LEGISLATIVE COUNCIL

Tuesday 14 October 2003

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

ASSENT TO BILLS

Her Excellency the Governor, by message, assented to the following bills:

Firearms (COAG Agreement) Amendment,

Statutes Amendment and Repeal (Starr-Bowkett Societies),

Statutes Amendment (Mining).

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

- Motor Accident Commission Charter
- Reports, 2002-03—
  - Department of Premier and Cabinet
  - Department of Treasury and Finance
  - Director of Public Prosecutions
  - Distribution Lessor Corporation
  - Dried Fruits Board of South Australia
  - Economic Development Board
  - Electricity Supply Industry Planning Council
  - Essential Services Commission of South Australia
  - Generation Lessor Corporation
  - Land Management Corporation
  - Legal Services Commission of South Australia
  - Listening and Surveillance Devices Act 1972
  - Lotteries Commission of South Australia 2002
  - Motor Accident Commission
  - Office of Economic Development
  - Operations of the Auditor-General's Department
  - Phylloxera and Grape Industry Board of South Australia
  - Public Trustee
  - Presiding Officer of the Disciplinary Appeals Tribunal
  - RESI Corporation
  - South Australian Ambulance Service
  - South Australian Asset Management Corporation
  - South Australian Classification Council
  - South Australian Government Captive Insurance Corporation
  - South Australian Government Financing Authority
  - South Australian Multicultural and Ethnic Affairs Commission
  - South Australian Parliamentary Superannuation Scheme
  - South Australian Police
  - State Electoral Office
  - Superannuation Funds Management Corporation of South Australia (Funds SA)
  - Super SA Board
  - Telecommunications (Interception) Act
  - The Commissioner for Public Employment
  - The Industrial and Commercial Premises Corporation
  - Transmission Lessor Corporation
  - Veterinary Surgeons Boards
- Status Report on the South Australian Economy—
  - Economic Development Board—October 2002 (attachment to the Economic Development Board Annual Report, 2002-03
- Regulations under the following Acts—
  - Conveyancers Act 1994—Penalties
  - Criminal law (Forensic Procedures) Act 1998—Variations
  - Firearms Act 1977—COAG Agreement
  - Land Agents Act 1994—Penalties
  - Police Superannuation Act 1990—Salary Recognition
  - Security and Investigation Agents Act 1995—Penalties
  - Southern State Superannuation Act 1994—Julia Farr Services Employees
  - Superannuation Act 1988—Julia Farr Services Employees
- Rules of Court—
  - Magistrates Court—Magistrates Court Act 1991—
    - Addendum to Amendment No. 20—Errors corrected
    - Pleadings

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

- Reports, 2002-03—
  - Administration of the Radiation Protection and Control Act 1982
  - Boundary Adjustment Facilitation Panel
  - Clare Valley Water Resources Planning Committee
  - Commissioner of Charitable Funds
  - Dental Board of South Australia
  - Environment Protection Authority
  - Food Act
  - Patawalonga Catchment Water Management Board
  - Reserve Planning and Management Advisory Committee
  - South Australian National Parks and Wildlife Council
  - The Administration of the Development Act
  - Torrens Catchment Water Management Board
  - Wildlife Advisory Committee
- Proposal by City of Port Augusta to extend its boundary into Spencer Gulf Report
- Operation of the South Australian Alcohol Interlock Scheme—Report, 11 September 2003
- Regulations under the following Acts—
  - Daylight Saving Act 1971—Summer Time, 2003-04
  - Optometrists Act 1920
  - Public Corporations Act 1993—Austrics Dissolution.

TOBIN, Prof. M.J.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement relating to the late Professor Margaret Tobin made earlier today in another place by my colleague the Premier.

QUESTION TIME

ADELAIDE WOMEN'S PRISON

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the Adelaide women's prison.

Leave granted.

The Hon. R.D. LAWSON: Following questions asked of the minister in this place on 26 September, the emergency services minister announced that the Strathmont site at Oakden had been ruled out by the government as the location for a youth detention centre and a women's prison. The Minister for Emergency Services, the Hon. Patrick Conlon, told Leon Byner:

> It isn't going to happen there. It's been ruled out. If the public need more details, Robyn Geraghty, I am sure, can provide them.

My questions to the minister are:

1. Has the Department of Correctional Services been involved in developing criteria for the selection of a site for the proposed Adelaide women's prison?

2. What are the criteria for the selection of such a site?

3. Has the department made any recommendation in relation to the siting of the Adelaide women's prison?

4. In what respect did the Strathmont site at Oakden not meet criteria as an appropriate site for the Adelaide women's prison?

The Hon. T.G. ROBERTS (Minister for Correctional Services): The honourable member's questions are very publicly placed regarding the debate going on about our answers to questions and the announcements we made in May, when, as part of the budget, the Treasurer announced a new women's prison. As I previously stated, the government is considering a number of options in relation to this project. I have also stated that no final decisions have been made. Consultations are going on with stakeholders.

The government has a determination that a new women's prison and a youth detention centre will be built but will not be located at Oakden. This means that, as I have previously stated, all other options will be looked at. Even when Oakden was being made a consideration, that was just one part of a number of sites that were and still are being looked at as possibilities for the building of the new women's prison and youth detention centre. Not a lot of suitable sites meet the requirements of the courts, the police, correctional services and the community in relation to placement.

As honourable members on both sides of the council would know, wherever you go to build a prison—particularly if it is in a built up area—the position of local residents is that they would prefer to see it located somewhere else. Everybody would prefer to see a prison located somewhere else, except in the country areas. In country areas there is generally an acceptance of the valuable job opportunities that prisons offer in country areas. But, as the previous government found, even when you do build or extend prisons in country areas (as we are doing with Mobilong) you have to keep the community informed, and you have to make sure that all the issues raised by local communities are taken into account.

So, when consideration is being given to the drafting of a new prison or extensions to an existing prison, you must keep in mind that you cannot build a prison in a community where there is hostility or where there is non-acceptance with respect to the placement of that prison. This means that all options other than Oakden are being considered at this stage. The Minister for Infrastructure has the responsibility for this project at this stage and, apart from ruling out Oakden, no final decision has been made.

I am not sure of the time frame, but I can assure members that, once a final decision is made, I will inform the chamber—in fact, it will probably appear in the media before I am able to make the announcement. In the intervening period, the department has allocated another $500 000 to provide 11 additional beds at the Adelaide women's prison, and these beds came on stream in February of this year.

I have spoken to people interstate in relation to how they go about the development of their new prisons. They all have the same problems that we have in relation to sites. I understand that, with respect to one state, it has taken something like four years from the formation of the plan to developing a site. I hope that we do not get into that category. But, certainly, we will be trying to get a settled position in relation to the women's prison and the youth detention centre as soon as possible.

AUDITOR-GENERAL'S REPORT

The Hon. CAROLINE SCHAEFER: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries a question about the Auditor-General's Report.

Leave granted.

The Hon. CAROLINE SCHAEFER: During the last election campaign the Treasurer, Mr Kevin Foley, said that he 'relished the opportunity in tapping a few fat cats on the shoulder and saying good-bye'. In February 2002, the Treasurer grabbed media headlines by stating that 'up to 50 Public Service fat cats earning enormous salaries will be required to leave the Public Service under the Labor government'. Yet the Auditor-General's Report reveals that the number of those earning over $100 000 has increased by 25 per cent, that is, 200 people.

During the life of this government, we all know that minister Holloway has lost about half his former portfolios. First, he lost the staff and facilities of the natural resource management section, which is now the new Department of Water, Land and Biodiversity Conservation and, more recently, he lost science and technology to education and training. However, his number of 'fat cats' has gone from 23 to 31, at an additional cost of $950 000, and long service leave expenses have gone from $289 000 last year to $3.512 million this year. I recognise that this equates to a corresponding drop in overall wages (but so it should, given that he has about half the number of employees), but it only indicates an even greater proportion of high wage earners. My questions are:

1. Has the minister contributed to breaking another government promise made by his Treasurer?

2. Given the decimation of his department, how does he explain the increase in high wage earners?

3. How many employees have taken accrued long service leave and left his department?

4. What percentage of employees in his department now earn salaries of more than $100 000?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): There are some rather fanciful comments in the honourable member's preamble to her questions—for example, that I have lost half the portfolio that I had. I do not know where the honourable member could possibly get that figure. The honourable member would well know from answers given in this parliament in the past that early in this government's life, in accordance with its election promise, it set up a new Department of Water, Land and Biodiversity. Some 160 staff members from the sustainable development division of PIRSA were transferred to the new department. There are still in excess of 1 300 employees within Primary Industries and Resources SA. I think it is closer to 10 per cent, rather than 50 per cent, of the numbers that have changed.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: We will come to those in a moment. In relation to the number of people earning more than $100 000, the honourable member would be well aware that as a result of the recent wage increase of 3 per cent a significant number of employees—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: If one looks at the bracket, for example, the $100 000 figure, which is used to classify executive levels, has not been indexed for many years.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: As the shadow minister has conceded, there has been a reduction overall in the number of staff, but a threshold level is used in relation to executive

remuneration. That threshold level is $100 000. That figure has not been indexed since it was a recommendation of the Economic and Finance Committee. I was a member of the Economic and Finance Committee that recommended it back in 1992—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! The Hon. Angus Redford will come to order.

The Hon. P. HOLLOWAY: I do not think that figure has been indexed at all since that time. Naturally, with wage movements, the number of people earning in excess of $100 000—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: We certainly never gave—

Members interjecting:

The Hon. P. HOLLOWAY: The government has not broken any promises in relation to this matter. The honourable member has asked me a question about the number of people—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! There are too many interjections. A couple of members feel it is their duty to have a running commentary and argument when questions are being put and answers are being given. It is my function to maintain control. If any questions are to be handled, I will handle them.

The Hon. P. HOLLOWAY: The point I was trying to make to members opposite is that the number of—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, yes, I am certainly having a lot of difficulty saying anything because of the interjections, but, nonetheless, I will keep trying. The point is that the threshold that is used in the Auditor-General's statement, and other figures in relation to executive remuneration, result from a recommendation in 1993 from the Economic and Finance Committee, of which I was a member. That figure has not been indexed since then, but there have been significant wage movements. So $100 000 was a much greater real income in 1993 than it is now, some 10 years later in 2003. A number of people are in that bracket because of the recent wage increase, and it is not surprising that more people have crossed over the threshold.

If one looks at the Auditor-General's Report, in the range of $100 000 to $109 999, there were five employees in 2002, and it has increased to 10 in 2003. The reason for that is simply wage indexation pushing people over the threshold.

Members interjecting:

The Hon. P. HOLLOWAY: I would have thought it was just plain logic. I would have thought that anybody could see that, if you had the number of people on that threshold, that is where the big increase has been. Obviously, if that $100 000 threshold is not indexed for inflation, next year the figure will go up again as more people are now earning $98 000 or thereabouts; if they go up with indexation, they will cross that threshold.

In relation to the total number of senior executives in the department, that is an entirely different matter. Of course, it also explains the additional costs: I think the honourable member referred to something like $950 000. Of course, that is the number of people who crossed that threshold due to the non-indexation of that particular threshold. That is not a particularly significant statistic. It has no particular significance—it certainly does not warrant the significance the honourable member is giving it. As I said, if you earn $98 000 and you are not classified as an executive and you get a three or four per cent wage rise, as public servants do, and you are earning more than $100 000, you will cross into the new bracket.

The Hon. A.J. REDFORD: I have a supplementary question. Will the minister apologise to the people of South Australia for misleading them in his party's statements in the last election campaign?

The Hon. P. HOLLOWAY: I do not believe the government has anything to apologise for in relation to its policies.

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Treasurer a question about the Auditor-General's Report.

Leave granted.

The Hon. R.I. LUCAS: On page 44 of the Auditor-General's Report there is reference to the Governor's appropriation fund and contingency provisions. The report states:

> The 2002-03 Budget included contingency funds totalling $98 million. . . which when added to the $184 million. . . available from the GAF provided uncommitted flexibility within the Budget of $282 million. . .

My question to the Treasurer is: what is the level of uncommitted flexibility in the 2003-04 budget and, in particular, what is the allocation in the contingency funds line and in the Governor's appropriation fund budget line?

The Hon. P. HOLLOWAY: I will pass on those questions to the Treasurer for his response.

GEOSEQUESTRATION

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about geosequestration of carbon dioxide.

Leave granted.

The Hon. G.E. GAGO: Most members of this council will be aware of the concern about greenhouse gas emissions, especially carbon dioxide. The energy sector accounts for a very large percentage of these emissions, principally from coal and gas-fired power stations. I understand that carbon geosequestration is a possible alternative to releasing CO_2 into the atmosphere. My question to the minister is: what measures is the government taking to progress carbon geosequestration?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for her very important question. Greenhouse issues are increasing in their importance internationally, nationally and locally. In Australia, governments have indicated support for greenhouse abatement and a number of jurisdictions have developed a range of greenhouse programs. Currently, most of these programs address greenhouse issues from the non-energy sectors. However, stationary energy produces in the order of 45 per cent of Australia's greenhouse emissions, and the vast majority of this comes from the combustion of coal and gas. Natural gas wells are also being developed that produce large amounts of greenhouse gas that is vented into the atmosphere. The community and governments around the world are aware of the significant contribution to greenhouse

gas that energy production is making and there is increasing demand to reduce these emissions.

Australia needs a suite of affordable solutions to address greenhouse gas emissions from domestic power generation. Sequestration and near-zero or neutral emissions technologies have the potential to provide a medium term, affordable, environmental and social solution to greenhouse gas emissions. Technologies such as new methods of carbon capture, separation, geosequestration (which is the storage of carbon in the form of carbon dioxide below ground) coal drying, particularly for low-grade coal, such as lignites, and increasing efficiencies of combustion, are all significant greenhouse abatement technologies. These technologies have been identified as options to help achieve near zero emissions.

