LEGISLATIVE COUNCIL

Wednesday 26 November 2003

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

PAPERS TABLED

The following papers were laid on the table:

By the President—

Ombudsman—Report, 2002-03

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

Reports, 2002-03—
Chiropractors Board of South Australia
South Australian Psychological Board
State Heritage Authority
Water Well Driller's Committee
Chowilla Regional Reserve Review—Report, 1993-2003

By the Minister for Correctional Services (Hon. T.G. Roberts)—

Reports, 2002-2003—
Correctional Services Advisory Council
Department for Correctional Services.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 7th report of the committee.

Report received and read.

The Hon. J. GAZZOLA: I bring up the 8th report of the committee.

Report received.

PAEDOPHILE TASKFORCE

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

MEMBER'S REMARKS

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I seek leave to read to the council a ministerial statement from the Treasurer.

Leave granted.

The Hon. P. HOLLOWAY: The statement is as follows:

Yesterday the Hon. Angus Redford MLC in another place disclosed details of documents to which he had gained access under a freedom of information request on performance agreements. Mr Redford wrongly claimed that I had altered a draft performance agreement assessment so that I shared credit for the budget position in that document instead of credit being attributed to the Under Treasurer alone. In fact, that was completely inaccurate. In an early draft of the performance agreement dated 3 October 2003 prepared by the Under Treasurer, the Under Treasurer wrote: 'The credit for these outcomes lies with the Treasurer and the Government but the Under Treasurer has provided strong support.' However, when provided with this draft by the Under Treasurer, I removed reference to myself in that paragraph and described the situation as follows in a document dated 24 October 2003: 'The Under Treasurer deserves full credit for his leadership and the strong budget position is an indication of his hard work.'

The dates appear clearly on the two documents. It is difficult to believe that the Hon. Angus Redford MLC could not have noticed the dates and the sequence of events. He has been at least mischievous and [has] at worst deliberately misrepresented the facts. The Hon. Angus Redford MLC should apologise to the house for his misrepresentation.

MITCHAM HILLS OUT OF SCHOOL CARE SERVICE

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement relating the Mitcham Hills Out of School Care Service Inc. from the Minister for Education and Children's Services.

QUESTION TIME

BUSINESS, MANUFACTURING AND TRADE DEPARTMENT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the minister representing the Minister for Business, Manufacturing and Trade about a chief executive officer.

Leave granted.

The Hon. R.I. LUCAS: The Minister for Business, Manufacturing and Trade, the Hon. Mr McEwen, was appointed to the portfolio in December last year, almost 12 months ago. At that time, what was the department of industry and trade, although it had been renamed, was split into two economic development portfolios. Mr Roger Sexton went to head the Economic Development Office and the Department for Business, Manufacturing and Trade, Mr McEwen's office, was left without a chief executive officer.

I am advised that, at about the end of last year or the beginning of this year, the position of chief executive for the department was advertised in local and national newspapers. I am further advised, and there was confirmation of this in a television report on Channel 2 in September, that Mr Geoff Whitbread, who had been the chief executive of the City of Greater Geelong and prior to that had been chief executive of the City of Charles Sturt in South Australia, had been offered the position of chief executive of the Department for Business, Manufacturing and Trade, and that there were some problems in relation to that offer. I am advised that Mr Whitbread was offered a contract and then, for some reason in about August this year, prior to that press report, the offer or contract was withdrawn by the minister and/or officers representing the minister. So, all through the period from December last year to August-September, there was no chief executive of the department—there were only acting positions.

Recently, Mr Stephen Hains from the City of Salisbury was appointed as a six-month implementation chief executive, but he will not be allowed to continue as the permanent chief executive when his term expires in about April or May next year. Concern has been expressed to me that, by the middle of next year, for a period of 18 months under the minister, there will not have been a permanent, long-term chief executive of the Department for Business, Manufacturing and Trade. I am further advised that significant concerns were expressed to the minister and officers representing the minister about delays in the process and the way in which the process was handled. Of particular concern was the process by which the offer, having been made to Mr Whitbread on the basis that he was the successful candidate, was ultimately withdrawn. My questions are:

1. Was Mr Geoff Whitbread offered a contract as chief executive of the Department for Business, Manufacturing and Trade? If so, when?

2. Why was any offer to Mr Whitbread withdrawn and, if so, when?

3. Was crown law advice provided to the minister or his officers as to possible legal ramifications as a result of the withdrawal by the government of the offer of chief executive of the Department for Business, Manufacturing and Trade and, if any legal advice was provided, will the minister confirm that there was concern in that legal advice that there was the possibility of legal action and cost to the government as a result of the mishandling of the process?

4. Will the minister confirm that, given the ineptitude thus far of the minister in handling this process, it will be almost 18 months, when Mr Stephen Hains finishes his appointment, before a long-term chief executive of the Department for Business, Manufacturing and Trade will be appointed by the minister?

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.

OMBUDSMAN'S REPORT

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

Leave granted.

The Hon. R.D. LAWSON: The Ombudsman's report for the year ended 30 June 2003, tabled in this place today, contains some disturbing information concerning the Department for Correctional Services. The Ombudsman records in his report that, of 1 779 matters referred to the Ombudsman during the year under review, 677 came from the Department for Correctional Services, that department having by far the greatest number of matters, with the next greatest number being 303 from the Housing Trust (half the number from Correctional Services). At page 5 the Ombudsman records his concern that prisoners are being routinely punished under the guise of movement pursuant to section 24 of the Correctional Services Act without process. He expresses concern that staff believe they are able to punish prisoners without allowing prisoners rights which are given under the legislation passed by this parliament.

