insignificance when compared with the offence that he has given Professor Thomas.

Does he apologise to Professor Thomas? No, he does not. This is an apology that smacks of, 'I'm sorry I got caught.' That is what it is: 'I'm sorry I got caught,' from the first law officer of this state, a man who has to stand up and defend our criminal justice system, the conduct of our police, of our legal profession, of our prosecutors and of our judges. He stoops to that sort of explanation. He continues:

I intend to present a balanced view on Professor Thomas's credentials.

For the understanding of the Attorney-General and members opposite, the issue is not Professor Thomas's credentials: it is the fact that the Attorney, based on the information he had, defamed wrongfully a citizen of this state and then refused to apologise. It cannot be characterised in any other way.

Finally, in this smokescreen to which I have already referred, he apologises to the Hon. Paul Holloway. Well, no-one was criticising him. There are plenty of other reasons to criticise the Hon. Paul Holloway; there is no shortage of material in that respect. However, we certainly did not seek to criticise the Hon. Paul Holloway in relation to anything he did with respect to this whole tawdry issue. So, the Attorney's conduct stands condemned. Let me read a couple of highlights from the professor's curriculum vitae. With a bit of luck, someone might even challenge me to table it.

The Hon. T.G. Roberts: Without reading it?

The Hon. A.J. REDFORD: No—you're not going to get off that lightly! The honourable member interjects. To bring a bit of levity to this situation, one does not often catch a minister so red-handed and so obviously misleading the parliament. The honourable member cannot think that one will let this go lightly, simply, or easily, and when one has such a body of evidence about the lack of calibre of a certain course of conduct one takes every advantage.

Bear in mind that he is overseas. The covering sheet from Professor Thomas's personal assistant at the Department of Anatomical Pathology claims expertise—and deservedly so—for Professor Thomas such as that, since 1999, he has been the Chief Examiner in Anatomical Pathology for Australasia. He actually stands at the gate and says who is or is not qualified to be a forensic pathologist in this country. This is a man who has been condemned by the Attorney-General. Indeed, from 1997 to 1999 he was the Assistant Chief Examiner and his subspecialties included anatomical pathology as a forensic science component. He was responsible for who joined that fellowship.

Professor Thomas lives in South Australia and in 1998, which was the time that Justice Mullighan was making his statement, his appointments were: Senior Consultant in Histopathology at Flinders Medical Centre; Associate Professor at Flinders University; and Honorary Senior Consultant at the Forensic Science Centre. He is on the Attorney's payroll—or was; I am not sure whether he still is. It is very rare that one sees an Attorney attack his own people, but that is what happened in this case.

I have a summary of appointments, and I will mention a couple of highlights. He was the house physician to Professor Jenkins at St George's Hospital and he was a house surgeon to Mr Eley at St Peter's hospital (this is in the United Kingdom); he was a senior house officer in pathology in 1975 at St George's Hospital; he was the registrar in histopathol-

ogy at St George's Hospital in 1976-77; and he was the senior registrar in histopathology from August 1977 to April 1979. The list goes on to include his being a visiting lecturer in forensic pathology at the School of Medicine in the University of Auckland in New Zealand; a senior lecturer and honorary consultant in histopathology at St George's Medical School in London in the United Kingdom; and a senior specialist as a clinical senior lecturer and senior hospital consultant in tissue pathology from 1986 to 1994 at the IMVS and the University of Adelaide. So, when the current Attorney was just a mere backbencher in the failed Bannon government, Professor Thomas was out there helping this government or that government at the IMVS. He was a senior consultant and Associate Professor in Histopathology at the Flinders Medical Centre from October 1994 and an honorary senior consultant at the Forensic Science Centre from August 1995.

This is the man to whom the Attorney-General is refusing to apologise. This is the man through whose past the Attorney-General is currently trawling to see whether there is some character flaw or some error. And, based on current veracity, if the Attorney should happen to stumble over something, I am not sure that I or many others would take it seriously, given the shattering of his credibility over this whole tawdry affair.

The list goes on in terms of Professor Thomas's other achievements and qualifications. He graduated from the University of London; he won a Pickering second prize in biochemistry; he is the holder of a bachelor of science degree in biochemistry; he is an associate of King's College; he has a bachelor of medicine and a bachelor of surgery that he obtained at London University in 1973; he obtained a master of science with a distinction in 1978; and he became a member of the Royal College of Pathologists in 1979. Those are not qualifications that can be sneezed at.

In relation to his professional career, his service commitment consisted of reporting surgical pathology and reporting autopsies one week in three at St James's Hospital. The autopsies were both hospital and coroner derived and, as such, he continued to perform all types of forensic autopsies, apart from criminal autopsies, for the Westminster coroner. I remind members what the Attorney said about this man on April Fool's Day. He said:

> Professor Thomas was not a forensic pathologist when he appeared on *Four Corners* and, I am told, had not carried out a post-mortem investigation on a homicide case in South Australia.

Perhaps he had not done so in South Australia, but does that really matter? Isn't a dead body the same anywhere in the world? Is there something special about dead bodies in this state? Do we die differently? I look forward to the Attorney explaining that one.

In Auckland, Professor Thomas worked in forensic pathology and carried out forensic work throughout much of the North Island and provided up to 1 500 autopsies a year. That is more autopsies than the Attorney currently makes accurate statements in a year. Since October 1994, he has been employed in the histopathology department at Flinders Medical Centre as a senior consultant. He was appointed as an honorary consultant to the Forensic Science Centre in Adelaide and regularly undertook autopsy work at the Forensic Science Centre for the State Coroner. I do not know what the Attorney is doing to investigate this matter, but, hopefully, he is not out there looking for the actual dead bodies to check whether there is any accuracy there; but it will be interesting to see how the Attorney explains that whole process.

The Hon. R.K. Sneath: It's pretty hard in a dam; even a kangaroo is a bit confused in a dam.

The Hon. A.J. REDFORD: The Hon. Bob Sneath makes what may be to him a relevant interjection, but I fail to see how it is remotely relevant to anything I have said—which has been a very broad-ranging speech, I must admit—in the last hour or so.

The ACTING PRESIDENT: All the more reason to ignore it.

The Hon. A.J. REDFORD: Too easy, Mr Acting President. If one looks at that CV, it reads extraordinarily well. I will not go through and refer to all the publications Professor Thomas has been involved in, but there are literally dozens, and these are publications that have been reviewed by peers. As members would be aware, you do not get published in these medical journals unless what you write is reviewed by your peers, and they check it out to make sure that it is correct. So, that has been extensive. I see the Hon. Bob Sneath looking as though he has learnt something, and I am pleased to see that.

Professor Thomas has also been involved in teaching undergraduates in the United Kingdom, New Zealand and Australia. He has been invited to give lectures in London, South-East Asia, New Zealand and he has undertaken postgraduate examinations. He has also been the recipient of a range of research grants, including the study of asthmatic deaths, which is an issue about which he may even have been interviewed on the program the Attorney-General was so mindful he had to attack.

The Attorney-General may well have had very good evidence and very good reason to attack the Channel 7 program, but he did not have the right to gild the lily. What he has done is denigrate the very system he was seeking to protect by resorting to such devices. He has denigrated the office by resorting to devices such as 'I won't apologise yet until I finish trawling through this poor man's background.'

In closing, I say this: Professor Thomas has been a practitioner and he has been involved in the practice of pathology, and that demands and commands respect. That is unlike the Attorney-General, who would seek to be the first law officer of this state, and who would say that he upholds those standards; yet, if he had ever practised the law, he would understand that the conduct falls far short of what is expected by those he has regularly and often criticised, that is, the members of the legal profession.

The Hon. G.E. GAGO secured the adjournment of the debate.

STATUTES AMENDMENT (ANTI-FORTIFICATION) BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): 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.

> This Bill, which lapsed at the close of the last Parliamentary session, amends the *Development Act 1993* and the *Summary Offences Act 1953* to give effect to the Government's election

promise to enact laws to prevent criminal organisations, such as those known as "outlaw motorcycle gangs", fortifying their club rooms and other premises to prevent police access, and to give the police the power, in appropriate circumstances, to require the removal or modification of fortifications where they have been constructed.

Originally the Government tabled a draft of the Bill to enable local councils and other interested parties to review it and provide comments. A number of parties did so and, as a result, some amendments were made to the Bill. These are summarised in the remainder of the second reading report.

Background

When criminal organisations, such as those commonly referred to as "outlaw motorcycle gangs", fortify premises, this poses a serious problem for law enforcement agencies and is an unwanted intrusion by these organisations into our communities.

If police officers cannot enter premises swiftly to execute warrants, for example, the criminals who occupy these fortresses are given an opportunity to conceal or destroy evidence of their criminal behaviour.

Members would be aware of the establishment of heavily fortified clubrooms by a number of these motorcycle gangs in residential areas. There have been violent attacks on these premises, involving firearms and explosives. In the worst of these incidents, people were killed as a result of a confrontation near one gang's headquarters in the city.

This Government believes firmly that law-abiding people should not be forced to share with violent criminals the streets in which they live. Our suburbs and towns should be havens for families, not for organised criminal gangs.

On 4 December last year the Government tabled a draft of the *Statutes Amendment (Anti-fortification) Bill* for public comment.

This Bill amended the *Development Act 1993* and the *Summary Offences Act 1953* to give effect to an election commitment of the Government to enact laws to prevent motorcycle gangs from turning their clubrooms into suburban fortresses and, where such fortresses have been constructed, laws to empower the police to demolish fortifications preventing their access.