Industry and research organisations have been working in partnership to develop technologies and systems for the capture and storage of carbon dioxide. Carbon geosequestration is being considered as one practical option for major domestic projects. On 26 September, I attended the Ministerial Council on Mineral and Petroleum Resources that has a key role in ensuring that greenhouse abatement is achieved in the most effective and efficient way. Its member departments also have considerable skills in minerals and petroleum issues and can support the development and understanding of relevant technological legislative and community issues. A nationally and internationally consistent regulatory framework is necessary to ensure that current projects such as the Gorgon project on the North-West Shelf are able to proceed within an appropriate legislative framework.

It is also appropriate that Australian regulation addresses the wide range of issues that the community will demand. These include standards of proof over the suitability of sites, monitoring criteria, legal liability and transparency of process, to name just a few. Regulation must also be developed in a way that is compatible with likely international standards that are expected to arise significantly from the work of the Intergovernmental Panel on Climate Change (IPCC).

Geosequestration, or the storage of carbon dioxide below ground, is one of a range of measures to abate greenhouse gas emissions and is seen as one major approach to limiting carbon dioxide emissions to the atmosphere. There is an immediate issue for Australia in this regard with the proposal for geosequestration of carbon dioxide in the Gorgon development at Barrow Island on Western Australia's north-west coast. The proposal is to inject up to 5 million tonnes of carbon dioxide a year, which is at least four times the volume injected at the world's largest current facility at Sleipner off the coast of Norway.

Technical standards and regulatory regimes must be developed to allow for the proper assessment of geosequestration projects in Australia. A supportive regulatory regime will facilitate both national and international geosequestration projects if the standards and legislation are compatible or develop consistently across a variety of jurisdictions. Informing the public about these technologies and related initiatives requires a sustained effort by all governments, research organisations, industries and the non-government organisation community. Early and consistent community engagement provides the opportunity for ensuring a balanced discussion and subsequent acceptance and support of geosequestration activities.

Public attitudes to geological sequestration will be critical for its acceptance and there is a need to develop a consultative engagement and management strategy with the stakeholder community. Also, research, development and deployment of sequestration technologies is at an early stage and needs to be repeated in a number of countries and on a wide scale to provide the case evidence that indicates the level of effectiveness, safety and viability of the technology. The sequestration of CO_2 is not a complete solution for addressing stationary energy emission challenges. Sequestration should be assessed in parallel with other approaches such as energy efficiency and low emission electricity generation. For Australia, it is important to stress that we are contemplating only geological sequestration and not ocean sequestration.

A number of international collaboration forums are now addressing geological sequestration issues. For Australia, there is a particular urgency in developing technologies such as this in view of our current and expected future dependence on fossil fuels for power energy, our high per capita levels of emissions due to significant energy intensive industry and the importance of fossil fuel exports to our trading interests. Australia cannot rely on other countries to develop the technology and then adapt it to Australian conditions, if only for the fact that our geological conditions are different. It requires a policy environment that supports assessing the technology most suitable for Australia. The following was generally agreed at the ministerial council:

- That all jurisdictions will work together to develop technical and administrative standards to ensure a consistent approach to facilitate international and national geosequestration projects;
- That in parallel with the establishment of these standards all jurisdictions will work together to support the development of appropriate legislation recognising international, national and state obligations;
- That it is vital to secure community confidence in the potential benefits of geosequestration of carbon dioxide;
- That all jurisdictions will work closely together to support Australia's participation in international collaboration on geosequestration; and
- That all jurisdictions acknowledge the importance of identifying and reviewing the technical, environmental and commercial aspects of potential geosequestration projects of significance within Australia.

So, in conclusion, the question asked by the honourable member is a very important one, and I am pleased to have the opportunity to update the council on the developments that are under way.

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister advise on the expected increase in consumption of electricity over the next 20 years on a compounded basis; and what would be the increased greenhouse emission rate from electricity generation over that period using the conventional method of coal or the alternative source of energy utilising combined cycle gas technology?

The Hon. T.G. Cameron: I hope you have got the answer there with you!

The Hon. P. HOLLOWAY: No, I do not have the answer, and I know that electricity consumption has historically risen at levels of around 3 per cent per annum, but I have not seen the figures in recent times. I would expect that that trend is likely to continue. Obviously, there would be a commensurate output of CO_2, although, of course, fortunately, energy production using the new combined cycle gas technology is obviously reducing those emissions. But they are really matters for my colleague the Minister for Energy,

and I will see whether I can get that information for the honourable member.

SEARCY BAY

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs, representing the Minister for Environment and Conservation, a question about a proposed housing development on the cliffs of Searcy Bay, which is approximately 35 kilometres south of Streaky Bay.

Leave granted.

The Hon. SANDRA KANCK: My office has been informed that Searcy Bay contains the most significant breeding habitats for ospreys and white bellied sea eagles in this state. The osprey and the white bellied sea eagle were recently upgraded from vulnerable to endangered on the 2003 South Australian threatened species schedule. Dr David Paton, an ornithologist at the University of Adelaide, has advised that the osprey and the white bellied sea eagle are extremely sensitive to human activity and will abandon their nests if regularly disturbed.

It is my understanding that the Minister for Urban Development and Planning is currently considering applications for the construction of six houses within 50 metres to 100 metres of the birds' nesting areas. I am further informed that the District Council of Streaky Bay will vote tomorrow on whether to allow two residences to be built at the northern end of Searcy Bay and that these planned residences are also within 100 metres of active osprey nests. My questions are:

1. Has the department of environment's Coast Protection Board recommended that a buffer zone be enforced between the osprey and the white bellied sea eagle nesting areas and any development at Searcy Bay?

2. Does the Minister for Environment and Conservation or the Minister for Urban Development and Planning have powers to control development on the cliffs at Searcy Bay? If so, what action does the minister intend to take to protect the nesting areas of these birds?

3. Does the federal minister for the environment have any powers to protect these birds and their nesting areas? If so, will the minister urge the federal minister to act to protect the birds in this regard?

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

ADELAIDE HILLS, BURN-OFFS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Emergency Services, questions about planned burn-offs in the Adelaide Hills, parks and reserves.

Leave granted.

The Hon. T.G. CAMERON: Last month the environment department revealed that only a tiny fraction of Adelaide Hills bushland will be burnt off to help reduce the bushfire risk this summer. A little more than 30 hectares of bushland will be burnt this spring, amounting to .24 per cent of the 12 156 hectares of Adelaide Hills parks and reserves. The burn-off is less than expected given Premier Rann's tough talk on the fire danger when he addressed a bushfire summit in May in the wake of catastrophic fires last summer in the eastern states and around Canberra. At the time, Premier Rann said:

> We must take a serious look at the issue of fuel in and around our parks before the next bushfire season. I'm not prepared to just let it sit there again for another season and hope that it doesn't catch fire. That would be irresponsible.

The burn-offs are to be conducted in the Sturt Gorge, the Onkaparinga estuary and Cleland, Belair, Greenhill, Mount Osmond, Cobbler Creek and Ansteys Hill parks. However, only tiny areas of each will be affected—3.2 hectares of the 835 hectare Belair National Park, for example. The largest area—12 hectares—is at Cleland, but that is 12 hectares in a 1 000 hectare park. CSIRO fire research scientist Mr Phil Cheney, who also spoke at the May bushfire summit, has welcomed the burn-off plans but believes that more than 30 hectares should be burned.

The CSIRO is predicting that this summer will be even hotter and longer than last summer, and that, with good winter and spring rains, the fuel loads are expected to be the worst for more than 50 years. One has only to travel to the Adelaide Hills to see the growth of the grass and foliage to realise that we could be facing one of our gravest fire risk summers on record. My questions are:

1. On whose advice and on what evidence are the planned small-scale park burn-offs being undertaken?

2. Considering the expected high fuel load and the Premier's previous tough talk on the fire danger, is the minister confident that the planned burn-offs will be sufficient to prevent major bushfire disasters in our Adelaide Hills this summer?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): That is a very serious question asked by the honourable member, and I will pass it on to the Minister for Emergency Services for a considered response.

GRAIN CROPS

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries about South Australia's grain crops.

Leave granted.

The Hon. D.W. RIDGWAY: In a press release issued on 4 October the Premier (Hon. Mike Rann) said:

> [The recent South Australian] good heavy rainfall across the state in the past few days means South Australia's grain crops are set for a bumper year.

The Premier further stated:

> This rainfall has made all the difference. . . These rains have meant that South Australia's grain crops are now forecasted to reap 7.3 million tonnes—compared to 4 million tonnes last year and an average of 6.5 million tonnes in the previous five years. . . This will mean our farmers will generate extra incomes $410 million more than last year and our exports will yield an extra $300 million above last year.

In closing, the Premier stated:

> Another year of drought could have wiped many of our farmers out, so I too am very relieved and heartened by this weather, by the rains and the great season ahead.

We all know that 2001-02 was the best season this state has ever had, but it was very much brought about by a very long, cool spring. Today's temperature is in excess of 27°, and tomorrow and Friday's temperatures will be between 29° and 30°. I recently looked at the National Climate Centre's web site and the predicted seasonal temperature outlooks. That web site indicates that the chances of above average seasonal daytime temperatures for the October-December period are

in the 70 to 80 per cent range across the south-eastern half of the state, which covers all of our grain-growing areas.

Recently, I visited the South-East, and particularly the Tatiara district, and I saw rust and net blotch in the wheat and barley crops. There was also evidence of rust on the west coast. Unfortunately, there has also been evidence of frost in the Mallee—in the Karoonda area again—and also in some grape-growing regions. Even the member for Schubert, Mr Ivan Venning, is a little nervous of today's hot weather. As we all know, you do not have a harvest until it is in the silo. An article appearing in today's newspaper (I am not sure of the page) entitled 'Wheat Export Prices Cut' states:

> Improved growing conditions for US and Canadian wheat farmers are hitting their Australian counterparts, with prices cut by the nation's wheat exporter yesterday.

Is this just another grab for a good news story and a chance for the government to drive a wedge between city and country people as they ramp up their debate on crown leases, the South Australian water levy and other issues? My questions are:

1. Can the minister provide the council with the source of the government's information regarding the alleged 'bumper crop' South Australia is set to receive?

2. Will the minister also provide an explanation as to the anomaly that exists between the benefits of the recent rainfall projected by the alleged expert mentioned in the media release and the commonwealth Bureau of Meteorology's seasonal temperature outlook, which forecasts 75 per cent hotter than average temperatures for the rest of the year?

3. What effect could that have on the yields?

4. Can the minister confirm that this press release was just another media stunt and a case of the government again counting its chickens before they hatch?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The Rural Solutions SA section of the Department of Primary Industries and Resources releases a crop forecast based on the most recent available information. Since the 7.3 million tonnes was used, it has upgraded its prediction. As the honourable member quite rightly says, many things can happen during the course of the season. As the honourable member said, there have been some occurrences of frost in the Murray-Mallee region. Of course, winds in some areas may also threaten crops. Certainly, on the best information available at this time, the state is facing a very good harvest.

I would be the first to admit that until that wheat is actually in the silo one can never take it for granted. We have had other years where we have been facing a good season but we have ended up having too much rain. The figures that have been given by Rural Solutions SA are based on the best available information at the time and on projections. I am not really sure that it would help this parliament much if we had a debate on what the weather might be over the coming months. I hope for the sake of South Australia's farmers that we have a very good crop this year and that the season is the best possible.

GRAND CENTRAL AVENUE BRIDGE

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Corrections, representing the Minister for Transport, a question regarding the Grand Central Avenue bridge.

Leave granted.

The Hon. T.J. STEPHENS: Reports in the Messenger Press have indicated that the Grand Central Avenue bridge in the City of Marion is weak and is in danger of collapsing with the slightest impact. The Marion council has asked for safety reports undertaken by TransAdelaide to be released as a matter of urgency so that the council can act to ensure the structural integrity of the bridge. TransAdelaide did not respond to emails, and Transport SA has indicated that they are not its reports and so could not release them. My questions are:

1. Will the minister demand that TransAdelaide release those reports so that they can be fully implemented as a matter of urgency; if not, will he provide Marion council with the report or a summary of the recommendations to ensure that all necessary requirements are being met and are in the process of being addressed?

2. Has Transport SA undertaken any reports, audits or investigations on its railway infrastructure recently; if so, has Transport SA undertaken any on the Grand Central Avenue bridge in that time?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I will refer the honourable member's questions to the Minister for Transport in another place and bring back a reply.

CADELL TRAINING CENTRE

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about industries and opportunities within the Cadell Training Centre.

Leave granted.

The Hon. R.K. SNEATH: I remind the opposition: when we go to Government House, don't get off the path; you'll all get lost. Yesterday, I was interested to hear the minister speak about his recent visit to the Cadell Training Centre and the community service being undertaken by prisoners. I understand that prisoners also undertake valuable work within the prison in areas such as dairy farming and growing trees. Will the minister give details of the type of work and industries in which prisoners at Cadell are involved?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his question and for his continuing interest in correctional services and, certainly, his continuing interest in those matters that occur outside the metropolitan area—and, in this case, those that are occurring at Cadell. Some very industrious ideas are being put into place in the prison at Cadell and, certainly, the former minister would understand and know that some of them were started under the previous government's reign.

There are some new ideas for incorporating training, and interesting programs are running. Prison orchards are being propagated—that is, sown and planted. Olive trees have been planted, and it is anticipated that the plantings will result in olive oil being produced by the start of 2005. Citrus trees are being put back to supplement the local private sector fruit industry. There is a dairy that processes plant produced milk for the prison system. Training programs are being put together for young prisoners, in particular, who are interested in motor vehicles—not only starting and driving them away, but also in maintaining them. Many of these activities lead to formal qualifications. There is also the interaction of the emergency services within the Cadell prison system, with the fire unit.