However, the Ombudsman goes on to what I suggest are matters of greater and wider concern. The Ombudsman mentions Operation Challenge, which has been cut by a decision of this government in its first budget. The Ombudsman in his report states at page 77:

> Based on views expressed [in an evaluation of Operation Challenge], and from opinions obtained during the preliminary investigation of this matter, it was the Ombudsman's view that the cessation of [Operation Challenge] was neither desired nor indicated as being in the best interests of offender rehabilitation.

He goes on to say that the same could be stated for the delivery of the Just Consequences program, which he described as 'a valuable crime prevention (outreach) program'. The Ombudsman concluded:

> . . . it would in all the circumstances be desirable for these two programs to have continued.

He attributes their cessation to budget cuts imposed by the executive government. My questions to the minister are:

1. Is he aware of the serious complaints registered by the Ombudsman in relation to prisoner punishment contrary to legislation?

2. Is he aware of the criticism which has been levelled at the government by the Ombudsman for cutting Operation Challenge and the crime prevention program?

3. What action does the minister propose to take to remedy these issues raised by the Ombudsman?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I thank the honourable member for his important questions. The funding cuts that were made in relation to our first budget were found necessary by the government when it occupied the Treasury benches. The operation that the honourable member referred to in the Ombudsman's report was a casualty of those first round cuts but, as I have indicated previously, it was the government's intention to try to build a package of reform measures within a whole new range of rehabilitation programs across the board, which we have done over successive budgets.

Some discussions are occurring with not-for-profit organisations, and I am quite confident that they will pick up a program in the Cadell region which will have some of the hallmarks of the operation to which the honourable member referred. However, if we are successful in achieving the funding that is required, it will also have other aspects of rehabilitation built into it. I am sure that the honourable member will be happy if we are able to secure that funding for the replacement of that program.

In relation to the second part of the question regarding crime prevention—and it is in the justice portfolio area, not mine—the honourable member's view of the success of that program has certainly been the view of some in local government; that is, it was viewed by some regional organisations, communities and local government as being successful and that the program should have been refunded annually. However, although it was a successful program in some regions, in other regions it was not included as part of the tough on crime programs being put forward in relation to a whole of justice strategy. In some regions it was a successful program and it has been missed. Governments have to make decisions in relation to budget strategies and prioritisation, but we are trying to put into place a suite of rehabilitation programs and packages.

As I have said in this council on many occasions, considering the funding regimes which we took over and which we had to administer, we are starting to put in place a whole raft of programs in correctional services that, hopefully, will make a difference to the rehabilitation numbers and the recidivism rate within this state and our prisons.

The Hon. R.D. LAWSON: I have a supplementary question. Given the minister's answer about the involvement of community volunteers in these programs, does he accept the criticism that this government is hoisting government responsibilities onto the goodwill of community members?

The Hon. T.G. ROBERTS: I am not sure where that statement is in the Ombudsman's report. I take it that it is in there.

The Hon. R.D. Lawson interjecting:

The Hon. T.G. ROBERTS: That was a position being proffered by the honourable member. I take the point that the honourable member is making. South Australia has a higher rate of volunteer participation in a whole range of areas than most other states. There has been a trend within government spending strategies Australia wide to use volunteers in a

whole range of areas that governments, in the main, are finding very difficult to fund. Members of the community are assisting government funded programs with their time and effort in the areas of health, education and correctional services.

In relation to correctional services and the issue of mentors and support outside the gaol system, including visitations within the gaol system, many people volunteer, including church groups and other organisations, to assist prisoners; and I would encourage them to continue to make contact with prisoners to try to build-up a resource base for many of these people who do not have the family networks which many of us have the privilege of having. In many cases, the reason people find themselves incarcerated is that they come from either broken homes or no homes at all. I encourage broad participation in some areas of contact with prisoners either in prison or exiting prison.

In addition, we are starting to build up a network of support to prevent people from going to prison. With restorative justice, hopefully over time we can get the community to take broader responsibility for many of these individuals—particularly young people—who find their way into the mental health service and the prison system.

I encourage that participation, but there is a fine line between that and the payment of professionals for professional services within the system. We still need those services and advice in our Correctional Services system and in other departments but, where community contact is important in building up community relationships, I encourage that volunteering to continue and to grow.

The PRESIDENT: Just before I call the next question, I wish to raise a matter of parliamentary procedure. I note that the Hon. Mr Lawson quoted from the Ombudsman's report, which I also note was extensively tagged. The honourable member was quite succinct in the judgment he made. As the Presiding Officer, I am responsible for the tabling of the Ombudsman's report, which I did some minutes ago. The honourable member may wish, off the record, to explain to me how he was in possession of a copy of a document that has just been tabled.

The Hon. R.D. LAWSON: I would prefer to put my explanation on the record. I received my copy of the report, Mr President—as did you and all members of the chamber—at the time it was tabled here.

An honourable member: He is a quick tagger!

The Hon. R.D. LAWSON: I am a quick tagger, but I am indebted to my colleague the Hon. Michelle Lensink for drawing my attention promptly to the matters relating to Correctional Services in the summary at the beginning of the report .

The PRESIDENT: I am pleased with that explanation, because it would be an embarrassment to me had a copy been handed around prior to my tabling it.

MINING POLICY

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development questions about the government's mining policy.

Leave granted.

The Hon. CAROLINE SCHAEFER: Currently 21.3 per cent of the state has the status of a park and consists of 162 500 square kilometres of dual proclamation parks and 47 800 square kilometres under single proclamation. Dual proclamation was introduced under the Bannon government in 1985 and has worked particularly well in accommodating the needs of mining and petroleum exploration and the needs of conservation across the state. However, this government appears to have a very different agenda. It has announced its 20-point Wildcountry Plan, the aims of which include:

> We will support the efforts of conservationists to introduce the Wildcountry philosophy into Australia to produce an Australia-wide comprehensive system of interconnected core protected areas, each surrounded and linked by lands managed under conservation objectives.