The Government took the unusual step of tabling a draft of the Bill to ensure stakeholders, in particular local government, had an opportunity to examine the Bill and provide comments. Consultation occurred and, as a result, a number of amendments were made to the Bill. The Bill was subsequently introduced but lapsed at the close of the last Parliamentary session.

Development Act amendments

Part 2 of the Bill amends the *Development Act 1993*.

Clause 4 amends section 4 of the Act to insert a definition of "**fortification**", being the definition to be inserted into the *Summary Offences Act 1953* by the amendments contained in Part 3 of the Bill.

Further amendments to section 4 then incorporate the creation of fortifications into the definition of "**development**".

The effect of this will be that the construction of fortifications, as defined, will become a category of development within the meaning of the *Development Act 1993* and thus require development approval.

As the Government made clear when the draft Bill was tabled, these new laws are not intended to prevent or frustrate law abiding members of the public from taking reasonable steps to secure their homes, community or business premises. The definition of fortification has been drafted so as to include only those structures or devices that are either designed or intended to prevent or impede police access to premises or which actually do so and are excessive in the circumstances. The installation, for genuine security reasons, of common domestic or business security measures, such as standard security locks, doors, window screens, bars or alarm systems, will not be caught by these new provisions.

Clause 7 inserts a new section 37A into the Act.

Subsection 37A(1) provides that where a relevant authority (a council in most cases) has reason to believe that a proposed development *may* involve the creation of fortifications as defined, the authority must refer the application to the Commissioner of Police. Under subsection (2), the Commissioner must determine whether the proposed development creates fortifications as defined. The Commissioner is authorised, under subsection (3), to seek further information, such as technical specifications from applicants to assist him to make this determination.

Under subsection (5), having made a determination that a proposed development is fortification, the Commissioner must direct the relevant authority either to:

- refuse the application, if the proposed development consists only of fortifications; or
- in any other case, impose conditions on the proposed development that prohibit creation of the fortifications.

An applicant will have a right of appeal to the Environment, Resources and Development Court against a direction of the Commissioner. Subsection 37A(7) provides that the Commissioner, not the relevant authority, is the respondent to any appeal, but the relevant authority may be joined as a party with leave of the Court. This provides a safeguard to ensure the Commissioner exercises his power of direction appropriately and that undue or inappropriate pressure cannot be brought against council officers.

Summary Offences Act amendments

Part 3 of the Bill amends the *Summary Offences Act 1953* to insert a new Part 16.

The provisions contained in Part 16 will authorise the Police Commissioner to apply to the Magistrates Court for an order, a "fortification removal order", which is directed at the occupier or occupiers of fortified premises, requiring the removal or modification of the fortifications. If the order is not complied with, the Commissioner is given the power to have the fortifications removed or modified, and to recover the costs of doing so from the person or persons who caused the fortifications to be constructed.

The provisions allow for the owner or occupiers of the fortified premises to object to and ultimately appeal the issue of the fortification removal order.

Proposed section 74BB lays down the procedure to be followed by the Commissioner when seeking a fortification removal order, and specifies the grounds on which an order may be issued.

Under sub-section one, the Commissioner may apply to the Magistrates Court for the issuing of a fortification removal order. This application may be made, and heard, *ex parte*.

The Court may issue a fortification removal order only where it is satisfied that the premises named in the application are "**fortified**" as defined, and either, the fortifications have been constructed or erected in contravention of the *Development Act 1993* or there are reasonable grounds to believe the premises are being, have been, or are to be used for or in connection with the commission of, to conceal or to protect the proceeds of, a serious criminal offence.

"**Serious criminal offence**" is defined, in proposed section 74BA, to mean an indictable offence or an offence prescribed by regulation.

The grounds on which the Commissioner seeks a fortification removal order must be verified by affidavit. To ensure continuing criminal investigations or the safety of police operatives or informants is not compromised, the Court may, having regard to public interest immunity, declare information relevant to the application to be confidential, thereby prohibiting its disclosure.

Under proposed section 74BC, a fortification removal order must contain detailed information including:

- the grounds on which the order was issued;
- a statement directing the occupiers of the premises to remove or modify the fortifications within the specified time (which must be no less than 14 days);
- a statement clearly explaining that unless the fortifications are removed or modified as ordered by the Court, the Commissioner is authorised to have the fortifications removed or modified, and may recover the costs of doing so from any person who caused the fortifications to be constructed;
- a person's right to object to the issuing of the notice.

A copy of the affidavit verifying the grounds on which the order is sought must be attached to the order unless the affidavit contains information declared by the Court to be confidential.

Under proposed section 74BD, the order must be served personally or by registered post on the occupiers and the owners of the premises. If formal service is not possible, it shall be sufficient for the Commissioner to cause a copy of the order to be affixed to the premises at a prominent place, at or near the entrance.

Proposed sections 74BE and 74BF provide the occupiers or owners of the premises with the right to object to the order by filing a detailed notice of objection with the Magistrates Court. On the hearing of a notice of objection, the Court must review the evidence presented by the Commissioner and the person objecting and determine whether, on this evidence, the grounds for making an order, being those set out in proposed section 74BB, are satisfied. The Court is authorised to confirm, vary or withdraw the order.

In addition, under proposed section 74BG, both the Commissioner and the objector have a right to appeal the decision of the Magistrates Court on a notice of objection to the Supreme Court. An

appeal lies as of right on a question of law and with permission of the Court on a question of fact.

Once issued by the Court, the Commissioner may determine not to enforce a removal order, but must, under proposed section 74BH, lodge a notice of withdrawal with the court and serve a copy of the notice on all persons served with a copy of the removal order.

Proposed section 74BI provides for the enforcement of a fortification removal order. If the order has not been complied with, and all objection and appeal rights have been exhausted, the Commissioner may cause the fortifications to be removed or modified to the extent required by the order. In doing so, the Commissioner, or any police officer authorised by the Commissioner, may enter the subject premises without warrant and use any assistance or equipment necessary. To defray the costs associated with enforcing an order, the Commissioner may seize and dispose of anything that can be salvaged in the course of removing or modifying the fortifications, the proceeds of which are forfeited to the State.

The Commissioner may recover any additional costs as a debt from the person who caused the fortifications to be constructed. In the event that the owner of the fortified premises is an innocent party, in that he or she is not responsible for the construction of the fortifications, the owner may, under proposed section 74BK, recover the reasonable costs associated with repair or replacement of property damaged, owing to the fortifications or the enforcement of an removal order, from any person who caused the fortifications to be constructed.

Under proposed section 74BJ, any person who obstructs, interferes with or delays the removal or modification of fortifications, by either the owner or the Commissioner, is guilty of an offence and liable to imprisonment for six months or a $2 500 fine.

Schedule

In addition to the substantive amendments to the Development and Summary Offences Acts, the Schedule to the Bill further amends the *Summary Offences Act 1953* by dividing the Act into separate parts, replacing outmoded language and removing obsolete provisions.

Conclusion

The absence of laws either preventing the construction of, or authorising the removal of, excessive fortifications has allowed criminal gangs to construct fortresses in our suburbs and towns. This is something this Government will not tolerate.

These anti-fortification laws, once enacted, will be amongst the toughest in Australia. Criminals will no longer be able to conceal their illegal activities inside urban fortresses, safe in the knowledge that police and other law enforcement agencies are unable to enter.

The Police Commissioner will be able to prevent the construction of these urban fortresses. If constructed, he will be able to have the fortifications removed or modified.

Although these powers are extensive, they will be subject to appropriate review and approval processes. These processes will ensure the powers will be used appropriately and will not adversely affect ordinary members of the public.

Labor went to the last election with a promise that, if elected, it would enact tough new laws to empower police to deal appropriately with organised crime. The *Statutes Amendment (Anti-Fortification) Bill* delivers on this promise.

I commend the Bill to the House.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

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

Clause 3: Interpretation

This clause is formal.

PART 2

AMENDMENT OF DEVELOPMENT ACT 1993

Clause 4: Amendment of section 4—Definitions

This clause amends the definition section of the *Development Act 1993* by inserting a new term, "**fortification**", which is defined by reference to the meaning of "fortification" in Part 16 of the *Summary Offences Act 1953* (as inserted by clause 8).

The definition of "**development**" is also amended by the insertion of "the creation of fortifications" as an additional class of development.

Clause 5: Amendment of section 35—Special provisions relating to assessments against a Development Plan

The amendment made to section 35 by this clause establishes that a proposed development referred to the Commissioner of Police under section 37A on the basis that it may involve the creation of fortifications, will not be taken to be a *complying* development under the regulations and therefore will not be subject to the operation of subsection (1), by virtue of which a complying development must be granted a provisional development plan consent.

Clause 6: Amendment of section 37—Consultation with other authorities or agencies

This minor amendment to section 37 clarifies the meaning of subsection (1).

Clause 7: Insertion of section 37A

Section 37A applies in relation to proposed developments involving the creation of fortifications. If a relevant authority has reason to believe that a proposed development may involve the creation of fortifications, the authority must refer the development application to the Commissioner of Police.

The Commissioner is required to assess the application to determine whether or not the proposed development involves the creation of fortifications. The Commissioner must advise the relevant planning authority of the determination as soon as possible.

The Commissioner may request further information from the applicant before assessing the application.