As I said yesterday (and it is pretty clear that the honourable member was listening intently), a number of integrated operations with the community are occurring at Cadell and they are also occurring in the prison system within Port Lincoln, and these help to make links to the community, which makes it easier for rehabilitation and integration of prisoners back into society. Some of these programs that I have just mentioned are being developed in conjunction with the community and some are completely run and supervised by prison officers, who are doing quite a good job in a very difficult area.

GOLDEN GROVE FIRE STATION

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Emergency Services, a question about the possible redesign of the Golden Grove Fire Station.

Leave granted.

The Hon. IAN GILFILLAN: I would like to quote from the government's Energy Efficiency Action Plan, a publication directly related to the construction and refurbishment of buildings. It is titled 'Action 21 Construction and Refurbishment of Buildings', and it states:

> The construction of new buildings and major refurbishments of existing assets will include a lifecycle approach to the design and specification of the project, to ensure cost effective energy saving options are incorporated from the design stage. Specific actions are:
> - Passive design principles that reduce building energy requirements are to be incorporated. Designers are to list the passive features and show that the key issues of orientation and shape, windows, openings and shading, thermal mass and insulation have been addressed;
> - the specification of appropriate, economically viable automatic lighting controls;
> - lifecycle costing evaluations of alternative airconditioning systems;
> - the designs are to include an estimate of the annual energy costs of operating the building; and
> - agencies are to undertake an appraisal of the energy use over the first 12 months of operation of new and refurbished buildings.

They are very worthy aims. Therefore, the planned redevelopment of the Golden Grove Fire Station is of more than passing interest. I have been advised that preliminary drawings have raised a number of concerns from firefighters who may be stationed there in the future. The first of these concerns is that the station is orientated to the south, completely ignoring passive solar design principles, which I just identified as the government's particular policy to follow.

The second point is that the station has a token solar array, which has the remarkable effect of cooling the courtyard in winter and heating the courtyard in summer, which I would not have thought was the aim of energy saving. The third point is that the sleeping quarters are to be relocated, with the airconditioning plant also located on the corner of the building nearest to the adjacent main roads, with little noise mitigation available. Those observations throw serious doubt on the design of the proposed Golden Grove Fire Station. My questions are:

1. Why is the government not adhering to its own greenhouse standards?

2. Why was there no consultation with stakeholders in formulating plans for the fire station?

3. Will the minister immediately readdress the issue of the preliminary drawings for this proposed redesigned Golden Grove Fire Station before it is too late in order to ensure that the government does in fact adhere to its own guidelines on environmental responsibility?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to the Minister for Infrastructure, who is responsible for these matters, and bring a back a reply.

CHILD ABUSE

The Hon. A.L. EVANS: 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 the investigation of child abuse.

Leave granted.

The Hon. A.L. EVANS: Earlier this year I asked a number of questions relating to the re-abuse of children within 12 months of the first abuse being first reported to authorities. In her response the minister said that, of the 11 203 reports of suspected child abuse or neglect in the 2001-02 financial year, around 7 000 notifications were assessed as requiring an investigatory response. The remainder were assessed as requiring a community support response. On investigation, some 1 800 children were found to have been harmed. In those situations where a child has been found to be harmed and there is an assessed risk of future harm within the family situation, the minister said that FAYS continues to provide intervention and support to strengthen each family's capacity to provide safe care for children. In some cases the intervention provided was not sufficient to protect the child from further harm and difficult decisions had been made about the child's safety and wellbeing.

The primary goal of the Children's Protection Act, and therefore FAYS, is the achievement of security, safety, stability and nurturing for children, preferably with their birth families. Where the birth family is unable to provide adequate care, or the risk to the child's safety is significant, the minister said the child may be placed in alternative care. This may be on the basis of voluntary arrangements with the family or by way of a care and protection order granted through the Children's Court. My questions are:

1. Would the minister advise the number of children who have died in South Australia over the past five years from birth to the age of 15?

2. Of that total, would the minister advise how many are known to the department?

3. Will the minister advise how many tier 2 complaints have not been actioned, particularly those where notification has been referred to the department via the child abuse hotline?

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

FAMILY AND YOUTH SERVICES

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

BUSINESS, MANUFACTURING AND TRADE DEPARTMENT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to a review of the Department for Business, Manufacturing and Trade made earlier today in another place by my colleague the Minister for Industry, Trade and Regional Development.

CLIMATE CHANGE

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

ROAD SAFETY

The Hon. J.M.A. LENSINK: 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 road safety.

Leave granted.

The Hon. J.M.A. LENSINK: I note that the government recently released a road safety plan—in fact, last month—containing three main strategies: safer roads, safer people and safer vehicles. I was quite interested in the 'safer people' strategy which will target the following: speeding, alcohol and drugs, fatigue, restraints, at-risk groups, and pedestrians and cyclists. As a regular road user, particularly of the South Eastern Freeway, my observation is that one of the greatest menaces on the roads in this state is caused by drivers with plain old bad attitudes.

I suspect that, given that South Australians have not had to share the road with many other road users, we might live under some mistaken belief that we can act as if there is no one else on the road. Specific dangerous habits prevailing in this state are tailgating and not allowing other cars into your lane. I note that Rex Jory, in his column last week, related a recent incident in which he experienced this sort of behaviour at very high speed on the Southern Expressway. He described a very dangerous situation in which a menacing tailgate driver sat just metres behind his bumper bar at 100 kilometres an hour.

In today's *Advertiser* it is reported that 90 per cent of motorists have been victims of other drivers' bad behaviour and that tailgating is the second highest cause of driver frustration at about 85 per cent. In my observation, changing lanes must surely be one of the most difficult manoeuvres in this state as you can never be sure whether drivers already in that lane will adjust their speed to accommodate your vehicle; whether they will accelerate to some point—exceeding the speed limit—because the space in front is available; or whether someone else might weave into that spot. From my own experience of driving in the eastern states, the flick of an indicator is enough for a car sized space to materialise in the next lane. Given that 30 per cent of accidents in South Australia are, in fact, rear-end collisions, I would think that this behaviour warrants further scrutiny. My question to the minister is: why has the government completely omitted from its plan, given all the facts which I have outlined, any specific strategies aimed at driver behaviour?

The PRESIDENT: I ask the minister to hold back on that answer. We have a protocol problem. I remind honourable members that Her Excellency the Governor will receive the President and members of the Council at 3.30 p.m. for the presentation of the Address in Reply. I ask honourable members to accompany me to Government House.

[Sitting suspended from 3.25 to 4.10 p.m.]

PUBLIC SECTOR, REGIONAL RECRUITMENT

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question relating to regional public sector recruitment.

Leave granted.

The Hon. J.S.L. DAWKINS: During my work with the former Regional Development Council and its Issues Group of senior public servants, it became apparent to me that regional and rural communities were increasingly concerned about the loss of their young people as they search for education and career opportunities. My experience is that many of these young people seek to return to their rural lifestyle at a subsequent time of their life. This may be on completion of their studies or later, depending on their career paths. However, present and previous state government policies relating to public sector recruitment have not been conducive to encouraging young people to remain in or return to their home regions.

The requirement has been that, in order to fill a vacancy, a government agency must first notify the position in the Public Service *Notice of Vacancies*, irrespective of where that vacancy may occur. This policy has automatically disadvantaged members of the local community unless they were already employed within the state government system. Regional agency managers could advertise a position externally only if the internal Public Service notification proved unsuccessful. The policy also frequently added to the time lapse involved in filling regional vacancies.

Members of the Regional Development Issues Group told me that their experience was that metropolitan-based public servants were reluctant to move to regional areas, particularly for positions at lower classification levels. As a result of this concern and its aims to assist the retention of young people in regional areas and the upskilling of local communities, the Issues Group recommended that the Commissioner for Public Employment vary the policy relating to regional public sector positions. The recommendation was as follows:

> Where a government agency identifies a vacancy as a regional appointment, the vacancy may concurrently be called in the Public Service *Notice of Vacancies* and externally in appropriate media outlets.

My questions are:

1. Has the Commissioner for Public Employment made any changes to the policy relating to the notification of vacancies in regional offices of government agencies?

2. If so, will the Premier outline the extent of these changes, particularly relating to the use of external regional media outlets?

3. Will the Premier also indicate whether any such changes to the policy are automatically applied or does a regional manager have to apply to the commissioner to advise a position concurrently?

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

SCHOOLS, MATERIALS AND SERVICES CHARGE

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I table a ministerial statement made by the Minister for Education and Children's Services relating to the materials and services charge for 2004.

GAMING MACHINE REVENUE

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Treasurer, a question concerning the Auditor-General's Report.

Leave granted.

The Hon. SANDRA KANCK: In the Audit Overview, Part A of the annual report of the Auditor-General (page 62), a graph shows projections of sustained growth in state revenues from gambling taxes between 2002-03 and 2006-07. Further, the Auditor-General states that the Department of Treasury and Finance projects real growth of $71 million in receipts from gaming machine taxes over the same period. My questions are:

1. Why has the Department of Treasury and Finance not factored in a decline of revenues from gaming machine taxes after 2005, the date the government's smoke-free task force recommends for banning smoking in gaming rooms?

2. From the Treasury figures, can it be concluded that the Treasury does not support a ban on smoking in gaming rooms being implemented in 2005?

3. Will the health minister be making decisions on behalf of the government about smoking-related issues or will the Treasurer make the decisions?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will pass that question on to the Treasurer for his response. I remind the honourable member, though, that the Auditor-General gives figures for the year ending 30 June 2003, and the figures that he uses would be supplied by the department concerned.

The Hon. NICK XENOPHON: I have a supplementary question. Has the health minister made recommendations on this issue to the Treasurer and, if so, what were those recommendations?

The Hon. P. HOLLOWAY: The honourable member asked a similar question yesterday and it is my understanding that a task force is still considering this matter. It is probably the health minister who needs to answer that question, so I will ensure it is passed on to her.

POLICE RECORDS

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, a question on the topic of police records.

Leave granted.

The Hon. A.J. REDFORD: The Victorian ALP government is currently in serious trouble as a consequence of inappropriate access to police records by police and politicians. In brief terms, prior to the Victorian state election last year, the ALP Victorian police minister, the Hon. Andre Haermeyer, revealed knowledge of a state Liberal candidate's police file during a parliamentary attack on him. In July this year, it was discovered that the husband of the personal assistant to the Victorian Attorney-General was involved in accessing those police records. Later it was discovered that a number of police accessed candidates' police files before the election. An initial internal inquiry cleared the police. A subsequent inquiry found that there had been a cover-up. The future of the Victorian Attorney-General and five police officers is now in doubt as a consequence of what is known as the police files scandal. It is clear that the use of police records for political purposes or the viewing of police records for prurient purposes has caused considerable concern in Victoria. *The Age* editorial of Saturday described it as follows:

> Accessing such sensitive private information out of curiosity, let alone for political purposes, is not acceptable.

Yesterday in a ministerial statement, the Minister for Police, the Hon. Kevin Foley, made some remarks about a police investigation and some of his comments caused real concern. In a statement referring to a South Australian who had the temerity to raise something with the police, he said, 'Police have expressed concern to me regarding the mental state of my constituent.' That statement was made first by the Deputy Premier, a very senior cabinet member, under parliamentary privilege. In light of this, my questions are:

1. Did either the police or the minister have access to the police records of the person referred to in relation to the comments made to the parliament?

2. Does the minister agree that it would be inappropriate to access police records of that person for the purpose of making a statement to this parliament?

3. What are the protocols for access to police records either by the minister or any minister or any police officer in this state?

4. Can the minister give this parliament an assurance that nothing has happened in South Australia in relation to access to police records similar to that which has occurred in Victoria?

5. Why did the minister make the statement to the parliament concerning the mental state of a person who might have made a complaint to the police?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will pass those questions on to the Minister for Police and bring back a response. Let me say in addition to that that the Minister for Police yesterday made it quite clear in his statement in relation to that case that he became aware of it only as a result of the matter being raised by the member for Bragg when she raised it in parliament. Any suggestion—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Any suggestion that the Minister for Police—

Members interjecting:

The Hon. P. HOLLOWAY: Any suggestion that the Minister for Police would have access to police records used in that way is something that my colleague would utterly, thoroughly and appropriately reject, and I think he made that clear in his statement yesterday. I totally reject the suggestion that was implicit in the honourable member's question, but I will refer it to the Minister for Police for his comments.

REPLIES TO QUESTIONS

OCCUPATIONAL HEALTH AND SAFETY

In reply to **Hon. A.J. REDFORD** (15 July).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. What processes were undertaken to make this change and who approved the process?

During 2002 and 2003, Workplace Services has undergone significant reform to eliminate a series of historical inequities between different types of inspectors (ie occupational health and safety, industrial relations and specialist inspectors), remove outdated classifications and introduce structured career paths, based on the nationally accredited inspector competencies for all types of inspectors.

Following a thorough process of analysis of internal structures, classifications and positions, including reference to both the independent Structural Review and Hazard Analysis, commissioned under the previous Liberal Government, and following advice from the Office of the Commissioner for Public Employment, a business case analysis was undertaken by a Senior Human Resources Officer from the Department for Administrative and Information Services (DAIS). The report from this process examined the nature of the modern-day inspectors role and current required competencies and compared this with the classification structures in the Public Service. The Report recommended that the current specification of skills and work matched most closely with the classifications under the Administrative Services (ASO) Stream. All relevant unions and staff were consulted and there was agreement to the proposed changes, which were approved by the Chief Executive and Executive Director, State Procurement and Business Development, DAIS.