The government further states, as its Yellabinna government objective, that it will:

> Commence stakeholders discussions in relation to the recommendations of the Wilderness Advisory Committee to establish a representative wilderness protection zone in the Yellabinna region.

The Yellabinna region in itself covers 25 153 square kilometres, that is, 2.5 per cent of the state's land mass. It would appear from the wild country statement that the government has an intention of eliminating dual proclamation parks and, in particular, eliminating dual proclamation from Yellabinna. As I understand it, an application for an exploration licence was recently lodged over the whole of the Yellabinna area.

Will the minister therefore say whether his government sees the adoption of the wild country philosophy as ruling out the co-existence of conservation and mining activities? How does the minister see this policy affecting the potential for exploration and possible mining in the Nullarbor and Yellabinna regional reserves? What role will the Wilderness Advisory Committee play and can the minister assure us that the opinions of the Chamber of Mines and Energy will also be sought and given equal weight to the views of the Wilderness Advisory Committee?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for her question. In relation to the status of national parks, it is true that the government in its environment statement has a wild country policy, although the particular details of how that wild country might work I do not see as necessarily impacting upon the proclamation status of parks. The intention of that policy is that there be large connectedness between areas of public land as well as private land held in protection so there are corridors for species to move.

In relation to Yellabinna, there have been exploration licences at one time or another over the entire Yellabinna area, and at this moment there are a number of existing exploration licences in part of that regional reserve, including some that have been approved during the term of this government. The honourable member referred to one company that recently applied for a number of licences—seven in all—that cover a significant amount of private land from Streaky Bay and Ceduna right through other parks into the Yellabinna region.

In relation to the party's policy on Yellabinna, as referred to by the honourable member, the wilderness group has been examining areas and has presented a report in relation to its findings on that. My department has also prepared a report in relation to the mineral prospectivity of the Yellabinna region, and the government's policy ultimately will be determined when one looks at those reports and considers what wilderness values are present in the area and what the mineral prospectivity of that area is. I do not see that the wild country policy necessarily impacts upon the access for exploration in relation to regional reserves and there are cases

that illustrate that that has not happened to date. The only other comment I make in relation to the honourable member's questions is that obviously the Minerals and Energy Division of my department, in preparing its report on the prospectivity of this region, has widely consulted not just with SACOME but also with other mining interests.

Of course, some parts of that region are highly prospective. Much of that area is in the Gawler Craton region, which is currently an area of considerable interest to miners because of its prospectivity. There are, basically, two types of minerals in that region in which mineral explorers would be interested. One is mineral sands, of which there are extensive reserves, and I understand that Iluka Resources has applied for exploration licences over that large area of Eyre Peninsula, including parts of Yellabinna and other parks. Also, of course, there is what is called the gold arc, which is believed to be highly prospective for gold and other related minerals. In its final decision about this, of course, it will be a matter for the government to determine its policy in that area.

The Hon. CAROLINE SCHAEFER: Sir, I have a supplementary question. Which minister will make the final decision as to whether the Yellabinna park becomes a single or a dual proclamation park, and which minister will make the final decision as to whether mining exploration takes place? Will it be the minister for mines and energy development or will it be the minister for environment and heritage?

The Hon. P. HOLLOWAY: Under the current arrangements with regional reserve, approval for exploration licences is given by the Minister for Mineral Resources Development after consultation with the Minister for Environment and Conservation. That is as the law currently provides in relation to regional reserves. In relation to other parks in that region, of course, with a dual proclamation it requires the approval of both ministers. In relation to what might happen, obviously, if a wilderness protection area were to be established in that region, that would be done through the parliament with the appropriate regulation of that area, as is provided for under the act. But it would not be correct to say that the entire area of Yellabinna is likely to be included in such changes. Indeed, as I have already indicated, a number of exploration licences have been issued under this government to parts of that region.

MINISTER, REGIONAL RESPONSIBILITY

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

Leave granted.

The Hon. D.W. RIDGWAY: This year I have asked two questions about the government's regional ministerial offices, namely, the Office of the Murray and the Office of the Upper Spencer Gulf, Flinders Ranges and Outback. Both questions are still unanswered. It has come to my attention that the responsibility for the regional ministerial offices has moved from the Minister for Industry, Trade and Regional Development to the minister for transport and urban planning, as detailed in the supplementary report of the Auditor-General (page 62). I guess that could explain why they are unanswered. My questions are:

1. Why has the minister acquired the responsibilities for these regional ministerial offices?

2. What is the role and purpose of these offices, and has that role and purpose changed?

3. What are the salaries and job descriptions of the employees of these offices?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): It is good to see members of the opposition showing interest in some of the infrastructure support that we are putting into regional areas. They are very wise to learn some of the lessons that we are setting up in engaging regional communities. I do not have those details with me. I will refer those questions to the minister in another place and bring back a reply.

ROCK LOBSTER FISHERY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the rock lobster fishery.

Leave granted.

The Hon. CARMEL ZOLLO: Listing on the exempt native species list under the Environment Protection and Biodiversity Conservation Act means that exporters will be exempt from requiring export permits under that act. My question to the minister is: what progress has been made on this listing for the rock lobster fishery?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for her question. Members may be aware that the federal Department of Environment and Heritage recently approved the listing of rock lobster on the exempt native species list. The South Australian rock lobster fishery has been commended for its environmental and ecological management practices following a rigorous federal assessment under the provisions of the Commonwealth Environment Protection and Biodiversity Act (EPBC Act). All Australian export fisheries are being assessed under the federal Department of Environment and Heritage guidelines for the ecologically sustainable management of fisheries. This is the first time a South Australian fishery has received approval under the EPBC Act.