If the Commissioner's determination is that the proposed development involves the creation of fortifications, the relevant authority must either refuse the application (if the proposed development consists only of the creation of fortifications) or impose conditions prohibiting the creation of the fortifications. The Commissioner is the respondent to any appeal against a refusal or condition under subsection (5) but the relevant authority may, if the Court permits, be joined as a party to the appeal.

PART 3

AMENDMENT OF SUMMARY OFFENCES ACT 1953

Clause 8: Insertion of Part 16

Clause 8 inserts a new Part into the *Summary Offences Act 1953*. Part 16 deals with the regulation of fortifications and the powers of the Commissioner of Police in relation to certain types of fortifications.

PART 16

FORTIFICATIONS

74BA. Definitions for Part 16

Section 74BA inserts some new definitions necessary for the purposes of this measure. Some key terms include "**fortification**", "**fortification removal order**" and "**serious criminal offence**".

74BB. Fortification removal order

This section provides that the Magistrates Court may issue a fortification removal order if satisfied, on the application of the Commissioner, that the application relates to fortified premises, and that the fortifications have been created in contravention of the *Development Act 1993*. An order may also be issued in relation to fortified premises if there are reasonable grounds to believe the premises are being used (or have been or are likely to be used) for or in connection with the commission of a serious criminal offence, to conceal evidence of a serious criminal offence or to keep the proceeds of a serious criminal offence.

An order under this section may be issued on an *ex parte* application and is directed to the occupier of the premises. If there is more than one occupier, the order is directed to any one or more of the occupiers of the premises. The order requires the named occupier or occupiers to remove or modify the fortifications.

The Commissioner must verify the grounds for the application in an affidavit and may identify certain information provided to the Court as confidential. If the Court is satisfied, having regard to the principle of public interest immunity, that the information identified as confidential should be protected from disclosure, the Court must order that the information is not to be disclosed to any other person, whether or not a party to the proceedings. A person must not disclose information in respect of which such an order has been made without the consent of the Commissioner unless the disclosure has been authorised or required by a court. A court must not authorise or require disclosure of information without first having regard to the principle of public interest immunity.

Proceedings in relation to an application under this section may be heard in a room closed to the public.

74BC. Content of fortification removal order

This section prescribes the information that must be included in a fortification removal order.

A fortification removal order must include—

- a statement that the fortifications must be removed or modified within a certain period of time, which must not be less than 14 days after service of the order;
- a statement of the grounds on which the order has been issued (although this statement must not include information that cannot be disclosed because of an order of the Court);
- an explanation of the right of objection under section 74BE;
- an explanation of the Commissioner's power to enforce the order under section 74BI.

A copy of the affidavit verifying the grounds of the application for the order must be attached to the order unless the affidavit contains information that has been identified as confidential and cannot be disclosed because of an order of the Court.

74BD. Service of fortification removal order

A fortification removal order must be served on the occupier or occupiers named in the order, and a copy of the order must be served on the owner (unless the owner is an occupier named in the order). Service of an order may be effected personally or by registered post. However, if service cannot be promptly effected, it is sufficient for the Commissioner to affix a copy of the order to a prominent place close to the entrance of the premises.

74BE. Right of objection

A person on whom a fortification removal order has been served is entitled to lodge a notice of objection with the Magistrates Court. However, a notice of objection cannot be lodged if a notice has already been lodged in relation to the order (unless proceedings in relation to the earlier notice are discontinued). The objector is required to include in the notice full details of the grounds for the objection and must serve a copy of the notice on the Commissioner personally or by registered post at least 7 days before the hearing of the notice.

74BF. Procedure on hearing of notice of objection

Proceedings in relation to a notice of objection must, if convenient to the Court, be heard by the Magistrate who issued the fortification removal order. After hearing evidence from the Commissioner and the objector, the Court must confirm, vary or withdraw the order after considering whether the grounds on which an order may be issued (as stated in section 74BB(1)) have been satisfied.

74BG. Appeal

A right of appeal to the Supreme Court lies against a decision of the Court on a notice of objection. The appeal lies as of right on a question of law and with the permission of the Supreme Court on a question of fact. Enforcement of a fortification removal order is stayed until the appeal is finalised.

74BH. Withdrawal notice

The Commissioner must file a withdrawal notice with the Court, and serve the notice on the owner and all relevant parties, if he or she decides that a fortification removal order will not be enforced.

74BI. Enforcement

If an order is not withdrawn by the Commissioner or the Court, or set aside on appeal, and the fortifications are not removed or modified to the extent necessary to satisfy the Commissioner that there has been compliance with the order, the Commissioner may take action to enforce the order.

For the purposes of causing fortifications to be removed or modified, the Commissioner, or an authorised police officer, may enter the premises without warrant, obtain expert technical advice or make use of any person or equipment he or she considers necessary.

The Commissioner may seize anything that can be salvaged in the course of removing or modifying fortifications. Anything salvaged under this section may be sold or disposed of as the Commissioner thinks appropriate. The proceeds of any sale are forfeited to the State. If such proceeds are insufficient to meet costs incurred by the Commissioner under this section, the costs may be recovered from any person who caused the fortifications to be created.

74BJ. Hindering removal or modification of fortifications

Under subsection (1) of section 74BJ, it is an offence to do anything with the intention of preventing, obstructing, interfering with or delaying the removal or modification of fortifications in accordance with a fortification removal order. Subsection (1) applies in relation to the removal or modification of fortifications by a person who is the occupier or owner of the premises (or is acting on the instructions of the occupier or owner) or is a person who is acting in accordance with section 74BI.

74BK. Liability for damage

No action lies for damage to property resulting from enforcement of a fortification removal order against the Crown or any person. However, an owner of premises is entitled to recover the reasonable costs associated with repair or replacement of property damaged as a consequence of the construction of fortifications, or damage resulting from the enforcement of a fortification removal order, from any person who caused the fortifications to be created.

74BL. Delegation

The Commissioner's functions or powers under this Part may be delegated by the Commissioner to any police officer holding a rank not lower than that of inspector. Such delegation is subject to any limitations or conditions the Commissioner thinks it proper to impose.

74BM. Application of Part

Section 74BM provides that if the provisions of Part 16 of the Act are inconsistent with any other Act or law, the provisions of Part 16 prevail. This section also provides that an application for approval under the *Development Act 1993* is not required in relation to work required by a fortification removal notice.

SCHEDULE 1

Statute Law Revision Amendments of Summary Offences Act 1953

The *Summary Offences Act 1953* is further amended by Schedule 1, which repeals the italicised headings that appear throughout the Act and substitutes Part headings. The new headings are substantially the same as the existing headings. However, these amendments have the effect of dividing the Act into separate Parts, which is consistent with the usual format of current legislation. Schedule 1 also makes a number of additional amendments of a statute law revision nature.

The Hon. R.D. LAWSON secured the adjournment of the debate.

STATUTES AMENDMENT AND REPEAL (STARR-BOWKETT SOCIETIES) BILL

The House of Assembly agreed to the bill without any amendment.

FIREARMS (COAG AGREEMENT) AMENDMENT BILL

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

No. 1. Clause 9, page 8, after line 18—insert:

(aa) If—

(i) the person who acquired the firearm was the holder of a shooting club member's licence; and

(ii) the firearm—

(A) is a self-loading handgun (other than a revolver) with a barrel length, as measured in accordance with the regulations, of less than 120 mm;

(B) is a revolver or single shot handgun in either case with a barrel length, as measured in accordance with the regulations, of less than 100 mm; or

(C) has a magazine or cylinder capacity of more than 10 rounds or a modified magazine or cylinder capacity; or

(D) is of more than .38 calibre; or

No. 2. Clause 9, page 10, after line 11—Insert:

(aa) If—

(i) the person who acquired the firearm was the holder of a shooting club member's licence; and

(ii) the firearm—

(A) is a self-loading handgun (other than a revolver) with a barrel length, as measured in accordance with the regulations, of less than 120 mm;
(B) is a revolver or single shot handgun in either case with a barrel length, as measured in accordance with the regulations, of less than 100 mm; or
(C) has a magazine or cylinder capacity of more than 10 rounds or a modified magazine or cylinder capacity; or
(D) is of more than .38 calibre; or

No. 3. Clause 11, page 12, after line 35—Insert:

(aa) If—
(i) the person who acquired the firearm was the holder of a shooting club member's licence; and
(ii) the firearm—
(A) is a self-loading handgun (other than a revolver) with a barrel length, as measured in accordance with the regulations, of less than 120 mm;
(B) is a revolver or single shot handgun in either case with a barrel length, as measured in accordance with the regulations, of less than 100 mm; or
(C) has a magazine or cylinder capacity of more than 10 rounds or a modified magazine or cylinder capacity; or
(D) is of more than .38 calibre; or

No. 4. 26—Substitution of Schedule

Schedule—delete the Schedule and substitute:

Schedule 1—Transitional provisions and compensation

1—Interpretation

In this Schedule—

surrender period means the period of six months from the commencement of this clause.

2—Period allowed for surrender (or registration) of certain firearms, etc.

(1) A person who has possession of an unregistered receiver during the surrender period is to be taken not to have committed an offence against this Act for possession of the receiver provided that, during the surrender period, the person—
(a) obtains registration of the receiver; or
(b) surrenders it to the Registrar.