2. Did the Minister approve the process and, if so, what was the justification for such a change?

No. The changes were operational.

3. Does this increase also apply for the industrial relations inspectors who are classified as OPS4?

Yes.

4. Given the Minister's rhetoric about increased occupational health and safety enforcement activity, does he accept that it would have made more sense to use the many hundreds of thousands of dollars each year to employ additional inspectors?

Increasing the size of the inspectorate and undertaking more enforcement activity is just one strategy that can be used to improve OHS outcomes for industry in South Australia. The government promotes a balanced approach, which gives equal emphasis to educative, advisory, compliance and enforcement activities.

As explained above, the improved structural foundation of Workplace Services is designed to create an environment that encourages the development increased professionalism and competence in the inspectorate that can assist businesses in South Australia to improve their occupational health and safety performance through increasing the standard of information and assistance provided and ensuring compliance with the relevant legislation. This will directly impact on an improved performance in occupational health and safety for South Australia. Improvements in the effectiveness of the inspectorate through these structural changes will complement the additional funding provided to increase the number of inspectors.

Supplementary question: Could the Minister also advise how he proposes to increase the number of prosecutions to 80 this year from a base of 12.

The number of convictions recorded at 30 June 2003 for the previous year under occupational health and safety legislation was 22, and over the same period, Workplace Services referred 38 matters to the Crown Solicitor's Office with a recommendation for legal action. Over the course of 2003, a new Case Conferencing System has been introduced at Workplace Services to better manage investigations. This system is designed to significantly streamline the investigation process to avoid wastage of time and resources in pursuing investigations that do not fit the criteria of Workplace Services Strategic Enforcement Policy.

Following the inspector's initial investigation of a matter, the Team Manager calls a Case Conference involving the Investigating Inspector, Principal Inspector, Team Manager, Principal Legal Coordinator, and any Technical or Scientific Officers required. This process allows thorough examination of all aspects of the matter to determine the appropriateness of proceeding to full investigation and where that is to occur, the detailed requirements are mapped out to ensure a high quality investigation procedure.

For Serious Incidents, the Case Conference occurs within 48 hours. For all new investigations, the Case Conference occurs within a few days. From mid March 2003 to 20 June 2003, 91 matters have been through the Case Conference System, with 44 proceeding to full/further investigation. Of that 44, it was estimated that approximately 20 would result in a prosecution brief at the completion of the investigation. From this trial period, Workplace Services has predicted that approximately 80 matters are likely to be referred for legal action during the course of the current financial year.

CONTRACTORS

In reply to **Hon. A.J. REDFORD** (29 May).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. Will the Government rule out the recommendations of the Stanley Report to adopt a Queensland-style definition of independent contractor?

The Stanley Report proposes a new definition of employment be introduced into the Workers Rehabilitation and Compensation Act 1986, in the same terms as those proposed for the Industrial & Employee Relations Act 1994 in the Stevens Report. Currently deeming provisions within workers compensation legislation are acknowledged by the majority of stakeholders as problematic, confusing and ill defined.

At this stage no decision has been made with regard to the recommendations of the Stanley and Stevens Reviews to re-define employment arrangements. Consultation has occurred with stakeholders and will continue to occur over this issue. However, it should be noted that the Stevens Review recommended that care should be taken to ensure that true independent contractors are not disadvantaged through any new definition.

2. When will the Government tell the South Australian people what it proposes to do in relation to the Stanley Review and the Industrial Relations Review?

On 17 April this year the Minister for Industrial Relations released a draft Bill proposing major changes to occupational health, safety and welfare in South Australia resulting from the recommendations of the Stanley Review. Following consultation with stakeholders, the Government introduced the Occupational Health, Safety and Welfare (Safework SA) Amendment Bill 2003 to the House of Assembly on 28 May this year.

The Government will continue to consult with stakeholders and the general public about the recommendations of the Stanley Review relating to workers compensation and the Stevens Review of industrial relations.

3. Does the Government agree with the statement of the Independent Contractors Association of Australia as follows? "The South Australian proposals show no understanding of why Queensland style legislation has been rejected across Australasia and would put business confidence in South Australia at risk.

The Government will take account of all views expressed by stakeholders before determining a final position.

CONSTRUCTION INDUSTRY

In reply to **Hon. A.J. REDFORD** (28 May).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. Will part of this legislative scheme give the Minister more power and control similar to the additional power and control that he is seeking in relation to WorkCover?

As the Honourable Member's fourth question indicates, it is understood that the members of the Construction Industry Long Service Leave Board are currently considering some legislative options. It is understood that once these have been developed and appropriate consultation has been undertaken with industry, the Board proposes to discuss the options with the Government. At this stage it is not known what the options proposed by the Board will be.

2. Will the Minister confirm that the scheme is under review and, if so, who is responsible for that review?

The scheme is not currently under review in the sense suggested by the Hon Member. Mr Tom Sheridan (former Auditor General) reviewed the scheme (report provided in February 2001) due to the deteriorating financial position of the fund. This was initiated under the direction of the previous Government.

3. Has the Minister given the Board any direction during the $3.2 million decline under his stewardship?

No written direction as described in Section 6 of the Construction Industry Long Service Leave Act 1987 has been given to the Board.

4. What options is the Government considering for reducing liabilities; and will the Government release the Board's suggestions when they are given to the Minister?

Until the Government receives and analyses the Board's suggestions no decision can be made on options, or on the public release of the documentation.

WORKCOVER

In reply to **Hon. A.J. REDFORD** (15 May).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. How many times and on what dates has the Minister met with the Chair of WorkCover since he took office?

I met with the Chair approximately 15 times on dates such as: 12 March 2002, 2 May 2002, 30 May 2002, 4 July 2002, 24 July 2002, 19 September 2002, 18 October 2002, 28 November 2002, 23 December 2002, 13 February 2003, 6 March 2003, 11 March 2003, 9 April 2003, 8 May 2003, 19 June 2003, 13 August 2003 and 26 August 2003.

2. Has the minister given the Chair or the board any advice over the past 12 months? If so, what has been that advice?

Many matters are discussed at meetings with the Chair. If the Honourable Member is able to be more specific I will endeavour to provide advice on relevant matters.

3. *Has the minister given any advice in writing? If so, will he table that advice?*

Yes. I have arranged for it to be provided to the Honourable Member.

4. Has the board, or its Chair or CEO, rejected any of the minister's advice? If so, what was the advice that was rejected and what were the reasons for its rejection?

No formal advice has been rejected.

5. *When can I expect answers to my earlier questions?*

I understand that all questions you have raised have been answered.

6. Will the minister comply with the six-day rule?

Questions raised by the member will be responded to in the most appropriate manner possible.

In reply to **Hon. J.F. STEFANI.**

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has advised:

7. Can the minister advise the council whether he has authorised or directed an actuarial report on the financial status of WorkCover at any time?

The Statutes Amendment (WorkCover Governance Reform) Bill was introduced on 13 May 2003. This Bill will make WorkCover more accountable and transparent and will ensure its finances are rigorously assessed. The powers of the Auditor-General will be fully applicable to the WorkCover Corporation. This will provide for greater scrutiny of the WorkCover Corporation's financial arrangements. I would anticipate that the Attorney-General will, as part of that function, engage actuarial expertise. This would provide for the production of any additional necessary actuarial reports on a structured basis, rather than seeking them in an ad hoc manner.

In reply to **Hon. IAN GILFILLAN** (13 May).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. Will he determine whether delayed settlement of claims is widespread?

WorkCover has advised that following the Hon Ian Gilfillan's question, this matter was raised at the Employee Stakeholder Operations meeting.

Although WorkCover was not aware of any specific complaints that had been lodged with them directly, they have now prepared instructions to their claims agents and legal panel members to ensure that payments are not delayed.

I thank the honourable member for raising this with me.

2. Will he immediately move to have an independent audit of WorkCover's financial position?

External auditors conduct a review of the Corporation's ability to meet its ongoing obligations. Any concerns discovered by the auditors will be reflected in the end of year audit statement.

WorkCover does not have any difficulty meeting its payments as and when they fall due.

I have tabled the Statutes Amendment (WorkCover Governance Reform) Bill 2003 in Parliament, which if passed, would impact on the external audit processes of WorkCover, and provide the Parliament and South Australians with greater governance assurance than currently exists.

3. Will he release the result of that audit as soon as possible to Parliament?

The annual report will reflect the actuary's assessment and the audited accounts.

In reply to **Hon. A.J. REDFORD** (13 May).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. Will the minister release the full cost of the workers' compensation occupational health and safety review conducted by Mr Stanley?

This information was made available on 24 June 2003 during Estimates.

2. Will the minister confirm that there was a special meeting of the WorkCover board nearly two weeks ago to discuss the cost of this review?

I understand that there has not been any special meeting convened to discuss the costs of the review.

3. Has the minister or his staff—or family members indeed—had any discussions or correspondence with the WorkCover board or senior management on the cost of the report and, if so, will he table that correspondence?

On 24 October 2002 the Hon Rob Lucas MLC made an FOI application in the following terms:

> "I request access to document(s) concerning all correspondence between the Minister for Industrial Relations and the Chairman of the WorkCover Board in relation to the costs of OHS/WorkCover review since 6 March 2002.

The application was granted on 23 November 2002 and correspondence was supplied to the Hon Rob Lucas MLC. As such there is little to be gained from tabling the correspondence.

4. When can I expect answers to the questions I asked in relation to WorkCover, first on 29 April last and, secondly, on 1 May last?

I understand that the questions raised by the Hon Member have been responded to.

In reply to **Hon. A.J. REDFORD** (1 May).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. The appointment of the CEO of the WorkCover Corporation is the responsibility of the Board of the WorkCover Corporation. The Board is searching for the most appropriate candidate and will make an appointment as soon as is practicable.

2. There is not and has not been any "stand-off" as is suggested by the question.

3. Applicants for positions such as the one in question commonly seek that their applications, understandably, are private and confidential. As such it is undesirable to table the documents referred to by the Member, as it may well prejudice the chances of securing the best possible CEO.

4. The suggestion made in the question is wrong.

In reply to **Hon. J.F. STEFANI**.

The Hon. T.G. ROBERTS:

5. The Board has not been directed in relation to the appointment of the CEO. I have however publicly called upon the Board to deal with the appointment of the CEO as a matter of priority.

WORKERS COMPENSATION

In reply to **Hon. A.J. REDFORD** (29 August 2002).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. What was the process that led to Mr Stanley's appointment?

Mr Stanley was approached to oversight the Review due to his unique and pre-eminent background as the former President of the Industrial Relations Court and Commission from 1984 and President of the Workers Compensation Appeal Tribunal from 1986 until his retirement in 1994.

2. Were there any other applicants or was anyone else considered for the position?

Applications were not called for the role and no other person was considered more suited to the role than Mr Stanley.

3. Does the Minister agree that there can be some criticism that this whole process may well be tainted from the very beginning?

No.

4. Could the Minister provide a breakdown of the cost between $380 000 and $400 000 that has been mentioned, and how much of that will Mr Stanley get?

As I stated to the House on 13 August 2002, the budgeted cost of the Review was estimated at $374 000.

The expenditure of the Reviews incurred to 12 June 2003 is as follows.

	$000s
Staffing	
Members of the Review Committee and Administrative support	140 519
Review Operations	
Set up costs	37 411
Accommodation	21 472
Office supplies	34 213
Community consultation (including Travel)	10 659
Legal/specialist advice	4356
Contingencies	0
Total	248 630

Mr Stanley was paid a daily rate for the days actually worked leading the Review, commensurate with the rate currently paid to the Senior Judge and President of the Industrial Relations Court and Commission. As of 12 June 2003 Mr Stanley had received approximately $65 000 of the allocation to 'Members of the Review Committee and Administrative Support'.

All major costs of the reviews have now been processed and paid and are included in the above summary. It is not anticipated that there will be any further additional costs for the Review.

As of 12 June 2003, the reviews are approximately $125 370 under the budgeted expenditure.

5. How much of that remuneration will affect Mr Stanley's judicial pension?

The impact on Mr Stanley's pension entitlement is a matter between Mr Stanley and his superannuation scheme, but it is my understanding there are no income offset provisions under the Judicial Officer's Superannuation Scheme.

SHOP TRADING HOURS

In reply to **Hon. A.J. REDFORD** (30 April).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. What are the long-term objectives of this Government in relation to shopping hours?

The Government's long-term objectives in relation to shop trading hours are to provide for flexibility in shop trading hours that balances the needs of all stakeholders. This includes employers, employees and consumers. These objectives are met by the reforms proposed by the Government which recently became law.

2. Will the Government announce its long-term proposals in relation to shopping hours in such a manner that the $55 million will be protected at the same time as reintroducing legislation into this parliament this year?

The Parliament has now passed the Government's Shop Trading Hours (Miscellaneous) Amendment Bill 2003.

3. Will the Government take steps to ensure that small business pays the same rate on Sunday as Coles and Woolworths (Coles being a major donor to the ALP), enabling fair Sunday trading competition?

An application is presently before the Industrial Relations Commission of South Australia in relation to the Retail Industry (SA) Award.

4. Will the Government pass on to the retail industry the $55 million worth of Commonwealth compensation payments in relation to restructuring?

National Competition Policy payments are made into consolidated revenue. Assistance will be provided to small businesses in meeting the needs of the new trading environment through the Business Helpline provided by the Department of Business, Manufacturing and Trade.