The accreditation is important to our state because it means that southern rock lobsters taken from our northern and southern zone fisheries will now be included on the exempt native specimens list for the next five years. The listing means that exporters will be exempt from requiring export permits under the EPBC Act. The federal assessment concluded that the fishery was well managed with a range of significant measures in place to promote the ecologically sustainable harvesting of rock lobsters. The measures include: a comprehensive catch monitoring disposal and sampling regime; a wider range of management objectives, strategies and performance indicators within detailed management plans for the fishery; the introduction of additional catch controls and monitoring arrangements to improve stock recovery in the northern zone; quantitative risk assessment surveys of by-product and by-catch; a proactive approach to minimising marine pollution; and an independently reviewed stock assessment model. The next review of the rock lobster fishery will be undertaken in 2008.

SCHOOLS, MAINTENANCE

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Education

and Children's Services, a question about payments for maintenance works in schools,

Leave granted.

The Hon. KATE REYNOLDS: Concerns have been raised with my office about the extreme delays in processing payments for school maintenance and upgrades. My office has been informed that some schools are only now being billed by the Department of Education and Children's Services for work that was carried out by contractors in 1999, more than four years ago. Under the existing local management scheme, schools are allocated a lump sum to finance their day to day operations, including maintenance, as part of the global budget. The school's governing council is then able to prioritise required work and applies to the department for approval to proceed. This requires tendering and sourcing of quotes and the subsequent selection of a contractor. After the contractor has finished the project the department pays the charges and forwards a request for payment to the school.

I have been a member of my children's school council for most of the past 15 years and was concerned to learn last week that our school has only just received requests for payment from the department for just under $150 000 of work carried out nearly four years ago. In some cases, schools have had to roll over considerable amounts of money from year to year to ensure that there is enough cash in reserve for when the DECS bill eventually arrives. Understandably, this causes considerable additional work for finance officers and makes it difficult for the annually elected members of the governing council to understand the true financial position of the school.

Some of these sums may have been the amounts referred to by the minister earlier this year when she said that some schools had excessive cash reserves. It is my understanding that in some cases schools have spent the money allocated when the work was first carried out. Following a change of financial officers and governing council members, the funds were simply no longer there. I have also been informed that schools have to redeploy staff, sometimes at a cost up to $60 000 a year, so that adequate resources are put into managing the financial accounts of schools, including checking and frequently correcting deductions made by the department. My questions to the minister are:

1. Why is there such a time lag between the payment of contractors and the deduction of funds from school accounts?

2. How is DECS managing to balance its books when there is a delay of up to four years or more to recoup funds?

3. On how many occasions has the department been forced to cover funding shortfalls for maintenance or upgrading works when schools have spent the money allocated for the project?

4. Will the minister act to redress such lengthy delays in the recouping of money? If not, why not?

5. Why are schools not billed for the money at the same time that the contractor is paid by the department?

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

FISHING, RECREATIONAL

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries questions about introducing licences for South Australian recreational fishers.

Leave granted.

The Hon. T.G. CAMERON: Recreational fishing is one of South Australia's largest industries with more than 450 000 residents over the age of five fishing at least once every year. It contributes $350 million to the state's economy. There is a growing sense within the fishing community that there is a need for adequate financial resources to be directed towards the management and development of recreational fishery. This would ensure that the impact of recreational fishing on fish stocks does not exceed sustainable limits and the potential social and economic benefits are maximised for the community. In line with this, in 2001, the South Australian Recreational Fishing Advisory Council (SARFAC) released a five-year management plan. This plan recognised the need to foster economic and social benefits for recreational fishing through targeted development programs. Unfortunately, these initiatives remain unfunded and will simply not happen without one key plank—recreational fishing licences. That is a revenue stream.

SARFAC argues that recreational fishing licences would spread the financial burden across all beneficiaries. After years of neglect, Victoria and New South Wales both have fishing licences and are reaping the benefits. Western Australia is currently considering a similar requirement. SARFAC strongly supports the introduction of a licence on the condition that all funds are placed into a dedicated trust fund to be spent for the benefit of recreational fishing. Children under 16 and pensioners would be exempt. In 1999, SARDI Aquatic Sciences conducted a survey among South Australian recreational anglers and found the vast majority supported the introduction of a fishing licence.

New and compelling support for the introduction of recreational fishing licences came from another source when the Environmental Protection Authority released its five-yearly audit of the state's environment yesterday. The report said that two of the state's most productive fisheries are being overfished and unequivocally called for controls on recreational fishing by introducing the licensing of fishers. We have some keen fishermen here in the council, including the Hon. John Gazzola who I understand would put Rex Hunt to shame. There is no doubt that there is strong support for measures like this. My questions to the minister are:

1. Has his department undertaken any recent studies into the benefits and costs of introducing recreational fishing licences to South Australia?

2. In light of growing evidence, including interstate experience, SARFAC's support, the support of the vast majority of anglers as shown by the SARDI survey, and now the EPA report, will the government reconsider introducing recreational fishing licences to South Australia?

3. At the very least, will the government commit itself to a study of such a proposal? If not, why not?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): It has been made quite clear on a number of occasions that the government is not going to introduce a recreational fishing licence. The honourable member mentioned many of the concerns that we have in controlling fisheries at the moment. As the recent Environment Protection Authority report pointed out, there are some species—in particular, snapper and King George whiting—under enormous pressure because of growing recreational and commercial efforts. The government has already taken some steps in relation to snapper; in fact, it is in a period of closure at the moment. Instead of having the two closure periods, the government has turned that into one long closure period for snapper fishing over the entire month of November. Before

the main season next year, the government will consider what to do with King George whiting, because there is some indication that there is a decline in the fish stocks, and that will have to be addressed.