(2) A person who, during the surrender period, has possession of any of the following:
(a) a self-loading handgun (other than a revolver) with a barrel length, as measured in accordance with the regulations, of less than 120 mm;
(b) a revolver or single shot handgun in either case with a barrel length, as measured in accordance with the regulations, of less than 100 mm;
(c) a class H firearm with a magazine or cylinder capacity of more than 10 rounds or a modified magazine or cylinder capacity;
(d) a class H firearm of more than .38 calibre;
(e) a class H firearm that was manufactured after 1946 and acquired by the purpose of collection and display.

is, if the firearm is unregistered or ceases to be registered, to be taken not to have committed an offence against this Act for possession of the firearm provided that, during the surrender period, the person—
(f) obtains registration of the firearm; or
(g) surrenders it to the Registrar.

(3) The Registrar must, as soon as practicable after the commencement of the surrender period, by notice in writing, cancel the registration of each firearm referred to in paragraph (a), (b), (c), (d) or (e) of subclause (2) that is registered in the name of a person who is the holder of a shooting club member's licence.

(4) If the registration of a firearm is cancelled under subclause (3), no fee is payable in respect of an application made by the owner of the firearm during the surrender period for re-registration of the firearm.

3—Prohibition of use of certain firearms

(1) This clause applies to any of the following firearms if unregistered:
(a) a self-loading handgun (other than a revolver) with a barrel length, as measured in accordance with the regulations, of less than 120 mm;
(b) a revolver or single shot handgun in either case with a barrel length, as measured in accordance with the regulations, of less than 100 mm;
(c) a class H firearm with a magazine or cylinder capacity of more than 10 rounds or a modified magazine or cylinder capacity;
(d) a class H firearm of more than .38 calibre.

4—Compensation for certain surrendered firearms etc.

(1) The Registrar may, subject to conditions approved by the Minister, pay compensation in respect of—
(a) firearms; or
(b) firearm parts; or
(c) firearm accessories; or
(d) ammunition,

of a kind approved by the Minister surrendered to the registrar during the surrender period.

(2) A decision of the Registrar or the Minister under subclause (1) is final and conclusive and may not be challenged or called in question in any court.

(3) Compensation payable under this clause must be paid from the Consolidated Account which is appropriated by this clause to the necessary extent.

5—Possession of and collectors; licences for certain antique firearms

(1) This clause applies to firearms that, on the commencement of this clause, become subject to this Act (having previously been exempted form this Act as antique firearms under the regulations).

(2) A person who has possession of unregistered firearms to which this clause applies during the period of six months from the commencement of this clause is to be taken not to have committed an offence against this Act for possession of the firearms provided that, during that period—
(a) the person obtains registration of the firearms and, if required, a collector's licence; or
(b) the person disposes of the firearms (which the person is hereby authorised to do).

(3) No fee is payable in respect of an application made by a person referred to in subclause (2) during the period of six months from the commencement of this clause for registration of a firearm to which this clause applies.

(4) An application for a collector's licence made by a person referred to in subclause (2) during the period of six months from the commencement of this clause is not to be refused on the ground that he or she is not an active member of a collectors' club provided that he or she is a member of such a club.

Consideration in committee.

The Hon. P. HOLLOWAY: I move:

That the amendments be agreed to.

A number of relatively small amendments to this bill have come from the House of Assembly, and I will briefly explain those. The first amendments, which are all to clause 9 of the bill, reinforce the position that a class H licence holder who is not authorised to possess a hand gun that is to be prohibited by this bill may not be the recipient of a temporary transfer of possession from a licence holder who is authorised to possess such a hand gun. In short, this would close off any potential loophole where, under the provisions of clause 9 as they originally stood, it may have been possible for someone to have transferred a firearm for 10 days or whatever the period is expressed in the original clause, even though that person might not have been permitted to hold it. So, the amendments simply clarify that position and ensure that that cannot happen. Some amendments have also been moved to the schedule to the bill which, of course, left this council in erased type, because this council could not initiate the money parts. One amendment to the schedule which the opposition

moved in the House of Assembly was accepted by the government.

The government also moved an amendment that simply clarifies that the Registrar will cancel the registration of the hand guns that are to be prohibited. This was always the intent of the South Australia Police and has been communicated to shooting groups and clubs. That really was a simple clarification. The amendments are relatively minor and I seek the endorsement of the council to accept them.

The Hon. R.D. LAWSON: I support the amendments made in another place. They were there supported by the opposition as they are here. It is worth placing on the record, however, that these amendments reinforce a point that I should have made in earlier contributions, namely, that this legislation has become extremely complex. The page and a half of amendments that are now inserted for the purpose of clarifying a point, closing a possible small loophole, have added yet again complexity upon complexity. I know from the firearms collectors, dealers, enthusiasts and users that the legislation is extremely complex for them to understand. It must similarly be very difficult for the police and other authorities to police and to explain.

I think the time is fast coming when there ought to be a rewrite of this legislation and a removal of much of the complexity that has grown up over the years. I indicated when the matter was before the council on the last occasion that if the bill came back I would be moving three amendments to the schedule, which was then in erased type. However, that course of action is not now necessary, only of those amendments now being necessary. It is a consequential amendment upon the insertion of the statutory definition of 'antique firearm' that has been adopted in another place, and it is unnecessary for me to move it.

Once again, in accepting the minister's proposals, I express the gratitude of the Hon. Robert Brokenshire and Liberal members for the support that has been given to us by the Combined Shooters and Firearms Council and by the government officers who have been providing briefings on this matter.

The Hon. IAN GILFILLAN: I have one question but, before I ask it, perhaps you, Mr Chairman, could clarify for the committee the procedure that was outlined by the Hon. Robert Lawson: that he could amend erased type if a bill returned to this chamber. Is that the case: that we cannot originate amendments to erased type on the first consideration of the measure before the chamber but we can amend it on its return?

The CHAIRMAN: That is my understanding of the procedures.

The Hon. IAN GILFILLAN: In other words, if it does not come back, we cannot amend it?

The Hon. P. HOLLOWAY: Because it is in erased type, by definition it has to come back.

The Hon. IAN GILFILLAN: I do not know what you mean. There is no obligation for us to see this bill again. It could have gone out of our sight.

The Hon. P. HOLLOWAY: No. Because it is in erased type, by definition it has to come back into the chamber to be reconsidered. That is automatic for any piece of legislation in erased type.

The CHAIRMAN: I have just received some advice. Because the bill left this chamber without that clause, we asked the other house to insert it. If it chooses to put that in there, we can consider it. My advice is that it has now been inserted as an amendment by the House of Assembly, and that empowers us now to consider it in this committee.

The Hon. IAN GILFILLAN: Clause 4 of the schedule spells out the compensation for certain surrendered firearms, etc. It provides:

> The Registrar may, subject to conditions approved by the minister, pay compensation in respect of firearms; or firearm parts; or firearm accessories; or ammunition, of a kind approved by the minister surrendered to the Registrar during the surrender period.

Have the details of which firearms, firearm parts, accessories and ammunition which are going to be approved by the minister already been determined, and is that parallel to or in harmony with the conditions approved by ministers in other states?

The Hon. P. HOLLOWAY: I am advised that it is similar to all other states. I understand that the details of firearms are set out in an intergovernmental agreement.

The Hon. IAN GILFILLAN: It has been determined and is uniform throughout each state, is that correct?

The Hon. P. HOLLOWAY: Yes. The agreement is signed by the commonwealth and all states and it contains definitions. For example, it states that a handgun means a handgun other than a black powder muzzle loading pistol or a cap or a ball percussion fired revolver, but a sports shooter is prohibited from importing, purchasing or possessing a handgun that has a barrel length (unless it is a highly specialised target pistol) of less than 120 millimetres for a semi-automatic handgun and 100 millimetres for a revolver or a single shot handgun and/or a calibre in excess of .38 inches—

The Hon. Ian Gilfillan: You can take it as read.

The Hon. P. HOLLOWAY: On it goes. That sort of detail is in this agreement. If the honourable member does not have a copy, we can probably arrange for him to get one—I am sure it is not a confidential document. I conclude by thanking honourable members for their indications of support and I also thank the officers from within the South Australian police force, the Sporting Shooters Association and other firearm bodies who have contributed to the development of this bill for their cooperation. I do agree with the Deputy Leader of the Opposition that this legislation is complex. Unfortunately, in this particular case, some of that complexity is as a result of the very nature of the agreement under COAG, and that is really something about which we do not have much leeway to address. Certainly, I do not disagree with the comments made by the honourable member that, at some stage, it would be nice if this legislation could be made somewhat less complex. I thank honourable members for their indications of support.

Motion carried.

SUMMARY OFFENCES (OFFENSIVE WEAPONS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

> That this bill be now read a second time.

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

Leave granted.

The *Summary Offences (Offensive Weapons) Amendment Bill 2003* was introduced originally into the House of Assembly on 26

March 2003, but lapsed when Parliament was prorogued. The Bill has not been changed.

The Bill is to give effect to the Government's election promise to prohibit the carrying of knives in, or near, licensed premises at night.

The Bill will provide for new aggravated offences of carrying an offensive weapon, or possessing or using a dangerous article, in, or in the vicinity of, licensed premises at night. The proposed new offences are to be added to section 15 of the *Summary Offences Act 1953*. These new offences will carry substantial maximum penalties of two years imprisonment or a fine of $10 000 or both.

The Government believes that there is a greater risk of violence in and around licensed premises at night time, especially pubs, nightclubs and some types of clubs. The offences under this Bill are directed specifically at this risk and should discourage people from carrying any type of weapon when they go to licensed premises at night. These new offences will supplement the existing offences intended to prevent the commission of crimes of violence with weapons.