WORKCOVER

In reply to **Hon. A.J. REDFORD** (29 April).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

1. The industry association referred to in the report was the Printing Industries Association which indicated a preference for the Occupational Health, Safety and Welfare Act 1986 to be administered by WorkCover Corporation with Workplace Services retaining an inspectorate role. As part of the more recent consultation on the draft Occupational Health, Safety and Welfare (SafeWork SA) Bill, this Association has provided a further submission which states:

> "It is conceded that two instrumentalities ie WorkCover Corporation and Workplace Services, both having a responsibility for Occupational Health and Safety, is inefficient if not unworkable.
>
> If a new agency SafeWork SA, as proposed, is established it should be appropriately resourced and have a clear and unambiguous strategic focus.
>
> Having indicated that WorkCover Corporation may be the appropriate organisation to regulate Occupational Health and Safety for the reasons given, we are not adverse to the SafeWork SA proposal, provided that it is the only agency responsible for all facets of Occuational Health and Safety, there is no duplication of effort, and that there is a viable interchange of information relating to claims, and where the application of Occupational Health and Safety legislation may be appropriate, between WorkCover Corporation and SafeWork SA. For the two instrumentalities to work in isolation, in our view, would be counterproductive.
>
> Whilst we make the point that SafeWork SA, and for that matter WorkCover Corporation, should be adequately resourced, economics of scale in funding and staffing should be observed to ensure the minimum financial impact on Business, Industry and the Community.

2. No.

3. No. The Review Team arrived at its independent recommendations after extensive consultation with interested parties throughout South Australia. On presenting the Review Report to me on 20 December 2002, the Review Team reported a considerable level of bipartisan support for the key proposals concerning the restructuring of occupational health, safety and welfare administration in South Australia.

4. Ms Patterson is not a member of the ALP and has not been a member of any political party for many years. Ms Patterson was a member of the Public Service Association before taking on Executive Management responsibilities in 1997.

5. On 13 May 2003 I introduced to Parliament the Statutes Amendment (WorkCover Governance Reform) Bill 2003. This Bill is part of the Government's publicly stated strategy in addressing the legacies of the former Liberal Government which have caused the deterioration in WorkCover's position.

With regard to the Hon Member's comment about "jobs for the girls", the former Chief Executive Officer of the Department for Administrative and Information Services has provided the following statement relating to the appointment of Ms Patterson to the position of Executive Director, Workplace Services.

> The recruitment and selection process for the position of Executive Director, Workplace Services was conducted in compliance with Public Service processes as prescribed in the Public Sector Management Act.
>
> The position was advertised nationally on two separate occasions and attracted a total of 37 candidates. Subsequently four candidates were shortlisted and interviewed by a selection panel comprising Mr Paul Case, Commissioner for Public Employment, Mr Perry Gunner, Chair, WorkCover Corporation, Ms Jan Ferguson, Executive Director, Policy, Planning and Community Services, DAIS and Mr Greg Stevens a former Deputy President of the Industrial Relations Commission of South Australia. Mr Graham Foreman, Chief Executive, Department for Administrative and Information Services (formerly a Commissioner for Public Employment) chaired the selection panel.
>
> Following the interview process the selection panel concluded that Ms Michele Patterson was the superior candidate in the field with outstanding credentials for appointment to the position. The panel's decision to select Ms Patterson for appointment was unanimous.

The Hon. A.J. Redford, in his lead-in to the questions above, has also misrepresented the cost of the Review into Workers Compensa-

tion and Occupational Health and Safety Systems in South Australia. I can advise that this Review was conducted in a timely and efficient manner. The final expenditure of $248 630 was approximately $125 000 less than the amount budgeted for this review.

WORKERS COMPENSATION

In reply to **Hon. A.J. REDFORD** (26 March 2002).

The Hon. T.G. ROBERTS: The Minister for Industrial Relations has provided the following information:

In response to the Hon. A.J. Redford's specific questions, I provide the following:

1.1 The Government has yet to make a decision on this issue and will only do so after consultation with stakeholders.

1.2 The Government is yet to make a decision in relation to this recommendation and will only do so after consultation with stakeholders.

1.3 The Honourable Member appears to have confused the title of the Self Managed Employer program. The Self Managed Employer Scheme essentially applies to larger employers. It was piloted from October 1994 and officially commenced on 13 April 2000, with the proclamation of the Workers Rehabilitation and Compensation (Self Managed Employer Scheme) Amendment Act 1998. It should be noted that the SME Scheme has a sunset provision. This provides that the provisions expire 4 years after the official commencement date.

1.4 The Government is yet to make a decision in relation to this issue and will only do so after further analysis (as recommended in the Stanley report) and consultation with stakeholders.

1.5 It is not clear what information the Honourable Member is seeking with this question.

1.6 It is clear that the problems affecting WorkCover have evolved over a long period of time, and have been influenced by decisions of the previous Government.

Any serious analysis of current difficulties involves recognising that the causes of the problems being faced began under the previous Liberal Government.

1.7 Consultation will occur with all major stakeholders in the workers compensation scheme, particularly representatives of employers and workers. The two peak organisations, Business SA and the United Trades and Labor Council have a key role to play. Other organisations representing rehabilitation providers, the legal profession and the insurance industry will also have play an important role in the consultation process.

SOUTHERN STATE SUPERANNUATION (VISITING MEDICAL OFFICERS) AMENDMENT BILL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries) obtained leave and introduced a bill for an act to amend the Southern State Superannuation Act 1994 and to repeal the Superannuation (Visiting Medical Officers) Act 1993. Read a first time.

The Hon. P. HOLLOWAY: 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 seeks to repeal the *Superannuation (Visiting Medical Officers) Act 1993* and amend the *Southern State Superannuation Act 1994*, to deal with the closure of the SA Health Commission Visiting Medical Officers Superannuation Fund, and the transfer of those Visiting Medical Officers who are members of the VMO Fund, to the State Government's Triple S Scheme.

A Visiting Medical Officer is a person appointed as a senior visiting medical specialist, or a visiting medical specialist, by the Department of Human Services, a teaching hospital, the Institute of Medical and Veterinary Science, or by any other hospital or health centre incorporated under the *South Australian Health Commission Act 1976.*

The VMO Fund is a small superannuation fund with an accumulation style benefit structure, about 700 members and assets of about $50 million. The scheme was established in 1983 to enable those VMOs who were not members of the main State Scheme, to have a fund into which the 10 per cent of their income identified as a superannuation benefit must be directed.

The VMO Fund is established under a Trust Deed, and the Trustee is the SA Health Commission Visiting Medical Officers Fund Pty Ltd. The Trustee's decision to close the fund has been endorsed by the government, which has consequently decided that as from 1 July 2003, no further employer contributions will be paid into the fund. The 10 per cent of income employer financed superannuation benefit for those VMOs who were members of the fund has been paid into the government's Triple S Scheme as from 1 July 2003.

Whilst the *Superannuation (Visiting Medical Officers) Act 1993* does not establish the VMO Fund, this Act complements the Trust Deed by regulating the relationship between the VMO Fund and the government's other schemes—the State Pension Scheme, the 1988 Lump Sum Scheme, and the Triple S Scheme.

The Trustee has decided to wind up the fund principally because the small size of the fund makes it difficult to compete against larger funds on a cost per member basis. As a result of the economies of scale associated with larger funds, members of those funds have the opportunity to share in the benefits of lower administrative and investment management fees. The larger funds are also better placed in today's complex world of superannuation to deliver the electronically based new services becoming available.

As part of the Trustee's decision to wind up the VMO Fund, the Trustee also decided that the VMOs would have the option to rollover their accumulated balances to a fund of their choice, with the Triple S Scheme being available to accept a member's accumulated balance. A large number of the VMOs are expected to roll over their accumulated balances to the Triple S Scheme.

The Bill therefore proposes the repeal of the *Superannuation (Visiting Medical Officers) Act 1993* and the amendment of the *Southern State Superannuation Act 1994* to deal with the fact that as from 1 July 2003, those VMOs who are not members of either the State Pension Scheme or the Lump Sum Scheme, have become members of the Triple S Scheme for their 10 per cent employer contribution. Many of the VMOs have salary sacrifice arrangements in place with in many cases the salary sacrificed contributions being also paid into the VMO Fund. Under the arrangements that have applied from 1 July 2003, VMOs have been able to continue with their salary sacrifice arrangements and have the sacrificed salary directed into the Triple S Scheme.

The Bill also deals with some transitional matters to ensure that the VMOs being transferred to the Triple S Scheme will not be disadvantaged in terms of their death and disability insurance cover. The Bill provides that a transferred VMO will be entitled to maintain the death and invalidity cover that the person enjoyed in the VMO Fund and which would have continued without change by the member. This level of cover will be provided without the need for fresh medical evidence, but any existing medical conditions which have resulted in a restriction of cover may be maintained by the Superannuation Board. Where a transferring VMO applies to cancel or vary the existing insurance cover, the VMO will come under the insurance arrangements applicable to all other Triple S Scheme members.

Both the Trustee of the VMO Fund and SuperSA which administers the Triple S Scheme have arranged an extensive communication program to ensure that the VMOs affected by the windup of the VMO Fund and their transfer to the Triple S Scheme have been provided with all the necessary information to explain the changes. The Trustee gave advance notice to the VMOs earlier this year, soon after the decision to windup the fund had been made, and confirmed by the Department of Human Services as the principal employer. The SA Salaried Medical Officers Association (SASMOA) has been fully consulted in regards to the implications flowing from the wind up of the VMO Fund, and has indicated its support for the changes that are being proposed in this Bill. SASMOA has also indicated that it fully appreciates the reasons behind the Trustee's decision to windup the VMO Fund.

I commend this 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 be taken to have come into operation on 1 July 2003.

Clause 3: Amendment provisions

This clause is formal.

Part 2—Amendment of Southern State Superannuation Act 1994

Clause 4: Amendment of section 3—Interpretation

Clause 4 amends the interpretation section of the *Southern State Superannuation Act 1994*. The definition of "charge percentage" is amended by the addition of a new paragraph that defines the meaning of "charge percentage" in the case of visiting medical officers. The charge percentage is relevant particularly in relation to section 26, under which the amount an employer is required to contribute to the Treasurer in respect of an employee is determined.

This clause also inserts definitions of "teaching hospital" and "visiting medical officer", necessary for the purposes of the measure.

Clause 5: Repeal of section 15A

This clause repeals section 15A of the Act. Section 15A, which provides that a visiting medical officer may elect to become a member of the Southern State Superannuation Scheme, is redundant as a consequence of the repeal of the *Superannuation (Visiting Medical officers) Act 1993*.

Clause 6: Amendment of section 21—Basic Invalidity/Death Insurance

Clause 7: Amendment of section 22—Application for additional invalidity/death insurance

Clauses 6 and 7 contain consequential amendments to sections 21 and 22 of the Act.

Clause 8: Amendment of Schedule 3—Repeal and Transitional Provisions

This clause amends the transitional provisions in Schedule 3 of the Act by inserting a new clause dealing with transitional matters associated with the transfer of visiting medical officers to the Southern State Superannuation Scheme. The transitional provisions have the effect of ensuring that, despite prescribed limits in respect of age and maximum level of insurance cover, a transferred visiting medical officer is entitled to maintain the insurance cover he or she enjoyed as a member of the VMO fund. A transferred visiting medical officer is not required to undergo a medical examination as a prerequisite to receiving this level of cover. The premiums payable in relation to this cover will be determined by the Board but may not exceed the premiums the member was paying under the VMO Fund.

If a transferred visiting medical officer suffers from a medical condition or restriction noted for the purposes of the VMO Fund, the Board may impose certain conditions in respect of the insurance cover to which the officer is entitled under subclause (1).

A transferred visiting medical officer may apply to the Board to cancel or vary the insurance cover provided under clause 12(1) but will then be subject to the operation of Part 3 Division 2 of the Act.

In the event that a transferred visiting medical officer becomes entitled to a benefit under the VMO Fund on or after 1 July 2003 but before the occurrence of the retrospective commencement of the Act, the officer is not entitled to receive a corresponding benefit under clause 12(1).

Schedule 1—Repeal of Superannuation (Visiting Medical Officers) Act 1993

Clause 1: Repeal of Act

This clause repeals the *Superannuation (Visiting Medical Officers) Act 1993*.

The Hon. R.I. LUCAS secured the adjournment of the debate.

SUPERANNUATION FUNDS MANAGEMENT CORPORATION OF SOUTH AUSTRALIA (MISCELLANEOUS) AMENDMENT BILL

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries) obtained leave and introduced a bill for an act to amend the Superannuation Funds Management Corporation of South Australia Act 1995. Read a first time.

The Hon. P. HOLLOWAY: 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 seeks to make important amendments to the governance arrangements for the Superannuation Funds Management Corporation of South Australia. The Corporation, more commonly referred to as Funds SA, has the important task of managing superannuation investments of both the State and the contributors of the public sector superannuation schemes. These investments support the current and future payment of superannuation benefits to a variety of public sector employees.

Funds SA has over $5 billion of assets under management and its performance in the management of investments has a direct impact on the financial performance of the State through the value of assets backing the State's superannuation liability. The level of funds under management has grown by over 36% over the last 3 years. At 30 June 2002, the liability exceeded the level of asset backing by $3.78 billion which is referred to as the net unfunded superannuation liability. Negative earnings in 2001-02 increased the net unfunded liability, resulting in the budget recognising an increase in expenditure to fund the shortfall over time.

This bill seeks to improve the governance arrangements relating to Funds SA to reflect more adequately the legitimate interests of the Government, whilst ensuring that the expectations and rights of contributors and superannuants are protected.

The proposed amendments to the Superannuation Funds Management Corporation of South Australia Act 1995, have the effect of:

- extending the existing functions of Funds SA relating to the investment and management of funds to include the investment and management of funds on behalf of such Government and related bodies as the Treasurer sees fit.
- extending the power of the Governor to remove Government nominated directors to the Corporation on such grounds as the Treasurer sees fit.
- providing the power of direction and control to the Treasurer, but with important limitations prohibiting a direction to Funds SA in relation to an investment decision, dealing with property or the exercise of a voting right.