It is one thing to recognise that there is pressure on species that are the target species of recreational fishers but it is a long jump to suggest that some sort of licensing is the answer to that. The only answer to increasing pressure on fish stocks is to reduce the effort, and the government will have to take steps, as it has done in relation to snapper. We will have to consider those steps in relation to other species that are under pressure. It is that pressure that creates the threat to our stocks, and the fact that people are licensed does not of itself provide any means of controlling that effort. One needs to restrict it.

An honourable member interjecting:

The Hon. P. HOLLOWAY: The only way that revenue would be useful, as it has been in other states, would be to buy out commercial licences to reduce the commercial effort, not the recreational effort. It must be remembered that, in relation to King George whiting, the recent survey—

The Hon. T.G. Cameron: Have a look at what they are doing in Victoria and New South Wales.

The Hon. P. HOLLOWAY: I can tell the honourable member that I am very well aware of what is happening in those states because I have discussed the issue with those ministers, and their recreational licence revenue has been used to reduce the commercial effort. In relation to the effort on King George whiting, snapper and other species, the recent recreational survey indicated that the number of recreational fishers was about 320 000. That survey predicted that they were responsible for 58 or 60 per cent of the catch of King George whiting, and that is particularly high in the gulfs close to Adelaide, and it falls off as you move towards the far West Coast. With snapper, the figure was 40 per cent. Whether you have licences or not, if that effort is growing, steps must be taken to restrict the pressure on the stocks.

That is the issue facing the government at the moment, and I will have a difficult decision to make in the coming months in relation to King George whiting. I am awaiting recommendations from the Fisheries Management Committee in relation to King George whiting stocks. As I indicated, I have already taken steps in relation to snapper to ensure that these fisheries are sustainable.

The Hon. T.G. CAMERON: I have a supplementary question. Given his discussions with ministers from the other states, will the minister advise the council what they said about the success or otherwise of the schemes that have been introduced in New South Wales and Victoria?

The Hon. P. HOLLOWAY: It would be fair to say that the situation in New South Wales is not necessarily comparable to that in South Australia because the commercial fishing in that state is on a much smaller scale than it is here. They have far more recreational fishers, with a population of 5 million or 6 million, but far fewer commercial operators. So, the situation in that state is not comparable. Nonetheless, I have been invited by my colleague Ian McDonald to visit New South Wales, and it is one of the issues that I will be looking at in February next year, along with some of the other measures that New South Wales is taking in relation to fisheries management.

The Hon. T.J. STEPHENS: I have a supplementary question. Is the minister considering a temporary ban on fishing for King George whiting similar to what has been done with snapper in an attempt to replenish fish stocks?

The Hon. P. HOLLOWAY: I said that the government is considering what measures it will take. The stock assessment reports are in and the Fisheries Management Committee is looking at it. However, I point out to the honourable member that the main time for targeting whiting is about May, so a decision will need to be taken before the peak season for that species.

The Hon. T.G. Cameron: So you are considering it?

The Hon. P. HOLLOWAY: We are considering what measures we will take.

The Hon. T.G. Cameron: That is one of the measures you are considering, is it?

The Hon. P. HOLLOWAY: The honourable member asked me a question I think about measures similar to those applying to snapper. The government will need to consider a range of measures, such as size limits, bag limits, closed seasons and other things, and that is a matter that I will seek expert advice on. But, clearly, the information to date is that stocks of whiting are under pressure.

The Hon. A.J. REDFORD: I have a further supplementary question. Can the minister rule out a ban on whiting fishing?

The PRESIDENT: I do not think the minister is going to answer.

The Hon. A.J. REDFORD: Am I to take it that the minister is refusing to rule out bans on whiting fishing by his failure to answer?

The PRESIDENT: I think you can take it that he is refusing to answer your question.

The Hon. P. HOLLOWAY: Mr President, I do not wish to be misrepresented. I said to the honourable member that I will consider a number of measures, which included size limits, boat and bag limits and seasonal closures. They are all options that we will look at, but I will seek advice before I take any action. I will not rule out any of those options but I will seek advice on those matters. It would be completely irresponsible—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, I can rule out a total ban, but whether there would be closures and the like are matters to be considered.

PUBLIC TRANSPORT TICKETING SYSTEM

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 regarding smart cards and public transport.

Leave granted.

The Hon. J.M.A. LENSINK: I am informed that the current Crouzet ticketing system requires replacement some time within the next four years. For some time, replacement with a smart card system has been mooted and, most recently, an article in *The Advertiser* of 30 June 2003 reported that a smart card system has been investigated for this state's public transport system. The experience of Hong Kong, just one of many international cities which first adopted the system in 1997, is that smart cards have been very useful, as signified by their popularity. More recent features include the ability of the card to be continuously topped up by the banks. As has been put to me, it is like 'a never-ending packet of Tim Tams'.

Hong Kong's technology is actually supplied by an Australian firm, the ERG group, based in Western Australia. However, take-up of smart cards is often poor until a significant retailer or service provider (often referred to in the vernacular as a 'killer app') drives the up-take for other applications, and the governments of Queensland, New South Wales and Western Australia are at various stages of implementing smart card systems. *The Advertiser* article to which I referred previously quotes minister Wright as stating that there are significant financial and technical risks, indicating some reluctance to adopt this technology and relegating South Australia to being the poor technology cousin rather than a smart state. My questions are:

1. Can the minister explain what technical risks exist, when such a system has been provided by an Australian firm and has already been operating in other cities such as Hong Kong for the past five years?