The simple offence of carrying an offensive weapon has a history going back at least to the English *Vagrancy Act 1824*. The early South Australian offence was limited to a person being found by night armed with an offensive weapon or instrument, and who, being required to do so, did not give a good account of his means of support and assign a valid and satisfactory reason for being so armed. The maximum penalty was imprisonment with hard labour for three months. In 1953 the offence was changed from a vagrancy offence to an offence against public order. The 1953 offence was wider in scope than the old offence, in that anyone (not just vagrants) could be found guilty of the offence, and the offence could be committed at any time of the day or night. The carrier of the offensive weapon no longer had to give a good account of his or her means, but could avoid conviction if he or she could prove that he or she had a lawful excuse for carrying the weapon. The maximum penalty was three months imprisonment or a £50 fine. This offence remains on our statute books. Many people are charged with it. In 1985 the maximum penalty was changed from three months to six months imprisonment or a $2 000 fine, or both. In 2000, the maximum fine was increased to $2 500.

In 1978, section 15 was expanded by the addition of new offences of manufacturing, dealing in or possessing a dangerous article. The list of dangerous articles was revised with effect from 2000 when the prohibited weapons laws came into force. The maximum penalty for a dangerous article offence is 18 months imprisonment or a fine of $7 500 or both.

The prohibited weapons provisions prohibit manufacturing, dealing in, possessing or using prohibited weapons. Prohibited weapons are declared by the *Summary Offences (Dangerous Articles and Prohibited Weapons) Regulations 2000*. These were drafted in accordance with a resolution of the Australasian Police Ministers Council that all Australian States and Territories should enact consistent prohibited weapons legislation. The only defence to this offence is that the person is exempted by, or under, the Act or by the Regulations. The exemption must be proved by the accused person. The maximum penalty is two years imprisonment or a $10 000 fine or both.

There are also indictable offences of having custody or control of an object intending to use it, or to permit or cause another to use it, to kill, endanger life, cause grievous bodily harm or harm. The maximum penalties are imprisonment of 10 years or five years, depending on the intended degree of harm.

Of course, threatening with or using a weapon violently constitutes another offence, which might range from common assault to murder.

The Government promised before and during the election campaign to introduce legislation dealing with the carriage of knives in or near licensed premises at night because it believes that there is a higher than usual risk of violence in and around licensed premises at night time. Our intention is to supplement the existing preventive weapons offences. A discussion paper was published about how the election promise might be carried out. It was available on the Internet and was sent to many organisations and individuals. All liquor licensees were notified through the Liquor and Gambling Commissioner's newsletter to licensees. About 65 responses were received, nearly all of them pointing out that there was a need for a defence to the proposed offence, otherwise many people going about their ordinary business, observing their religious or cultural requirements, or engaging in their usual recreational pursuits would be unfairly captured. A number of useful submissions were received. The Bill now before the House was drafted after careful consideration of submissions.

The new offences will apply to knives and to all other offensive weapons and to dangerous articles. Although knives have attracted public attention, other weapons such as bottles, baseball bats and tyre levers can be used with equally lethal or injurious results. The new offences will not extend to prohibited weapons, as prohibited weapons offences already carry a maximum penalty equal to that for the proposed new offences. With one exception, that penalty is the maximum for an offence against the *Summary Offences Act*.

Details of the Bill

An offensive weapon is defined in the Act as including a rifle, gun, pistol, sword, club, bludgeon, truncheon or other offensive or lethal weapon or instrument. Any thing can be an offensive weapon if the carrier intends to use it offensively. Thus, to give a few examples, a baseball bat, a billiard cue, a screwdriver, a hammer, a picket, a length of pipe and a broken bottle have all been treated as offensive weapons in appropriate circumstances. Dangerous articles are items that are declared by the *Summary Offences (Dangerous Articles and Prohibited Weapons) Regulations 2000*. They include, for example, devices or instruments for emitting or discharging an offensive, noxious or irritant liquid, powder, gas or chemical that is capable of immobilising, incapacitating or injuring another person either temporarily or permanently, anti-theft cases, blow guns and bayonets. In recent times, possession of capsicum spray has probably been the most commonly detected dangerous articles offence.

"Carry" is already defined widely in the Act. A person is taken to be carrying an offensive weapon if he or she has it on or about his or her person, or if it is under his or her immediate control. Thus, for example, a person who has an offensive weapon in a hand bag or in a bicycle or motor cycle pannier or under the car seat would be carrying it. "Possess" is of even wider meaning. However, for the purposes of the new aggravated offences, probably there will be little practical difference between "possess" and "carry".

The factors that distinguish the proposed aggravated offences from the existing offences of carry an offensive weapon or possess or use a dangerous article are location, time and penalty.

The new offences will apply to people who are in, or in the vicinity of, any licensed premises at night. "Vicinity" is a word that is used in many South Australian statutes. To some extent, it takes its meaning from the context. Its ordinary meaning as described in the seventh edition of the Concise Oxford Dictionary is " *surrounding district, nearness in place (to); close relationship (to)"*. Thus, a person who is in the street outside licensed premises is in the vicinity of them. A person who is some distance away in the car park of the hotel would be in the vicinity of the hotel.

The new offences will extend to any licensed premises. Although we think that there is a generally higher risk of violence around certain licensed premises, it is not possible to define them in a legally and practically satisfactory way by reference to the type of licences, permits and authorisations held by the licensee of the premises and used at a particular time. For example, Members might be surprised to be informed that some premises that most people would call "pubs", including some in Hindley and Rundle Streets, are not operated under hotel licences. Also, there are premises that operate under different licences, permits and authorisations at different times of the day and night and a part of the premises might be operated on a different licensing basis than another part. Special events that attract a large crowd of people, often young people, who are being supplied with liquor, may be held once only, or only occasionally and a licence is issued for the occasion. Also, the circumstances that are thought to increase the risk of violence, particularly the congregation at night of many people drinking alcohol, are sometimes present at other licensed premises such as some restaurants and places where wedding receptions and similar celebrations are held. The Government hopes that including all licensed premises will make the new laws more effective.

The time element will be night time and "night" is defined in the Bill to be between 9 pm and 6 am. This is the same as the definition used in the *Criminal Law Consolidation Act 1935* for nocturnal offences.

The prosecution would have to prove that the accused was carrying or possessed an offensive weapon or a dangerous article, that it was night time as defined, and that the accused was in, or in the vicinity of, licensed premises. The accused could exculpate himself by proving on the balance of probabilities that he had a lawful excuse for carrying or possessing the offensive weapon or dangerous article. This will make what would otherwise be intolerably draconian legislation capable of fair and reasonable application. As the High

Court said in 1947 in the leading case of *Poole v Wah Min Chan* about the equivalent defence of reasonable excuse, it entitles the person who has the thing to explain his possession of it by reference to his knowledge and intent. Of course, the prosecution is at liberty to lead evidence to rebut, or to comment adversely on, the accused person's evidence of his claimed knowledge, reasons and intent. The Court will weigh this all up and decide whether the accused person has proved the defence.

Examples of people who are likely to have a lawful excuse for carrying an offensive weapon in or in the vicinity of licensed premises include customers who are using a knife supplied by the licensee for dining, chefs who are working, or going to or from work, tradesmen called in to do repairs at night, people who are performing traditional dances or ceremonies at a celebration, such as sword dances, and people who pass near a hotel or restaurant when going fishing. Any exemptions that apply to people who have prohibited weapons will not be affected by this Bill: those exemptions will still apply.

Carrying a weapon for self-defence is rarely a defence. The courts, including the High Court, have ruled consistently that it is a defence only if the accused can prove that he was in imminent danger of attack.

If the accused person can prove a lawful excuse for carrying the weapon at night in, or in the vicinity of, licensed premises, then no offence is committed. There is another partial defence that might be available to the accused, and that is ignorance. If the accused person did not know that he or she was in premises where liquor was sold or supplied, and also did not have any reason to believe that he or she was in such a place, then the accused person could be liable only to conviction for the lesser offence of carrying an offensive weapon, or possessing a dangerous article, without lawful excuse. It would be difficult for an accused person to prove this degree of ignorance of the facts of his location, as in nearly all cases it will be obvious. The defence of ignorance against a charge of being in the vicinity of licensed premises is a little different. Because of the width of this offence, there will be a defence of not knowing that one is in the vicinity of such premises. If this is proved, the accused person could be liable only to conviction for the lesser offence of carrying an offensive weapon or possessing a dangerous article without lawful excuse. For example, if a person who had a knife in his pocket walked at 11 p.m. along Stephens Place, Adelaide, past the Queen Adelaide Club, licensed premises that has no sign outside indicating its name or nature, it is quite likely that he will be able to prove that he did not know he was in the vicinity of premises at which liquor was sold or supplied. If he proved this, he could not be convicted of the aggravated offence that carries the maximum penalty of two years imprisonment or a $10 000 fine or both. But, unless he could also prove that he had a lawful excuse for carrying the knife, he would be convicted of the offence of carrying an offensive weapon without lawful excuse, an offence that carries a maximum penalty of six months imprisonment or a fine of $2 500 or both.

Existing provisions of the *Summary Offences Act* will enable the Police to search people whom they reasonably suspect have a weapon and to seize the weapon. Subsection (2) of section 15 will enable the Courts to order forfeiture of the weapon to the Crown if the person is convicted.