Funds SA has developed significant ability in the management of superannuation funds on behalf of the State and superannuation beneficiaries.

The opportunity exists to utilise these abilities and related infrastructure to manage and invest funds on behalf of other government and related bodies.

Existing provisions of the Act restrict the functions of Funds SA to the investment and management of public sector superannuation funds. The proposed amendments remove that restriction allowing for the investment of funds on behalf of such other bodies as the Treasurer may see fit.

Funds SA is governed by a board of directors and the Act provides for at least five board members and at most seven. One board member must be elected by contributors and one must be nominated by the South Australian Superannuation Federation (representing unions and superannuants). The remaining 3 to 5 directors are appointed by the Governor on the nomination of the Treasurer.

The Act provides the capacity for the Governor to remove any director from office for misconduct, failure or incapacity to carry out the duties of office satisfactorily or non-compliance with a duty imposed by the Act.

The circumstances prompting removal are quite specific and are considered restrictive to the proper direction and control of the operations of Funds SA by the Government.

The present Act provides capacity for the Minister to request that Funds SA have regard to Government policy when preparing its performance plan or performing its functions. Funds SA is only required to have regard to such a request. The section is persuasive not compelling.

The Government has a very significant exposure to the performance of Funds SA and it is the Government's view that it is inappropriate for the Treasurer not to have the power or responsibility to effectively oversight the operations of the fund.

There are circumstances where it is appropriate that the Treasurer have the capacity to direct the Corporation. For example, it is appropriate for the Treasurer to direct the Corporation in relation to employment policy as generally applying in the public sector.

During debate of the original Superannuation Funds Management Corporation Bill, significant discussion surrounded the importance of protecting contributors and superannuants through the independently elected/nominated director positions.

Also during that debate the position was put that it was important that the interest of contributors and superannuants be protected by ensuring that the investment decision making of Funds SA be free from direct influence by the Government.

Therefore two key limitations are proposed in relation to removal of directors and the giving of directions by the Treasurer. It is proposed to limit the strengthened powers of removal for directors to those directors that are appointed by the Governor on the nomination of the Minister. This protects the elected contributor and Federation representatives on the Board from the power of removal, other than for the existing causes of misconduct and the like. This limitation will protect the interests of contributors and superannuants.

The amended power of direction and control available to the Treasurer in relation to the performance by Funds SA of its functions requires that a direction not include a direction to Funds SA in relation to investment decisions, dealing with property or the exercise of a voting right.

These limitations on the power of direction and control protect the interest of superannuants and contributors.

The suite of amendments serves to broaden the functions of Funds SA, providing opportunities for a broader range of clients to access the skills and infrastructure of Funds SA, whilst also strengthening the underlying governance arrangements to protect the interest of the Government, contributors and superannuants.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that this Act will be brought into operation by proclamation.

Clause 3: Amendment provisions

This clause is formal.

Clause 4: Amendment of section 3—Interpretation

This clause inserts into the principal Act a number of definitions necessary for the purposes of the measure and removes some provisions that are redundant as a consequence of these amendments.

As the functions of the Corporation are expanded by this measure to include the investment and management of certain funds of public authorities, this clause inserts some definitions that clarify the meaning of terms used in respect of that function. For example, a "public authority" is a government department, a minister or a statutory authority and includes a body or person responsible for the management of an eligible superannuation fund. An "eligible superannuation fund" is a fund that does not fall within the definition of "public sector superannuation fund" but consists of money contributed by the Crown to provide a group of its employees with superannuation benefits.

Subsections (3), (4) and (5) of section 3, which enable the Minister to determine that a superannuation fund held by the Minister is a public sector superannuation fund for the purposes of the Act, are removed by this clause as they are redundant as a consequence of amendments allowing the Corporation to invest and manage the funds of "eligible superannuation funds".

Clause 5: Amendment of section 5—Functions of the corporation

Section 5 of the principal Act, which describes the functions of the Corporation, is amended by this clause to include reference to the Corporation's new role in respect of investment and management of the funds of public authorities (where the Minister has agreed that those funds should be transferred to the Corporation for such purposes).

Clause 6: Insertion of section 5A

This clause inserts a new section into the principal Act. Section 5A provides that a public authority may apply to the Minister for approval to transfer funds to the Corporation so that the Corporation can invest and manage the funds on behalf of the authority.

The Minister may refuse an application under this section or may grant an approval for transfer to the Corporation of some or all of the funds referred to in the authority's application. The Corporation is obliged to invest and manage any funds transferred in accordance with the Minister's approval and must return any funds it holds to the authority on request.

Clause 7: Amendment of section 7—Object of the Corporation in performing its functions

This clause removes the words "public sector superannuation" from section 7 of the principal Act so that reference is made in that section to "the funds" (now defined to include nominated funds of approved authorities). This amendment to section 7 is consequential on the expansion of the Corporation's functions and makes clear that the Corporation's objectives apply equally to the funds of approved authorities.

Clause 8: Amendment of section 10—Conditions of membership

Section 10(6) of the principal Act lists the circumstances in which the Governor may remove a director from the board of directors. This clause adds an additional circumstance that applies only to directors appointed to the board by the Governor on the nomination of the Minister. Such directors can be removed by the Governor on the recommendation of the Minister for such reason as he or she thinks fit.

Clause 9: Amendment of section 20—Performance plan

The amendments effected by this clause merely clarify that the performance plan required under section 20 relates only to the public sector superannuation funds and not to the nominated funds of an approved authority, which are dealt with in the new section 20A (inserted by clause 10).

Clause 10: Insertion of section 20A

This clause inserts a new section. Under section 20, the Corporation is required to prepare a performance plan in each financial year in respect of the investment and management of the public sector superannuation funds. Proposed section 20A is a similar provision, which requires the preparation of a performance plan in relation to the investment and management of the nominated funds of each approved authority. Subsection (2) provides a list of matters that must be included in the plan, including targets for rates of return, strategies, anticipated operating costs and factors that will affect or influence investment and management of the funds.

The Corporation is required to provide the draft plan to the Minister and the relevant approved authority and must have regard to any comments made by the Minister or authority. If the authority requests an amendment to the plan, the Corporation must amend the plan accordingly unless it considers, after consulting with the authority, that the amendment should not be made. If that is the case, the Corporation must provide the authority with written advice as to its reasons for declining to amend the plan in accordance with the request.

Clause 11: Substitution of section 21

This clause repeals section 21 of the principal Act, which requires the Corporation to have regard to Government policy when preparing a performance plan or performing its functions if requested to do so by the Minister. A new section is substituted, which provides that the Corporation is subject to the direction and control of the Minister. A direction by the Minister under this section must be in writing. The Corporation must include any direction made by the Minister in its annual report. A direction by the Minister must not include a direction to the Corporation in relation to an investment decision, dealing with property or the exercise of a voting right.

Clause 12: Repeal of section 25

This clause repeals section 25 of the principal Act. Section 25 relates to a transfer of funds in accordance with a determination by the Minister under section 3(3). Clause 4 of this bill removes section 3(3), which is redundant as a consequence of other amendments that have the effect of allowing the Corporation to invest and manage superannuation funds that are not public sector superannuation funds.

Clause 13: Amendment of section 26—Accounts

Section 26(2) of the principal Act requires the Corporation to keep proper accounts of receipts and payments in relation to each of the public sector superannuation funds and to prepare separate financial statements in respect of each fund for each financial year. This clause replaces subsection (2) with a new provision that is substantially similar to the existing provision but extends these requirements to the nominated funds of each approved authority.

Clause 14: Amendment of section 27—Internal audits and audit committee

Clause 15: Amendment of section 28—External Audit

The amendments made to sections 27 and 28 by these clauses are consequential on the extension of the Corporation's functions to include investment and management of the funds of public authorities. These amendments simply ensure that the requirements of the principal Act in respect of internal and external audits apply to all funds invested or managed by the Corporation.

Clause 16: Substitution of section 29

This clause repeals section 29, which requires the Corporation to prepare progress reports in relation to investment and management of the public sector superannuation funds, and substitutes a new section that extends the operation of these requirements to the nominated funds of approved authorities.

Clause 17: Amendment of section 30—Annual reports

The amendments to section 30 effected by clause 17 extend the requirements of the principal Act in respect of provision of annual reports to the funds of approved authorities.

Clause 18: Amendment of section 39—Regulations

Section 39(2) of the principal Act provides that regulations under the Act may prohibit the investment of the public sector superannuation funds in forms of investment prescribed by the regulations unless authorised by the Minister. The first amendment effected by this clause extends this power to prohibit certain forms of investment to the funds of approved authorities.

This clause also inserts a new paragraph in subsection (2). This paragraph provides that the regulations may prescribe fees payable in relation to an application under the Act or in relation to anything to be done by the Corporation under the Act.

The Hon. R.I. LUCAS secured the adjournment of the debate.

BILLS, INTRODUCTION

The PRESIDENT: Minister, I need to make the comment that when bills are introduced for the first time I think it does parliament no good to give leave to have the second reading explanation inserted in *Hansard*, because it defeats the purpose of the parliament. I think further attention ought to be paid to that practice in the future.

SUMMARY OFFENCES (OFFENSIVE WEAPONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 October. Page 295.)

The Hon. IAN GILFILLAN: I indicate, and I suppose it may surprise the council, Democrats opposition to the second reading of this bill, not because it does anything particularly abhorrent but because it is the sort of window-dressing that we are coming to expect from this government in trying to substantiate its so-called 'tough on crime', 'let's clean up the streets' type of drum beating. In his second reading speech the Attorney-General reminded parliament that this bill:

> . . . is to give effect to the government's election promise to prohibit the carrying of knives in or near licensed premises at night.

Of course, that is an empty promise typical of the bluster and bravado of the statements that come from the government and, to borrow from an author whom I will leave the Minister for Aboriginal Affairs to identify because he is very conversant with literature, I am tempted to describe this effort as (and I hope he is listening) 'a tale told by an idiot, full of sounds and fury, signifying nothing'. He is going to identify both the author—

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: I am not going to be diverted. I used that quote to specifically deal with the government's approach to its so-called tough on law and order policy, and I am sorry that the minister was unable to identify that the author was William Shakespeare in the play *Macbeth*. He will now probably go quickly to the original and read it through.

So, somewhat facetiously, I revert to the matter in hand, because it is serious, and that is: if these pretences are put forward to the public as being the solution to the problems, it is time we punctured it. And that is what the Democrats are doing. The bill does not change the situation that existed before this empty promise was waved around. Most knives are already classified as prohibited weapons, and I quote from the Summary Offences Act:

> Section 15(1)
> (1c) a person who—
> (b) has possession of, or uses, a prohibited weapon, is guilty of an offence,

This offence carries a fairly substantial penalty. The fine is $10 000 or imprisonment for two years. So, if a penalty will deter, this is a pretty substantial penalty and it will deter people: if a penalty will deter, this is an appropriate penalty.

To be on the safe side, I inform the council that there is a list of knives that are prohibited weapons, and I will read it, in the Summary Offences (Dangerous Articles and Prohibited Weapons) Regulations 2000. Some members might want to store some of these for future sport and protection. The list is as follows:

- Ballistic knife. A device or instrument designed or adapted to fire or discharge a knife, dagger or similar instrument by a mechanical, percussive or explosive means (but not a dart projector)—

so anyone who has a dart projector is okay: you can carry it and feel quite content about it—

- Concealed weapon. An article that appears to be harmless but that conceals a knife, spike or other weapon.
- Fighting knife. An article that is—
  (a) a butterfly knife; or
  (b) a dagger; or
  (c) a flick knife; or
  (d) a push knife; or
  (e) a trench knife; or
  (f) any other kind of knife.

that is pretty sweeping—any other kind of knife—

> that is designed or adapted for hand to hand fighting, but does not include a bayonet or a sword.

The penalty for carrying one of those little chaps is $10 000 or two years in prison: that is any other kind of knife. The list continues:

- Knife belt. A belt or similar article designed or adapted to hold a knife, dagger or similar instrument so that its presence is concealed or disguised when the belt or similar article is worn (including a Bowen Knife Belt).

So it is an offence to have that belt on, even if it does not have a knife on it. It continues:

- Morning star. An article designed or adapted as a weapon consisting of a weight (whether with or without spikes or blades) attached to a chain, rope or a length of other flexible material.
- Star knife. A device capable of causing serious injury that consists of a number of points, blades or spikes pointing outwardly from a central axis and is designed to spin around that axis when thrown.
- Throwing knife. A knife that is designed or adapted to be thrown and is capable of causing serious injury when thrown.
- Undetectable knife. A knife—
  (a) that is made wholly or partly of a material that prevents the knife from being detected (or being detected as a knife) by either a metal detector or by a method using x-rays; and
  (b) that is capable of causing serious injury or death.

There cannot be too many offensive weapons left off that list—if there are, I am certainly not familiar with them. All of the above offences carry a penalty of $10 000 (which a lot of people who are carrying knives around nightclubs would be able to dish out: it is pocket money for most of those people) or two years' imprisonment. And their two years' imprisonment will teach them how to use these weapons much more efficiently and, in fact, how to make them at home when they get out after the two years. Then there would be a lot of people who they would really want to throw the weapons at.

This leaves us with a small category of knives which do not fall into the prohibited weapon category but which are

still covered by the offensive weapon category. Again, the act provides:

> 'Offensive weapon' includes a rifle, gun, pistol, sword, knife, club, bludgeon, truncheon or other offensive or lethal weapon or instrument but does not include a prohibited weapon;

This must be the provision that caused the government so much concern. Somehow or other, a knife in the offensive category has slipped through the prohibited weapon category to be embraced by this provision. The act does not define how that occurs, but I think this is the cause of concern to whichever minister of the government is most concerned about it. And, to be fair, the penalty for these offensive weapons is currently $2 500 or prison for six months. I can see possibly thousands of potential carriers of offensive or prohibited weapons totting up the likely penalty they will incur if they are found carrying such a weapon within the prescribed range of certain prescribed facilities.