2. Is the minister simply awaiting evaluation of the system in other states prior to considering its adoption in South Australia?

3. If so, when does the minister expect the system to be given serious consideration in South Australia?

4. Will the minister guarantee that any new system will be available prior to the redundancy of the existing Crouzet system?

5. Is the minister aware of the ERG group and other Australian organisations that have this technology capability, and has he made any approaches to such firms?

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

MURRAY RIVER

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Environment and Conservation a question about River Murray water flows.

Leave granted.

The Hon. R.K. SNEATH: Recently, the minister provided an update on the progress of the Murray Mouth dredging project and, as I recall, informed the house that one million cubic metres of sand have been removed since the project started. While the dredging project is important for the health of the Murray, just as important is the amount of water that is allowed to flow down the river and reach the mouth. I understand that the Murray-Darling Basin Ministerial Council recently made a decision in relation to putting more water back into the River Murray. Will the minister outline what agreement was reached by the Murray-Darling Basin Ministerial Council and the impact that this may have on the health of the River Murray?

The Hon. T.G. ROBERTS (Minister Assisting the Minister for Environment and Conservation): I thank the honourable member for his interest in regional affairs and for asking this important question. As I have previously outlined, the health of the Murray is indeed an issue of utmost importance for South Australia and for this government. Yes, the honourable member is indeed right about the dredging operation in that since it began 12 months ago one million cubic metres of sand have been removed—

The Hon. J.S.L. Dawkins interjecting:

The Hon. T.G. ROBERTS: I am assisting. For the first time since European settlement, a national agreement has been reached to put more water back into the River Murray. I am pleased to be able to inform this council that an agreement struck by the Murray-Darling Basin Ministerial Council will see an estimated 500 billion litres (500 gigalitres) of water put back into the river. This is particularly important because, for the first time since European settlement, a national agreement has been reached to put more water back into the River Murray. This water will be used in a managed way to achieve outcomes at six priority sites on the river. They are as follows:

- the river channel itself—enhancing fish recruitment and habitat—

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: You did not know about that one. I continue:

- the Chowilla flood plain (South Australian Victorian border)—water high value wetlands, maintain the health of the current area of river red gums and at least 20 per cent of the original area of black box;
- Murray Mouth-Coorong and Lower Lakes—keep the Murray Mouth open, provide conditions for fish; spawning and enhance migratory wading birds habitat;
- Hattah Lakes in Victoria—restore healthy examples of all original wetland and flood plain communities and restore the aquatic vegetation zone in and around at least 50 per cent of the lakes to increase fish and bird breeding and survival;
- Gunbower-Koondrook-Pericoota (Victoria New South Wales border)—reinstate at least 80 per cent of permanent and semi-permanent wetlands and maintain at least 30 per cent of the total red gum forest area;
- Barmah-Millewa (Victoria New South Wales border)—achieve breeding of colonial waterbirds at least three years in 10 and maintain healthy vegetation in at least 55 per cent of the forest area.

It is hoped that the process of returning water to the River Murray will start from July 2004, and water will be managed using a realignment of the previously announced $150 million capital works program over seven years, funded through the Murray-Darling Basin Commission.

Although the honourable member may have familiarised herself with the information from previous reports in the press, it is important to place on record in an accurate way the certainty of the requirements that have been negotiated and, hopefully, over time, more respect will be paid to the River Murray by all the upstream states on which we rely to not only put water back into the river but also to maintain the quality and the quantity of the water as well.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Will the minister provide information about the work that will be undertaken on the Barmah Choke, given that that section of the river is often blamed for the lack of flows coming into South Australia?

The Hon. T.G. ROBERTS: The question I have been asked is: will the minister supply more information on the Barmah Choke? I will endeavour to pass that question on to the minister in another place and ensure that the honourable member is given a reply.

PUBLIC TRANSPORT TICKETING SYSTEM

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about Adelaide's public transport ticketing system.

Leave granted.

The Hon. SANDRA KANCK: My office has been informed of a recent upsurge in problems people are having validating tickets on the metropolitan public transport system. People are having multi-trip tickets and single trip tickets regularly rejected by the ticketing system. When this occurs with a multitrip ticket, the customer is required to return to a ticket outlet to obtain a replacement ticket. Non-functioning tickets also leave train passengers passing through Adelaide Railway Station trapped on either side of the ticket activated barriers. Each ticket malfunction costs the passenger time and patience and represents another blow to the reputation of our public transport system. My questions are:

1. Has there been an increase in the number of malfunctioning tickets returned this year?

2. If so, is the problem a result of the ticket validating machines, or is the problem with the tickets?

3. Given that it is generally acknowledged that the ticketing system is past its use-by date, when does the minister anticipate replacing the ticketing system?

4. At how many outlets can malfunctioning tickets be returned, and where are they located?

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

HOUSING TRUST, ASBESTOS

The Hon. NICK XENOPHON: My questions are to the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Housing:

1. What protocols are in place to remove asbestos from Housing Trust properties?

2. What, if any, risk assessment is carried out on the health threat to residents of and visitors to such properties?

3. How many properties have been the subject of such a risk assessment?

4. How much money has been spent by the Housing Trust in the last five years for the removal of asbestos from trust properties—first, in relation to properties that are being renovated and, secondly, contrasted with properties that have been demolished?

5. How many trust properties were involved in each category?

6. Have any trust properties that have been the subject of asbestos removal had such work carried out again subsequently? If so, how many properties? What was the cost? What was the reason for the further clean-up work?

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

TRANSPORT SA, ACCOUNTING PROCEDURES

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

Leave granted.