The new offences should discourage people from carrying any type of weapon when they go to licensed premises at night. It should discourage people who are hanging around the outside of licensed premises at night from having a weapon. The Police will have power to search for and confiscate weapons in these situations when appropriate.

I commend this Bill to the House.

Explanation of clauses

Part 1—Preliminary

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment provisions

These clauses are formal.

Part 2—Amendment of Summary Offences Act 1953

Clause 4: Amendment of section 15—Offensive weapons, etc

This clause inserts new subsections (1ba), (1bb) and (1bc) into section 15 of the principal Act.

Proposed subsection (1ba) provides for an aggravated offence where a person carries an offensive weapon or carries or uses a dangerous article—

- at night; and
- in, or in the vicinity of, licensed premises.

The maximum penalty for an offence under this subsection is a fine of $10 000, or imprisonment for a period of 2 years.

Proposed subsection (1bb) provides a defence to prosecution under new subsection (1ba), where the defendant did not know and had no reason to believe that he or she was in premises where liquor was sold or supplied, or, in the case of someone not actually in licensed premises, that the defendant did not know that he or she was in the vicinity of premises where liquor was sold or supplied.

Proposed subsection (1bc) provides that the court may, on the trial of a person for a contravention of subsection (1ba), convict the person of an offence under subsection (1) or (1b) of section 15 of the principal Act if the court is satisfied the person is not guilty of the offence charged, but is guilty of the lesser offence.

The clause also inserts definitions of "licensed premises" and "night" into section 15 of the principal Act.

The Hon. R.D. LAWSON secured the adjournment of the debate.

CROWN LANDS (FREEHOLDING) AMENDMENT BILL

The PRESIDENT: Honourable members will recall that today I raised some concerns about a proposition of the Hon. Mr Gilfillan in respect of crown lands. The advice I have received following the matter being drawn to my attention is as follows. Since the early days of our legislature, rulings have been given by successive presiding officers of both houses to the effect that bills and motions dealing with crown lands should be introduced by the government. In the debate on the Working Men's Holding Bill, the Speaker ruled that the bill must be laid aside, and his remarks included the following:

> There are two fundamental objections to the bill as introduced, either of which is fatal. . . It is contrary to precedent and constitutional usage. Up to 1874 it had been a regular practice to regard crown lands bills as money bills. . . Since that date this practice and custom has been allowed to fall into disuse, but such bills have invariably originated in the House of Assembly. . . It is, therefore, contrary to the uniform practice of this parliament that a bill dealing with crown lands of the province should originate in the Legislative Council. . . This bill should therefore have been introduced in this house, and properly, if at all, by the government. If a private member desires legislation in the direction contemplated by this bill, his proper and constitutional course would be to move resolutions affirming the principle and addressing the Governor, praying His Excellency to recommend the house make provision by bill to give effect to the resolutions. . . It will be observed that this does not take away the right of a private member to initiate legislation, but only prescribes the mode.

In 1891, in connection with the Parklands Resumption Bill, the President endorsed the principle of the above ruling in relation to any bill dealing with the public estate; that is:

> That such a bill must be a government measure and failing this must be laid aside.

In 1902, in the Crown Lands Act amendments, the President in his ruling stated:

> I find that the practice of parliament is undoubtedly opposed to the introduction of any Crown land legislation by a private member and the argument is the stronger when the question of the revenue from Crown lands is involved. This should be in principle a matter of government policy, insosmuch as the question of revenue may be materially affected by a facility being afforded to private members to alter that revenue by any alteration to the rents derived from such lands. . . I wish to point out. . . that the constitutional course. . . to adopt, is to move a resolution affirming the principle and leaving the government to make provision, by bill, to give effect to the resolution.

In 1980, in the Pitjantjatjara Land Rights Bill, the President ruled that the bill must be laid aside for the following reason:

. . . as this is a bill dealing with the public estate, seeking to alienate Crown lands, it is contrary to the practice of the parliament. Such a bill should not be introduced by a private member, but must be a government measure.

The clearest statement of reasoning behind the above rulings appears to be Mr Speaker's concise comment in 1884 ruling that Crown lands bills were regarded as money bills. The constitutional history in South Australia shows that controversy over the power to legislate locally in relation to Crown lands was a major issue in the establishment of a representative, responsible government. It is clear that power to pass Crown lands laws locally was granted by the imperial parliament as part of an arrangement whereby, in return, the administration of government was funded from the local revenues.

The arrangement, embodied in the constitution, made appropriation of such revenue a matter for the government, in that appropriation legislation (that is, money bills) had to be recommended to the House of Assembly by the Governor. No such constitutional provision required a Governor's message as a prerequisite for Crown lands legislation but (being the converse of money bills in the arrangement), Crown lands bills were regarded as similar to money bills and the practice was adopted of treating them in the same way.

Accordingly, I rule that, in adhering to the established procedure of the parliament of South Australia, the Crown Lands (Freeholding) Amendment Bill, introduced by the Hon. Mr Gilfillan this day, be laid aside.

STATUTORY AUTHORITIES REVIEW COMMITTEE: WEST TERRACE CEMETERY

Adjourned debate on motion of Hon. R.K. Sneath:

That the report of the committee on the management of the West Terrace Cemetery by the Adelaide Cemeteries Authority be noted.

(Continued from 17 September. Page 90.)

The Hon. T.J. STEPHENS: As a relatively new member of the committee, one of the first things that came before us was the Statutory Authorities Review Committee report on the management of the West Terrace Cemetery in August 1998. It reported that the management plan put forward by the managers of the cemetery, the Enfield General Cemetery Trust, was grossly inadequate. The committee went on to note that the trust had not advised the committee or advertised widely during the public consultation phase of the plan.

Additionally, key stakeholders were also unaware of the existence of the management plan. In May 2001 the debate in relation to the Adelaide Cemeteries Trust Bill gave rise to a select committee that recommended that the Statutory Authorities Review Committee should monitor the trust's management of the West Terrace Cemetery. The committee took evidence from the then chief executive of the trust. The committee was disappointed that the management plan was still to be finalised two years after its scheduled release date.

The committee concluded that the heritage value of the cemetery had not been taken into account by management, that management had not consulted with relevant parties and that the management was incompetent in its duties. I personally regard this lack of managerial ability as farcical and am greatly encouraged by the change of management. As a relatively new member of the Statutory Authorities Review Committee, I was quite amazed at the apathy and lack of detail of the previous management and wondered, quite frankly, how quickly that could change. I was very impressed by the new chief executive when she gave evidence.

I look forward to greatly improved management outcomes. I wish to thank members of the committee, particularly the Presiding Member. I especially wish to thank the Hon. Di Laidlaw for her contribution and patience as a previous minister who refused to be fobbed off when, really, we were getting some pretty insipid information from the previous management. I pay tribute to Gareth Hickery, secretary of the committee, and all relevant staff. I look forward to the new management regime fulfilling its duties as it should. I am sure that our next report will be something of which I will be quite proud.

Motion carried.

CHILDREN'S PROTECTION (MANDATORY REPORTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 September. Page 93.)

The Hon. R.D. LAWSON: I continue the remarks I commenced last Wednesday when the Hon. Nick Xenophon moved his amendment to the Children's Protection Act to require mandatory reporting by a number of workers from different classes, including clergymen and not including information obtained in the course of a confession. I remind the council that the Layton report, a most comprehensive document prepared by Robyn Layton QC and containing over 200 recommendations, recommended an extension of the class of persons who are required to be mandatory notifiers.

However, Ms Layton wisely excluded from that list information obtained by clergymen in the course of a confession. Ms Layton did not, however, in her report, expand upon the reasons for that exclusion, and there are many very good reasons for that exclusion. It is for that reason that I have circulated an amendment, and I will be seeking the support of members for my amendment, which will exclude ministers of religion from the requirement to divulge information communicated to him or her in the course of a confession. My amendment will include, as a definition of 'confession', a confession made by a person to a minister of religion in his or her capacity as such according to the rules or usages of the religion of the minister.

I think it is worth examining a number of the issues. I begin by commending to members an excellent item written by James Murray, the Religious Affairs Editor of *The Australian* in that publication on, I think, Monday of this week. I quote some extracts from Mr Murray's piece. Those who are familiar with his writing will know that Mr Murray is himself, or was certainly, a priest, and a man with a most distinguished career as a religious commentator. He says, and he is here speaking of the confession:

This sacrament has its roots in Bible revelation and the authority Christians believe was implicit in Christ's offer of reconciliation. It is a concept foreign to a secular society that discounts such religious faith.

He goes on to say:

The safeguards lie in the priest's inalienable vow never to divulge what is heard in confession. The confession itself is to God, and not to the priest.

He goes on further to dispel what he describes as a 'quaint illusion', as follows:

> The quaint illusion that confession just clears the deck to commit the same sins again flies in the face of the church's teaching and of the whole conversion process.

He says further:

> To hear shocking self-accusations never gives the confessor any right to betray confidentiality, the seal of the confession. Such betrayal leads to the immediate expulsion of a priest from all ministry, as it undermines one of the few remaining bastions of confidentiality in a world technologically destructive of privacy and increasingly of trust. This is not to defend private confession in the presence of a priest as a funk-hole for criminals or social aggressors. Indeed, the self-examination it involves offers some guarantee that serious, personal problems and offences have some chance of being dealt with. But mandatory breaking of the seal of the confessional for the admission of a particular crime destroys the whole nature of the sacrament of penance.