On a Monday morning they will say, 'No, it is not worth it. I am definitely not going to carry a prohibited weapon because I do not want to go to gaol for two years or have to pay $10 000. However, I am prepared, if the penalty is so much lighter for carrying a rifle, gun, pistol sword, knife, club, bludgeon, truncheon or other offensive or lethal weapon, to take the risk because I do not mind six months in prison or a $2 500 fine.' Can any rational member of parliament—and I do not include government members in this category—expect that a potential offender will be in the least affected by what he or she is doing or will carry because the penalty for this particularly small category of offensive weapon is upgraded? Will they suddenly stop doing it?

The point is that the whole initiative in this bill is quite futile. The substance of the bill is that any person carrying a knife which is not a ballistic knife, concealed weapon, fighting knife, knife belt, morning star, star knife, throwing knife or an undetectable knife and who is in the vicinity of licensed premises at night is now guilty of an offence if this bill goes through, and it carries an increased penalty of two years gaol or a $10 000 fine. It is a ridiculous change to support an empty and unnecessary promise. Although in itself it does no harm, we intend to oppose it because it is such a fatuous piece of pretence and hypocrisy. For a government to pretend that it will make the community in Adelaide safer by this measure and put it up as a major headline statement to the people of South Australia is an hypocrisy and should be disclosed by the council throwing out this bill.

The Hon. CARMEL ZOLLO: Thank you, Mr President—

An honourable member: Ian is going to put out a press release.

The Hon. CARMEL ZOLLO: Ian is going to put out a press release, is he? I should have been here to listen to what he had to say. I was disappointed yesterday to hear the Hon. Robert Lawson say that this legislation is about window-dressing, especially after a long community consultation process. The minister in the other place gave a detailed history of this part of the Summary Offences Act and the manner in which it has been amended or revised in the past. This legislation—

The Hon. Ian Gilfillan interjecting:

The Hon. CARMEL ZOLLO: I probably know more about Heaven than the honourable member would, I think.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: I did not mean that kind of heaven, though.

The Hon. Caroline Schaefer: What? You are a night-clubber?

The Hon. CARMEL ZOLLO: I might have children that age.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: You must not repeat what I said about tattooing to the chamber. This legislation, like previous amending legislation to section 15 of the Summary Offences Act 1953, is in response to contemporary issues with which our society is faced and which is designed to be preventative. Following that community consultation, the government has kept its promise to introduce this legislation—

The Hon. Ian Gilfillan interjecting:

The Hon. CARMEL ZOLLO: I take it that the honourable member will not be supporting this legislation. Do you intend to support the second reading?

The Hon. Ian Gilfillan: I will vote against this silly legislation.

The Hon. CARMEL ZOLLO: Okay. As I said, the government has kept its promise to introduce this legislation dealing with the carrying 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; and, regrettably, this does appear to be the case. Certainly, parents have come to me expressing their concern that their children are not safe to attend night spots. The fact that some people choose to carry a dangerous weapon is of concern to everyone. Any one of us can become a victim of what are often petty or totally irrational acts, sometimes coupled with substance abuse, I think suitably described in another place as a lethal cocktail.

The bill before us deals with the 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 new offences will apply to knives and all other offensive weapons and to dangerous articles. One certainly does have to admit that, although knives have attracted most public attention, other weapons, such as baseball bats, broken bottles and tyre levers, can be used with equally lethal or injurious results. It is important to note that the new offences will not extend to prohibited weapons because offences associated with these already carry a maximum penalty equal to that for the proposed new offences. 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.

The Hon. T.G. Roberts interjecting:

The Hon. CARMEL ZOLLO: It can be an offensive weapon, that is true. Anything can be an offensive weapon, as mentioned by the Hon. Terry Roberts, if the carrier intends to use it offensively—whether it is a baseball bat, a billiard cue, a screwdriver, a hammer, a picket, a length of pipe or a broken bottle, to give just a few examples.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Well, no doubt knitting needles have caused the death of some people. Such items have been treated as offensive weapons in appropriate circumstances.

The Hon. Caroline Schaefer interjecting:

The Hon. CARMEL ZOLLO: Well, if a young person is queuing up at Heaven with a knitting needle, you may well ask, 'What are you doing with this one knitting needle?' I would say that they had it for offensive reasons.

The Hon. R.K. Sneath interjecting:

The Hon. CARMEL ZOLLO: Yes. The new offences will apply to people who are in or in the vicinity of licensed premises at night. As expected there was some discussion as to what is meant by 'vicinity', which is defined in the *Oxford Dictionary* to mean 'surrounding district, nearness in place (to); close relationship (to)'; for example, in the street outside licensed premises or some distance away in the car park of an hotel would both be in the vicinity.

The Hon. Ian Gilfillan interjecting:

The Hon. CARMEL ZOLLO: I do not think that would apply. I think that one needs to use one's commonsense.

The Hon. T.G. Roberts interjecting:

The Hon. CARMEL ZOLLO: We probably should not laugh at that. There are certainly plenty of shooting drive-bys, aren't there? They are regrettably becoming quite common.

An honourable member: It is a different offence.

The Hon. CARMEL ZOLLO: I quite agree with that. The time element is night-time with 'night' being defined as being between 9 p.m. and 6 a.m. In any court of law the prosecution would then have to prove that the accused was carrying or possessed an offensive weapon or dangerous article, at night-time as defined, and the accused was in or in the vicinity of licensed premises. The existing provisions in the Summary Offences Act will enable police to search people whom they reasonably suspect to have a weapon and to seize the weapon. The person accused could absolve him or herself by proving on the balance of probability—and this should please the Hon. Ian Gilfillan—that they had a lawful excuse for carrying or possessing the offensive weapon or dangerous article.

It is worthwhile reiterating that section 15 of the Summary Offences Act already deals with carrying an offensive weapon, possessing or using a dangerous article, possessing or using a prohibited weapon and other offences that are intended to prevent the commission of crimes of violence. This legislation is for aggravated offences. However, before and during the election campaign the government promised to introduce legislation specifically dealing with the carriage of knives and offensive weapons in or near licensed premises at night because of community concern that there is a higher than usual risk of violence in and around those premises at night-time.

It is hoped that the new offences will discourage people from carrying any type of weapon when going to licensed premises at night, as well as discourage people from hanging around outside licensed premises at night with any type of weapon. Such action hopefully will make it safer in and around those licensed premises. We all agree that these premises should be places of entertainment and enjoyment and not places where there are fears that some harm might come to patrons. I have to acknowledge that the proprietors of nightspots are just as unhappy as we all are to see any violence and often go to great lengths to ensure that no-one enters their premises with any sort of dangerous weapon. I know for certain that one popular nightspot uses a metal detector when its patrons enter.

The Hon. T.G. Roberts: That'd pick up the post-hole digger.

The Hon. CARMEL ZOLLO: And the knitting needle. We really should not be laughing at this, because it is a very serious issue. There appears to be evidence for serious violence in and around licensed premises to occur more frequently late at night than in the early hours of the morning. Regrettably, this type violence is not easily prevented. As has been pointed out—perhaps cynically—centuries of common law and modern statutes about assaults have not eliminated it. Certainly no act of parliament about weapons could prevent all of it. With human nature being as it is, a certain percentage of people will always disobey the law, be it calculated or as a result of being caught up in a moment of passion.

However, the government believes that this bill will reduce the number and severity of attacks by discouraging people from taking weapons with them when they go to licensed premises and from picking up things to use as weapons whilst they are there. It is targeted at a specific group of people who frequent nightspots because it is where the greater number of offences occur. It is meant to be preventive, deterrent legislation for the protection of our community. I welcome this legislation.

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

STATUTES AMENDMENT (ANTI-FORTIFICATION) BILL

Adjourned debate on second reading.

(Continued from 13 October. Page 293.)

The Hon. R.D. LAWSON: I rise to indicate the support of the Liberal opposition for the passage of the bill. We support this bill. We support the objectives of this legislation. However, we believe that it has been oversold in many respects and that this legislation will not deliver for the community the safety that is supposed to come from it. Once again, we see the Premier seeking to be tough on law and order, and I thought one of the more laughable ironies heard on public radio in recent times was when the Premier went on radio in response to an invitation issued by one or more of the so-called outlaw motorcycle gangs to visit their fortified headquarters. The Premier dismissed that invitation as a mere political stunt. The Premier himself would well know what a political stunt is. He frequently undertakes them, and certainly in relation to this legislation we have had a lot of stunts.

The member for West Torrens in another place let the cat out of the bag when he said:

> This issue was brought up because, in the seat of Spence—the Attorney-General's seat—there was an outlaw motorcycle gang that fortified its premises with the permission of the local council, and local residents were outraged.

The member claimed that this bill will ensure that it never happens again. That is a good example of the government's overselling the effects of this legislation. However, I indicate that we support the principle of it. We believe that there ought be capacity in the community to object to the erection of fortified premises in areas, because the erection of those premises creates in the minds of the public a legitimate fear that criminal activity is being undertaken under their noses. It also creates a situation in which law enforcement is made more difficult.

The problem of so-called outlaw motorcycle gangs is not a new one. It has been around for many years. It is not limited to Australia and New Zealand. It is a problem in the United States. Police authorities in all those jurisdictions have been wrestling with the appropriate way to ensure that the widely held suspicion that the outlaw motorcycle gangs are engaged in various forms of criminal activity is addressed. The Gypsy Jokers, the Rebels, the Hell's Angels, the Finks and the other

gangs are well known international operations. It is legendary that they are the source of much amphetamine production and distribution in the community. Of course, the way to stop these illegal operations is to detect, arrest and bring to justice the perpetrators of criminal offences. It is more window dressing to say that the way to attack the outlaw motorcycle gangs is to obtain orders for the removal of their fortified premises. This is attacking merely one outward manifestation of the activities of these groups. It is not attacking their essential criminality. It is not putting anybody behind bars. It is not stopping crime. It is simply removing certain outward manifestations of their power and their activities.

The government is to be commended for taking on board the legitimate objections of the Local Government Association to the initial legislation that was circulated for comment. A very extensive letter was prepared by the Local Government Association in response to the initial draft legislation. The letter is dated 13 February 2003 and was forwarded to all members of parliament. The letter is rather too long to read into the record, but the points made by the Local Government Association about the ineffectiveness of the government's first attempt and its inappropriateness ought be noted. However, those objections have now been remedied, and the mechanism used in the bill as now presented to the parliament conferred to the police commissioner power in relation to the premises that come within the definition of 'fortified'.

The important principle that we support is the fact that there is capacity within the bill for an independent court to review the actions. This means that a removal order cannot be made in the absence of an independent adjudication, and it removes the very real fear that innocent parties might be caught up in the rather draconian provisions that have been introduced.

It is easy, and emotive, to describe the premises of motorcycle gangs as fortresses—and, certainly, some of them have that external appearance. But if one looked through the same eyes at many business premises, especially those in banking and other areas, one would find that many business premises around the metropolitan area look like, are built like and are intended to operate as fortresses—fortresses against illegal entry.

It is extraordinary that the explanations provided by the government for this enactment have not included material about the occasions upon which police have sought entry into existing facilities, and with what result. One can only draw the conclusion that, if police have sought access on legitimate grounds to such premises, they have been able to obtain access, whether under a general search warrant or under a specific warrant issued in relation to the investigation of particular offences. I think it is quite likely that not too much happens within these fortresses that would be the subject of much police attention. One would assume that these criminal elements would conduct their amphetamine manufacture and other illicit activities on premises that are not as prominent as the so-called clubrooms that they have scattered about the community.

We have had the National Crime Authority: we have a national crime commission at the moment. These are bodies that are charged with responsibility for addressing organised crime, and it is undoubtedly true that the activities of many of these outlaw motorcycle gangs fall within the definition of organised crime. Regrettably, the activities of those commissions have not been sufficient to run the motorcycle gangs out of town. It is also true (and he is to be commended for it) that the Commissioner of Police in this state has been active in seeking to break the hold of the outlaw motorcycle gangs and to bring them to heel. Operation Avatar has been an ongoing and successful police operation but, notwithstanding its success, we have not stamped out this criminal scourge that we are all assured by police ministers exists.

Accordingly, the opposition will (as we have right from the very beginning) indicate its support for the proposition that there be a mechanism to remove offensive fortifications from our community. We support particularly, as I mentioned, the capacity for judicial review. We think the protections that are implicit in the bill deserve a little more examination, and we will be examining those matters in greater detail during the committee stage of this bill. I commend the second reading.

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

CITIZENS' RIGHT OF REPLY

Adjourned debate on motion of Hon. P. Holloway:

That, during the present Session, the council make available to any person who believes that he or she has been adversely referred to during proceedings of the Legislative Council the following procedure for seeking to have a response incorporated in to *Hansard*—

I. Any person who has been referred to in the Legislative Council by name, or in another way so as to be readily identified, may make a submission in writing to the President—

(a) claiming that he or she has been adversely affected in reputation or in respect of dealings or associations with others, or injured in profession, occupation or trade or in the holding of an office, or in respect of any financial credit or other status or that his or her privacy has been unreasonably invaded; and

(b) requesting that his or her response be incorporated in to *Hansard*.

II. The President shall consider the submission as soon as practicable.

III. The President shall reject any submission that is not made within a reasonable time.

IV. If the President has not rejected the submission under clause III, the President shall give notice of the submission to the member who referred in the council to the person who has made the submission.