The Hon. J.F. STEFANI: In a report from the Auditor-General, Mr Ken MacPherson, which was tabled yesterday, the Auditor-General identified a number of issues relating to the inaccurate accounting procedures adopted by Transport SA in dealing with bank reconciliation, the deficient and incomplete treatment of asset capitalisation and the inaccurate recording of works in progress. The Auditor-General strongly criticised the deficiencies in Transport SA operations. My questions are:

1. What steps has the minister taken to correct these important accounting problems?

2. Will the minister investigate the reason why these errors and deficiencies have occurred in his portfolio?

3. Will the minister provide a full explanation to parliament as to the reason why such gross errors and inaccuracies have occurred?

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

MINI GEMS KINDERGARTEN

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Education and Children's Services, a question about the Mini Gems Kindergarten in Coober Pedy.

Leave granted.

The Hon. T.J. STEPHENS: Coober Pedy council has been successfully negotiating an agreement with the Department of Family and Community Services, elements of the Department of Education and Children's Services and the local community whereby the Mini Gems Kindergarten would be able to continue operating. Previously, the situation was that the kindergarten would have to close.

However, despite several letters and telephone calls from both the Coober Pedy council and myself, a component of the Department of Education and Children's Services that deals with the building in question has not yet responded. The situation is now such that the continuation of services may be interrupted, the program may be threatened and the people of Coober Pedy will again be neglected by this government. My questions are:

1. Will the minister bring back a response as a matter of urgency—that is, before the end of this session?

2. Will the departmental officers involved be reprimanded for their tardiness?

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

REPLIES TO QUESTIONS

HOME OWNERSHIP

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

The Hon. P. HOLLOWAY: The Minister for Infrastructure has provided the following information:

1. The Government is fully acquainted with the matters raised by the Productivity Commission in its September issues paper. The Government has presented a comprehensive submission to the Productivity Commission, which will be made public by the Commission in the next few days. The submission addresses the issue of land supply and release.

I cannot speak for what happens in other States but in South Australia, particularly metropolitan Adelaide, I believe we are fortunate in having a continuing supply of residential land being released by a range of State Government agencies.

This supply comes in the form of broadacre land releases by the Land Management Corporation (LMC), the disposal of surplus sites by a host of State departments and agencies and a number of major

public housing redevelopments by the South Australian Housing Trust. Without these continuing supplies there would be much less land available for residential subdivision and building.

The private sector has a prime role to play in this industry as the majority of the land for housing comes from land owned by private companies or individuals.

I will speak further about the role of LMC when responding to the Honourable Member's third question.

3. Having seen the 2002-03 Annual Report of the Land Management Corporation you will appreciate that the scope of the corporation goes well beyond simply making 'tens of millions of dollars profit'. LMC is responsible for managing and developing the State Government's portfolio of land assets.

In this role, LMC owns a number of broadacre land holdings on the urban fringe of Adelaide to the north and south of the city. LMC has an ongoing land release program to ensure its land is supplied to the market for development in an orderly and timely manner.

With respect to the issue of land supply, it should be noted that there are two distinct steps by which land is made available for sale to the private home builder.

The first is the supply of broadacre land to developers. LMC owns 36 per cent of the broadacre land supply in Adelaide, mainly in the northern and southern sectors. The remainder of broadacre supply is owned by the private sector. Of all the houses built on former broadacre land, however, 50 per cent is built on land released by LMC. So one can see that LMC is contributing a significant share of the land for housing in Adelaide.

The second step is the development of finished allotments available for purchase by the home builder. LMC developments represent a small proportion of the delivery of serviced housing allotments in the Adelaide metropolitan area; this responsibility falls largely with the urban development and housing industries.

It is generally accepted that there is a limited supply of broadacre land for residential development in areas of high demand, such as the central sector and prime locations such as the coastal area. Where LMC is able to influence the supply of broadacre land to the market for residential development—mainly in the northern and southern sectors—LMC has maintained a continuing land release program.

This was recently acknowledged publicly by the Mr Brenton Gardiner, Executive Director of the Housing Industry Association in South Australia in a news article on 2 September 2003 which stated the following:

> 'Mr Gardiner says land supply is not keeping pace with current demand and that is causing delays and price rises, but he acknowledges that the State Government's Land Management Corporation cannot really help. LMC ownership is not spread evenly over the metropolitan area. Most of its holdings are north and south and it's no good flooding the market with land in those areas. While he says the majority of developers would not sit on land, they do tend to release just 25 or 30 blocks at a time. "They could possibly release more, but they do have to be careful they don't get caught in oversupply situation"'.

Since its inception in May 1998, LMC has released around 600 hectares of land for residential development in the Adelaide metropolitan area which will accommodate over 9500 homes over a six year period which, on average, represents a quarter of the housing starts in Adelaide. This means that 30 per cent of its land has been released during this period.

LMC has held discussions with the representatives of the Housing Industry Association and the Urban Development Institute who continue to supports LMC's continuing land release program, which is expected to continue to contribute around 25 per cent of the housing land in Adelaide.

In the areas that it has a presence, LMC will continue to provide land for development. The continuing and emerging land release areas will be at Seaford Meadows and Huntfield Heights in the south, at Northfield in the central sector and at Playford, Mawson Lakes and Evanston in the north. A major residential development is also being planned for Port Adelaide.

The Minister for Housing has provided the following information:

2. Through HomeStart Finance, the government has taken steps to maximise home ownership opportunities for as many segments of the community as possible, particularly low to moderate income earners.

The HomeStart Graduate Loan, released in September 2002, is designed to encourage young graduates to remain in South Australia. This Loan is available for people who have successfully completed a University degree (i.e. attained graduate status) and provides them with the opportunity to purchase or construct an 'owner occupied' home without requiring a deposit. It also provides greater borrowing capacity, 3.7 times income for a single graduate compared to the 3.5 normally provided.