I read those passages because it seems to me that Mr Murray has succinctly explained the teachings of the church on the confessional and also highlighted the inviolable nature of the seal of the confession.

I am reinforced in the stance that I propose taking, (and I here indicate that the parliamentary Liberal Party has resolved that this matter will be a conscience vote for its members. So, I am here speaking on behalf of myself and not the party I am proud to represent) by the statements that have been made in recent times by the Catholic Archbishop of Adelaide, Archbishop Phillip Wilson, and also by the Anglican Archbishop of Adelaide, Archbishop Ian George.

Both of those distinguished clergy have provided, in a number of public utterances, their particular explanation for the reason why the bill, as originally proposed by the Hon. Nick Xenophon, would or could lead to a betrayal of the sacramental seal of confession. I accept that not all clergymen adopt exactly the same position. Of course, the confession is central to a number of religious faiths, particularly the Catholic faith, but many other Christian religious denominations do not include the confession as part of their religious rites. Notwithstanding that, I anticipate support from many of those church leaders who do recognise the importance of religious rites to others.

I think there are a number of reasons why, in summary, it can be said that the Hon. Nick Xenophon's bill should not be accepted without the amendments proposed by me. The first is that Robyn Layton QC in her extensive report recommended against disclosure of information obtained in the confessional. I think that is important. The government commissioned a significant report. It is a report which we greatly lament has not yet been adopted by this government in many of its recommendations. I think there is only one minor matter to which the government has so far committed, and that was one which was seen as possibly popular in the law and order context. The government has not yet put its money where its mouth is in relation to many of these important recommendations.

Secondly, it seems to me that the real issue involved in child sexual abuse—which I, like every other member of this chamber, would condemn from beginning to end—is not making priests dob on offenders if they ever receive information that would require them to dob: the real issue should be encouraging the victims of sexual abuse—the victims of these heinous crimes—to report those offences to the police. One can encourage victims by a number of methods, including providing a non-threatening and supportive environment for the victims to come forward and providing them with support when they do make reports. These offences have been underreported for very many years and, it seems to me, although we have made considerable steps in the way of encouraging people to come forward, that that is where we should be focusing our principal efforts. The suggestion to make priests mandatory reporters in respect of confessional information is a side issue.

Thirdly, I reinforce the point made by the clergymen that the confessional is a sacramental rite and the seal of confidentiality, which historically has been upon it, should remain. This proposal of the Hon. Nick Xenophon would not be effective to reduce the incidence of child sexual abuse in our community. The only effect of a law of this kind would be to put priests in the position of being unable to comply with this law. It is illogical to break the seal of a confessional for child abuse—as heinous as that crime might be—but not for murder, rape or treason. It would be illogical to make an exception of this kind.

I submit that this is not a case of trading off children's interests against religious practice. This is not an either/or situation. You cannot say that if you support religious practice in relation to this you are prepared to sacrifice children's interests. I vigorously dispute that. We can pursue child abusers while at the same time supporting traditional religious practices. For those who say, somewhat emotionally, that by supporting the sacrosanct nature of the confessional, 'You are prepared to sacrifice the interests of children,' well, I refute that, and I think all members who support the position I am taking should similarly reject the proposal.

I suggest that the proposal of the Hon. Nick Xenophon would not be effective in any case. Priests in the confessional are unlikely to record details of the names, dates, victim's addresses and information of a type would which would have any evidential value. While neither the Hon. Nick Xenophon nor ourselves are suggesting it, it could be suggested that if priests had this obligation they would be required to tape what is said in the confessional so that it could be used in evidence against people later. And should a priest taking confession be required to give a warning to say that, 'Information you further provide may be taken down and notified to Family and Youth Services'?

This proposal would not be effective on another ground, and this is a point made by a number of clergymen: offenders would not confess in circumstances such as this, where they knew it would be possible for the priest to divulge the information.

Finally, I say that this issue is a diversion. I do not attribute to the Hon. Nick Xenophon the motives of some, but there are some who have been actively supporting this proposal because they see it as a form of retaliation against the established churches, either because of the churches' record in relation to sexual abuse amongst priests and others in the past, or because the churches have not agreed to pay adequate compensation to victims where that has been the case. There are those in the community who have seized upon the Hon. Nick Xenophon's bill to use it as something with which to browbeat adherents of established religion.

I think it is also worth placing on the record—and this is really on a separate issue—the status of confessional information in law. In the Commonwealth Evidence Act, passed in 1995, there is a provision, section 127, which gives what is described as a privilege against a disclosure. It provides:

> A person who is or was a member of the clergy of any church or religious denomination is entitled to refuse to divulge that a religious confession was made, or the contents of a religious confession made, to the person when a member of the clergy.

Religious confession in this section means:

a confession made by a person to a member of the clergy in the member's professional capacity according to the ritual of the church or religious denomination concerned.

Similar provisions exist in the laws of Victoria, Tasmania, New South Wales, the Australian Capital Territory and the Northern Territory. However, that so-called privilege does not apply in South Australia, where the common law continues to apply. It has not been accepted at common law that a priest is permitted to refuse to provide information to a court of law. But the circumstances in which a priest would be called to give evidence about anything that occurs in the confessional would be rare indeed, because it is not the practice in any court of law to call witnesses on the offchance that they might divulge some information. This is because the common law of England, upon which our law is based, is of a relatively recent origin. Sir James Stephen, a famous criminal lawyer and expert in the law of evidence, is quoted as saying:

I think the modern law of evidence is not so old as the Reformation, but has grown up by the practice of the Courts, and by decisions in the course of the last two centuries. It came into existence at a time when exceptions in favour of auricular confessions to Roman Catholic priests were not likely to be made.

The general rule is that every person must testify to what he knows. An exception to the general rule has been established in regard to legal advisers, but there is nothing to show that it extends to clergymen and it is usually so stated as not to include them.

Notwithstanding the fact that the common law has not, for the reasons outlined by Sir James Stephen, conferred upon priests a legal privilege, for the practical reasons that I mentioned earlier, it is most unlikely that a priest would ever be called upon to divulge information contained in the confessional. This was said in a famous dictum by Chief Justice Best in a case called Broad against Pitt in 1828:

I, for one, will never compel a clergyman to disclose communications made to him by a prisoner; but if he chooses to disclose them then I shall receive them in evidence.

As I say, for the very practical reason that priests are bound by a sacred oath of secrecy, they would be unlikely ever to divulge that information. I appreciate that members have only just received the amendment that I have proposed, but I indicate that during the committee stage of the debate I will be moving that amendment and I seek the support of members for it.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

MOUNT GAMBIER HEALTH SERVICE

Adjourned debate on motion of Hon. A.J. Redford:

1. That a select committee of the Legislative Council be appointed to investigate and report upon the operation of the Mount Gambier Health Service since July 2002 and, in particular, the following issues-

(a) the negotiation of the contracts with resident specialist doctors;
(b) the actions of the Chief Executive Officer of the hospital in dealing with medical specialists;
(c) the impact on Mount Gambier Hospital of financial cuts to other hospitals within the region in the years 2002-2003 and 2003-2004;
(d) the involvement and actions of the Department of Human Services in the management of these issues;
(e) the selection process and appointment of Mr McNeil as Chief Executive Officer of the hospital;
(f) the impact on health services in the Mount Gambier region of these issues; and
(g) any other matter.

2. That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.
3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.
4. That standing order 396 be suspended as to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 17 September. Page 105.)

The Hon. D.W. RIDGWAY: I rise in support of the motion moved by my colleague the Hon. Angus Redford, and I thank him for his explanation of this motion last week. I move the following amendment to paragraph 2:

Leave out 'That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and'.

I have lived in the South-East all my life. Before coming into this place, I was a member of the Bordertown Hospital Board, which comes under the jurisdiction of the South-East Regional Health Service. There has been ongoing community debate in the South-East on this matter, both privately and, more importantly, in the media. It was interesting to note just recently that 2 500 letters were delivered by the member for Barker, Patrick Secker, to the Premier here in Adelaide.

Some scoffed at that. There was a suggestion by the Hon. Mr Redford that the Hon. Mr Holloway had called these people 'Liberal stooges'. He denied that at a later date. If 100 000 people in Adelaide sign a letter to the Premier, it would prompt immediate action. The local member, the Hon. Mr McEwen, Minister for Regional Affairs and Minister for Local Government, said in one of the newspaper articles that he had made a significant personal sacrifice to become a minister. However, he has been silent, or near silent, within the community until the heat has been turned up on him on this issue. He is continually verbalising members of parliament, including Mr Secker, the member for Barker, the Hon. Angus Redford and other members of the opposition. Just recently I read a letter to the editor from Mr McEwen. It is headed 'Another posse—and what then?' and it states:

Sir, obviously Mr Alan Hill and his friends are not happy with the scalps they already have. They want more. They want McEwen, DeGaris, Stevens, Mulcahy, Perryman, Ramsey, Pool, Neilson, McNeil and others. Imagine if they succeed and we have no health system left, who will be the big losers? Our community will. We cannot allow this to happen, the games must stop, we must work together. So please Mr Hill and friends, give us a hand and not a heap of heads.