V. In considering the submission, the President—

(a) may confer with the person who made the submission;

(b) may confer with any member;

(c) must confer with the member who referred in the council to the person who has made the submission; but

(d) may not take any evidence;

(e) may not judge the truth of any statement made in the council or the submission.

VI. If the President is of the opinion that—

(a) the submission is trivial, frivolous, vexatious or offensive in character; or

(b) the submission is not made in good faith; or

(c) the submission has not been made within a reasonable time; or

(d) the submission misrepresents the statements made by the member; or

(e) there is some other good reason not to grant the request to incorporate a response in to *Hansard*,

the President shall refuse the request and inform the person who made it of the President's decision.

VII. The President shall not be obliged to inform the council or any person of the reasons for any decision made pursuant to this resolution. The President's decision shall be final and no debate, reflection or vote shall be permitted in relation to the President's decision.

VIII. Unless the President refuses the request on one or more of the grounds set out in paragraph V of this resolution, the President shall report to the council that in the President's opinion the response in terms agreed between him and the person making the request

should be incorporated into *Hansard* and the response shall thereupon be incorporated in to *Hansard*.

IX. A response—

(a) must be succinct and strictly relevant to the question in issue;

(b) must not contain anything offensive in character;

(c) must not contain any matter the publication of which would have the effect of—

(i) unreasonably adversely affecting or injuring a person, or unreasonably invading a person's privacy in the manner referred to in paragraph I of this resolution, or

(ii) unreasonably aggravating any adverse effect, injury or invasion of privacy suffered by any person, or

(iii) unreasonably aggravating any situation or circumstance, and

(d) must not contain any matter the publication of which might prejudice—

(i) the investigation of any alleged criminal offence,

(ii) the fair trial of any current or pending criminal proceedings, or

(iii) any civil proceedings in any court or tribunal.

X. In this resolution—

(a) 'person' includes a corporation of any type and an unincorporated association;

(b) 'Member' includes a former member of the Legislative Council.

To which the Hon. R.D. Lawson has moved the following amendments—

Paragraph V, subparagraph (c)—Add the following words at the end of the paragraph—'at least one clear sitting day prior to the publication of the response'.

Paragraph VII—Add the following words at the end of the paragraph—'Nothing in this clause will prevent a member from responding to matters contained in the response.'

(Continued from 28 September. Page 176.)

The Hon. R.D. LAWSON: My amendments seek to achieve two improvements to the scheme of correction that this council has previously agreed to. In the first place, we seek, in paragraph V(c), to ensure that members are given some notice—and we suggest at least one clear sitting day—prior to the publication of a response. This would be a significant and appropriate protection.

The other matter that we seek to have introduced is a statement, which is probably unnecessary, which makes it clear that a member is not forever foreclosed from mentioning or responding to the matters that are contained in a response. As I said, we would have thought that that is really unnecessary, because there is nothing in the existing resolution that would preclude a member from, as it were, putting another side, or another point of view, in an appropriate motion, or at some other time. However, we do seek the support of members for that particular principle. With the amendments that I have moved, we will be supporting the continuance of this sessional order.

The Hon. SANDRA KANCK: My former colleague the Hon. Mike Elliott was someone who very strongly championed this right of reply for members of the public. We will continue with strong support for this mechanism in each parliament, if it has to be introduced in this particular way. In relation to the amendments that the opposition has put up via the Hon. Mr Lawson, while the Democrats would be prepared to support the amendment to paragraph V, we are not prepared to support the amendment to paragraph VII. Our view is that at a certain point there must be closure. I do not see that having these words inserted is necessary. If there is something important that arises in regard to the matter, obviously parliament is always able to respond to issues about its business, and the way in which it conducts it and so on.

But to insert this wording more or less guarantees that the issue will roll on. We will have the member saying something, then someone from the public having their statement read, then the member will come back again, and then the member of the public will come back again. We could go on ad infinitum. For that reason we are not prepared to support the amendment to paragraph VII. If there is a mechanism by which the vote can be taken so that the amendment to paragraph V can be separated from the amendment to paragraph VII, then we can accommodate the paragraph V amendment. If that cannot be accomplished, then we will oppose both opposition amendments.

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

STATUTE LAW REVISION BILL

Adjourned debate on second reading.

(Continued from 18 September. Page 61.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): It is my understanding that no other member wishes to contribute to this debate. I thank the Hon. Robert Lawson for his indication of support for the passage of the bill. As the honourable member outlined in his speech, the bill makes minor amendments to 65 existing acts. None of those amendments is controversial. As he indicated, they derive from decisions of parliamentary counsel rather than policy decisions of government. This is one of those bills that it is necessary for us to pass from time to time to remove obsolete provisions and update the act, but it is not a piece of legislation that involves any particular issue of policy. Therefore, it should pass this council without the need for much further consideration.

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

ADMINISTRATION AND PROBATE (ADMINISTRATION GUARANTEES) AMENDMENT BILL

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

AUTHORISED BETTING OPERATIONS (LICENCE AND PERMIT CONDITIONS) 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.

This Bill addresses two technical matters that have arisen with respect to the operation of the *Authorised Betting Operations Act 2000*.

Firstly, the Bill amends the power of the Minister to provide binding directions to the Liquor and Gambling Commissioner with respect to permits issued to bookmakers.

Crown Law advice has confirmed that the current powers under the Act are not broad enough to enable Ministerial directions to fully enforce the exclusivity provisions provided to the TAB in the Approved Licensing Agreement entered into by the former Government.

The exclusivity commitments provided to the TAB provide that no person (other than the licensee) will be authorised by the Crown to conduct a specified range of betting activities within the State prior to January 2017. The Minister is liable to pay compensation to the TAB if someone other than the licensee is authorised to conduct these betting activities. The compensation is equivalent to the diminution, if any, in value of the licensee in respect of the TAB (including the TAB licence) as a result of the occurrence of an otherwise exclusive event and is capped at $43.5 million.

It is unsatisfactory that the government remain exposed to potential compensation claims from the TAB.

In particular the current provisions in the Act do not allow directions to be issued to the Commissioner with respect to specific conditions to be attached to permits, or to be issued at all with respect to permits on racecourses. These powers are required to prevent betting in relation to certain contingencies and what is known as "Indirect Walk In Trade", that is, bookmakers accepting telecommunications bets where the bookmaker has provided or otherwise subsidised the provision of the telecommunications device.

The Bill proposes to extend the powers of Ministerial direction to include the attaching of conditions to all permits. This will enable exclusivity commitments to be fully met.

The second matter dealt with in this Bill is to rectify a technical flaw in the current authority provided to Mr E V Seal to operate his 24 hour telephone sports betting operation.

Crown Law has advised that the current bookmaking permit provided to Mr E V Seal is invalid and it is necessary to provide a new authorisation to Mr Seal to enable him to continue his current 24 hour telephone sportsbetting operation. While a new permit could be issued to Mr Seal it could not be done under current legislation in a way that restricts the operations to telephone services or to sportsbetting only. Those restrictions are necessary to prevent breaching the exclusivity commitments provided to the TAB by the former government.

The Bill addresses this issue by inserting a new class of licence – a 24 hour telephone sportsbetting licence. Bookmakers conducting sportsbetting at specific times and places will continue to be licensed under existing provisions.

The Bill provides that, consistent with similar licences, the 24 hour sportsbetting licence would be issued by the Independent Gambling Authority. The Bill also provides the Minister with the power to give the Authority binding directions about the granting of a 24 hour sportsbetting licence. The Government will use this power to issue a direction to the Authority that this type of licence may only be provided to Mr E V Seal. This is consistent with the exclusivity provisions as set out in the TAB Approved Licensing Agreement. The government cannot allow a further 24 hour sportsbetting licence to be issued to another party without causing a breach of the exclusivity provisions and thus giving rise to compensation claims from the TAB.

This Bill does not expand gambling opportunities available in South Australia; it simply enables current bookmaker operations to continue and provides the Government with the necessary power to protect itself from events that may give rise to compensation payments to the TAB.

These legislative amendments were noted in the *Authorised Betting Operations Act* review tabled in the House on 4 December 2002. Other matters contained in that review are currently the subject of on-going consultation with the racing and wagering industry and are expected to be brought to Parliament shortly.

I commend the Bill to the House.

Explanation of clauses

Part 1—Preliminary

Clause 1: Short title

Clause 2: Commencement

Clause 3: Amendment provisions

These clauses are formal.

Part 2—Amendment of Authorised Betting Operations Act 2000

Clause 4: Amendment of section 3—Interpretation

This clause inserts a definition of "24 hour sportsbetting licence" into the interpretation section of the principal Act.

Clause 5: Amendment of section 34—Classes of licences

This clause inserts a new paragraph *(e)* into subsection (1) providing for an additional class of licence, namely a 24 hour sportsbetting licence. The clause also inserts a new subsection (4), providing that the Minister may give binding directions to the Independent Gambling Authority regarding the granting of a 24 hour sportsbetting licence.

Clause 6: Amendment of section 36—Conditions of licence

This clause inserts a new subsection (5), providing that the Minister may give the Independent Gambling Authority binding directions regarding a condition attaching to a 24 hour sportsbetting licence preventing betting operations on specified days such as Christmas day or Good Friday.

Clause 7: Amendment of section 37—Application for renewal, or variation of condition, of licence

This clause makes a consequential amendment.

Clause 8: Amendment of section 54—Licensed bookmakers required to hold permits

This clause redesignates the present section 54 as subsection (1) and inserts a subsection (2) providing that section 54 of the principal Act does not apply to betting operations conducted under a 24 hour sportsbetting licence.

Clause 9: Amendment of section 57—Conditions of permits

This clause inserts a new subsection (3) providing that the Minister may give the Liquor and Gambling Commissioner binding directions regarding conditions to be attached to a permit.

Schedule—Transitional Provision

This Schedule provides a transitional provision allowing the Minister to invite, within 30 days of this measure coming into operation, a licensed bookmaker to apply to the Independent Gambling Authority for a grant of a 24 hour sportsbetting licence, and also provides that sections 37(1) and 38 of the principal Act do not apply to such an application.

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

CITIZENS' RIGHT OF REPLY

Adjourned debate on motion of Hon. P. Holloway (resumed on motion).

(Continued from page 316.)

The Hon. NICK XENOPHON: I indicate my support for the government's motion. I believe the citizens' right of reply is important in a modern democracy in terms of our modern parliamentary system. It is important, given the enormous privileges that we have in this place, to give citizens a right of reply in appropriate circumstances. The key issue appears to be the amendments moved by the Hon. Robert Lawson. The first amendment, giving at least one clear sitting day prior to the publication and response to an honourable member affected by the citizens' reply—I think that is not unreasonable. I share similar views to my colleague the Hon. Sandra Kanck in that regard. I also share a virtually identical view with the Hon. Sandra Kanck in relation to the second amendment to paragraph 7, where the Hon. Mr Lawson is proposing to insert: 'nothing in this clause will prevent a member from responding to matters contained in the response'.

I am concerned that this amendment would render the whole concept of the citizens' right of reply, ineffective to an extent but, more so, it could be circuitous and never ending in terms of an ongoing circle of claim and counter-claim. To some extent, it would defeat the purpose of having citizens' right of reply in the context that it has been structured. I note that the previous government had a right of reply, as I understand it, in a form and procedure very similar to that which this government has set up—and, of course, I stand to be corrected on that. For those reasons, I support the government's motion. I support the first amendment of the Hon. Robert Lawson. I think it is only fair that a member be given one clear sitting day prior to the publication of response. But I cannot support the second amendment because I believe it will undermine the very basis of a right of reply of citizens.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank honourable members for their

indication of support for this motion. It is important that we do provide a right of reply to any citizen who believes that they have been misrepresented or in some way adversely reflected upon by this parliament, should it, of course, meet the conditions that are set out in the motion.

In relation to the amendments that have been moved by the Hon. Robert Lawson, I would certainly agree with the first of those amendments that suggests that at least one clear sitting day prior to the publication of the response should be given to the member of parliament who is at the centre of the issue. Like other members who have spoken, I do not believe that that is an unreasonable proposition. In relation to the second amendment, like the Hon. Sandra Kanck and the Hon. Nick Xenophon I do have some concerns. Any motion which in any way fetters a member of parliament's right to speak is something that we should certainly look at closely.

Paragraph VII of the original motion was drafted in this form by the Hon. Trevor Griffin and it has been supported by this council on two or three occasions across the change of government. Certainly it is an evolving area. This is an occasion where the Legislative Council leads the House of Assembly in providing this provision for people. Paragraph VII provides:

> The President shall not be obliged to inform the Council or any person of the reasons for any decision made pursuant to this resolution. The President's decision shall be final and no debate, reflection or vote shall be permitted in relation to the President's decision.

I would have thought that as it stands paragraph VII should not necessarily unduly fetter a member of parliament's right, but at the same time it should ensure that there is no unnecessary continuation of the debate which has led to the decision to give the affected citizen a right of reply. I think it is something that perhaps we need to watch.

At this stage, the government would certainly not support the second amendment because we believe there is the risk—as other members have pointed out—of this becoming a circular debate. As I said, we should be very careful about any decision which fetters the right of a member of parliament to respond.

It would be fair to say that this measure has been in existence for a number years, but there have been only two or three occasions in which it has been used. There is not a lot of case history in relation to it, but this is something that the government will keep an open mind on in the future. At this stage, we believe that the resolution should be flexible enough to ensure that there is no circular debate; and that, at the same time, it does not unnecessarily fetter a member of parliament so that, should it be necessary to revisit it in the future, this council always has the option to do so. At this stage, I indicate that the government opposes the second amendment, but we support the first amendment.

Amendment to paragraph V carried; amendment to paragraph VII negatived; motion as amended carried.

ADJOURNMENT

At 5.19 p.m. the council adjourned until Wednesday 15 October at 2.15 p.m.