It is a typical example of the bully-boy tactics that the member for Mount Gambier uses. Not one of those people has ever treated a patient in Mount Gambier, so I am not sure how those scalps are claimed, according to Mr McEwen. I am not sure how that will impact on the medical treatment in Mount Gambier. Another letter to the editor, headed 'Thanks Rory for belated help', states:

Sir, Aren't your words a bit late Rory, shouldn't you have said and done this months ago for your constituents in the electorate, particularly when our surgeons were having such a hard time with our so-called Health Minister Lea Stevens' refusal to come to this area and help with the problems they were having? Fascinating now when the majority of comments in our community are coming out and not in your favour, that you now, very late in the picture jump in with your belated opinions. . . Thank you Graham Greenwood for

your true comments in *The Border Watch*, Thursday, September 11. The public will not tolerate politicians and that includes Member for Mount Gamier Rory McEwen, if they do not fight for their community on this issue or any other.

It is rather interesting to note in *The Border Watch* of 23 September another example of the tactics the member for Mount Gambier uses. It states:

A political storm erupted yesterday, over claims that Federal Member for Barker, Patrick Secker had misled the community by linking local general surgeons issue with Flying Doctor transfers to Adelaide. Enraged over the claims, Member for Mount Gambier, Rory McEwen came out firing yesterday and accused Mr Secker of an 'outrageous political stunt and dangerous games'. Of course, we all know that the member for Mount Gambier made a statement a couple of weeks ago that he would quit if he could not get the money for the Mount Gambier Hospital, due to the budget cuts of $1.5 million. We all know, especially the residents of the South-East, that it is a con by the member for Mount Gambier. He states:

Regarding negotiations to win another $1.5 million for the regional health budget, Mr McEwen said: 'I have probably got another fortnight to deliver on what I said I would do, and I will.' Earlier this month Mr McEwen claimed he would resign from the Labor Ministry if the State Government did not deliver more money to the South-East health budget. . .

That article was on 23 September and, of course, on 2 October, about a fortnight from that date, the health minister (Hon. Lea Stevens) will be in Mount Gambier. The editorial of 16 September states:

Keen observers in this health issue are amazed that the Health Minister is coming to Mount Gambier to virtually face a lions' den at the hospital meeting, UNLESS she already has a pocket full of cash and is to make an 11th-hour announcement of extra funding for our health service. This, of course, will be beneficial for Mount Gambier and its community, but it will also take the heat off Mr McEwen and the State Government.

Mr McEwen in his Address in Reply speech made some reference to this issue, stating:

It is unfortunate the health issue has become so political and that some reporting has been so biased and selective, but I believe things are changing. There have been managerial and editorial changes at *The Border Watch*, and I think that is for the better. I believe the deep personal animosity shown towards me by the previous manager—not mutual, I might add—showed through much of the reporting in the past. Hopefully, that is behind us and, equally, I hope that the Liberal opposition in this state stops the damaging political games they are playing—which may suit them but which could destroy the community's health system in the process. There is too big a price to pay but, again, I believe my appeals and those of other community leaders to the Leader of the Opposition to stop the stunts will bear fruit.

In an article entitled 'Is it time to be militant?', the Editor of *The Border Watch* writes, as recently as 18 September:

Last week and throughout this week my office has been like a revolving door. Numerous people have called into *The Watch* just simply to express their views on the health crisis in Mount Gambier.

It is an issue which will not go away—until it is fixed. Hopefully that will be soon.

He then talks about his 40 years in newspapers and states:

After 40 years in newspapers I have covered many issues, which included driving up Cradle Mountain in Tasmania, where our local students were trapped in a blizzard, to the tragic days of the 1983 Ash Wednesday bushfires, when the district lost 15 lives—nine in Kalangadoo.

Not that you look for it, but it is rare to receive a pat on the back for what is basically doing your job.

But it happened this week with many people simply phoning or calling in to the office in person to express their thanks to the '*Watch*' team for the coverage of the health issue. It sounds patronising, but I make no apologies for that.

What was so telling was the genuine, heart-felt thanks from people who have been so frustrated for many months with issues involving our health funding and hospital board.

What I found interesting was a comment that the Mayors should organise a protest march and take our protest to the steps of Parliament House in Adelaide.

Sometimes you need be militant to be effective. There is nothing a government dislikes more than to have a protest of country people right on its backdoor step.

The Hon. A.J. Redford: Spot the editorial difference.

The Hon. D.W. RIDGWAY: He is only reflecting the community's views. The member for Mount Gambier, in his Address in Reply speech, said:

I intend to call a public meeting early in December to report to my community in detail on what I see as the outcome of my first year in cabinet and whether or not I believe we are better off.

It is what he believes: surely it should be what his community believes. I have been a little distracted by that and will get back to the motion, in particular point (a), which refers to negotiations for the contracts with the resident specialist doctors. I have copies of a couple of letters, one being to the member for Enfield, John Rau, in response to his letter to the health minister expressing some concerns of constituents that he had heard while on holidays during the summer. The response from the minister stated:

Thank you for your letter of 24 January 2003—

Interestingly, it only took a week—from 24 January to 31 January—to get a reply—

concerning medical services in the South-East. I appreciate your interest in these matters. As you would understand, issues relating to the situation of medical specialists in the South-East are both complex and sensitive. Contract negotiations are currently taking place with medical specialists. Each of these is an independent contractor who negotiates his/her own contract with the Regional Board. Contract negotiations take place privately between the two parties and specialists usually seek the support of their legal advisers with regard to their contracts.

It is not my understanding that Mr Barney McCusker [one of the surgeons] is acting as representative of the medical specialists.

She then states:

Several medical specialists have already completed their negotiations, and Mr McCusker has yet to commence negotiations in relation to his own contract.

There are a couple of more paragraphs, and the final one states:

I can assure you that the government is committed to rebuilding South Australia's health system, and the retention of resident specialist services in the South-East is a key part of this.

In response, especially if you take note of the line 'several medical specialists have already completed their negotiations', Mr McCusker prepared this brief on the specialists on 17 February, this letter having been written on 31 January:

Dr Roger Gulin. . . has not yet completed his negotiations. . .

Dr Paul Goodman. Has indicated to me verbally that he has not completed his negotiations. . .

Dr Steve Simmonds. Dr Simmonds has indicated to me that he has not completed his negotiations. . .

Dr Kevin Johnston had indicated there was no contract arranged between him and the department. Those are the anaesthetists. It continues:

General Surgeons

Mr Brian Kirby. Has an accompanying letter which indicates that he has not completed negotiations. . .

Mr Richard Strickland. Has indicated to me verbally he has not completed negotiations. . .

Mr Mark Landy. Has indicated to me that he has not completed negotiations. . .

Mr Henry Forbes. . .

He is one of the orthopaedic surgeons, and he indicated that he had not completed any contract negotiations; and Mr Barney McCusker also confirmed he had not completed any contract negotiations. The ophthalmologist, Dr Trevor Hodson, had signed a heads of agreement, but it was a matter of interpretation as to whether these negotiations had been completed.

As you can see, Mr President, the minister and/or her department really have no idea of what is happening in Mount Gambier. On 26 May, Mr McCusker wrote to the minister again. It is interesting that it took until 9 July for a response to be forthcoming—not five days but six weeks. Mr McCusker states:

I write to you singularly out of my concern of the events that are now unfolding with respect to the surgical services at the Mount Gambier Hospital. On Saturday 24 May 2003, Mark Landy spoke to me and asked if I would be a referee for him in his application to the Albury Base Hospital. He had applied on Friday 23 May 2003 to the Albury Base Hospital for admitting rights. . . As a result of this I was also informed over the weekend that Mr Richard Strickland intends to retire from surgical practice. . . I do not know what Mr Kirkby's plans are but I would be surprised if he wished to continue practising in this state.

This is almost six months after the first letter. It continues:

I cannot over-emphasise the crisis that this will create in the provision of surgical services to the people of the South-East. If it has not been the intention of the Department for these three gentlemen to leave this area but indeed to retain their services, then this is an unmitigated disaster. Whatever the Department's objectives were, I see this turn of events as being an unmitigated disaster for the people of Mount Gambier and the South-East.

It is unfortunate that I have to make this letter of information to you quite blunt but these are serious matters in the history of medicine in the South-East. If you wish to discuss these matters with me personally per phone I would be more than happy to speak to you. I can be reached. . .

And he lists his phone numbers. This was on 26 May. On 27 May, the minister's office replied as follows:

On behalf of the Minister for Health, I acknowledge receipt of your facsimile on 26 May concerning the health service. Your correspondence is currently receiving attention and a response will be forwarded at the earliest opportunity.

On 9 July—six weeks later—is the earliest opportunity for the people of the South-East to get a reply. The letter stated:

Thank you for your letter. . . I appreciate your concern regarding the departure of general surgeons, Mr Landy and Mr Kirkby. However, as you are aware, interim services have been provided in the area of general surgery whilst recruitment of new surgeons takes place.

It has always been the intent of the State Government, the Department of Human Services and the South East Regional Health Service to retain resident medical specialist services throughout the South East Region and we will continue to work towards this end.

I understand that you recently signed a one-year contract with Mount Gambier Hospital and that you will continue to provide orthopaedic services. I am sure that the Chief Executive Officer of Mount Gambier District Hospital and Health Services is looking forward to working with you over the next twelve months.

That was a pretty standard letter. I do not believe that the minister or the Department of Health, their representatives or the local member really understand the issues. I urge all members of this Legislative Council to support this select committee in an attempt to resolve the issues in Mount Gambier and to return an adequate Regional Health Service to the South-East.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

ADJOURNMENT

At 10.52 p.m. the council adjourned until Thursday 25 September at 2.15 p.m.