At 30 September 2003, HomeStart had settled 13 graduate loans and has approved or is assessing approval for 58 more. The average size of these loans is $174 000 for a potential total of approximately $10.1 million.

HomeStart is also acting to boost affordability for households currently in the private rental market with a Low Deposit Loan which is being offered whilst the First Home Ownership Grant is available. Customers with a proven rental history can buy a home without a deposit, using their rental history as evidence of their ability to meet regular financial commitments. HomeStart's additional risk is protected by charging a slightly higher interest rate for the first 12 months of the loan.

This innovation by HomeStart recognises that families can find it tough to save money while in rental housing and provides them with an affordable option for purchasing their home.

GAMING MACHINE REVENUE

In reply to **Hon. SANDRA KANCK** (14 October).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

1. At the time of preparation of the 2003-04 State Budget the Government had not made a decision with respect to a ban on smoking in hospitality venues. On that basis no adjustment was made to gaming machine tax revenue for that purpose.

In recognition of the Smokefree Hospitality Taskforce recommendations, Budget Paper Number 3 (Budget Statement) included discussion of the impact of a smoking ban in Chapter 7—Risks Statement (page 7.1). That discussion noted that a decline in gaming machine expenditure of between 10 per cent and 15 per cent (consistent with that experienced in Victoria) would result in a reduction in gaming machine tax and general purpose grant revenue of between $45 million and $70 million.

2. Decisions on smoking bans in hospitality venues are a matter for the Government and Parliament, not the Department of Treasury and Finance.

3. A ban on smoking in licensed venues will be a matter for Cabinet to decide.

In reply to **Hon. NICK XENOPHON** (14 October).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

The Treasurer has no record of receiving a recommendation from the Minister for Health in relation to smoking and gambling taxation.

GOLDEN GROVE FIRE STATION

In reply to **Hon. IAN GILFILLAN** (14 October).

The Hon. P. HOLLOWAY: The Minister for Emergency Services has provided the following information:

1. The South Australian Metropolitan Fire Service (SAMFS) is adhering to greenhouse standards through the adoption of the Energy Efficiency Action Plan within the design of the fire station.

2. The site of the new Golden Grove Fire Station, on the corner of Golden Grove and Yatala Vale Roads, was selected as the preferred location for the new station following an exhaustive search and evaluation of land options since 1995. The new Golden Grove Fire Station will replace the existing Ridgehaven Fire Station.

The SAMFS undertook full consultation with Ridgehaven Firefighter Crews in relation to the design of the new Golden Grove Station during September 2003. As a result, feedback from stakeholders was passed on to professional project consultants for review and incorporation into the design concept, where appropriate.

On 17 October 2003, the proposed development was approved by Planning SA to proceed. DAIS architects will independently audit the final station design specification, prior to the final sign off by the SAMFS and stakeholder representatives.

3. The design concept for the Golden Grove Fire Station incorporates the Government's Efficiency Action Plan within the proposed design specification, including life cycle approach to design and specification, wherever possible.

The station has been orientated to provide efficient and safe passage of emergency vehicles on to Golden Grove Road at a safe distance from the existing intersection. This has determined the design priority of siting the appliance bays on the western side of the

site. The remaining modules of the complex are sited to allow optimum efficiency in workflow when emergency vehicles respond to incidents.

The shape and limited size of the site restricts options for building orientation and it is not possible to orientate non-operational facilities within the station complex, such as firefighters quarters, to face north without compromising the primary purpose of the fire station, which is to provide efficient and safe response to emergency incidents.

The design team has reviewed the location and noise-dampening measures associated with the fire station's air conditioning plant and will incorporate adjustments in the final design specification. When the final design specifications are completed, they will be forwarded to the United Fire Fighters Union to complete the formal consultation process.

SHINE SA

In reply to **Hon. KATE REYNOLDS** (22 September).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

1. Yes. The advertisement inferred that Port Lincoln High School is conducting a sex education survey. This is incorrect.

2. The advertisement is unauthorised with no person or organisation attributed for the advertisement. The Minister will not be responding to this anonymous advertisement. Enquiries have revealed that some members of a concerned parents group in Port Lincoln were involved in placing the advertisement. Pastor Lester Reinbott, Chair of that group, has advised my office that it was not sanctioned by that group.

3. Sexual Health and Relationships Education is the choice of parents and in the trial of this program, schools that wished to take part volunteered to participate. All teachers delivering the program have received training. Schools have held parent meetings that have included access to materials and the opportunity to raise questions and/or discussion with staff. In addition, parents must provide written consent for their child(ren) to receive the lessons. Even so, a very small number of parents do not wish their children to receive sex education at school. Their desire is respected and their children are not part of the program. There has been some mischievous misinformation spread about the actual content of the program. Despite that, all feedback from participating families or others will be considered by my Department in evaluating the program.

4. Teachers are able to access support and assistance from their principal, District Superintendent and through Departmental officers. Principals and staff involved in delivering the pilot program share their experiences and provide feedback on the pilot, and trial resources to the Department and to Shine.

COMMUNITY HOUSING

In reply to **Hon. KATE REYNOLDS** (23 September).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

Actual conveyance duty receipts in 2002-03 were $141 million higher than the 2002-03 Budget estimate, of which $68 million is estimated to be attributable to property value growth and $68.5 million to a higher than expected level of property transactions. A further $4.5 million improvement relates to lower than expected expenditure on stamp duty concessions for first home buyers, the cost of which is netted against conveyance duty collections in accordance with classification standards used by the Australian Bureau of Statistics.

Land tax receipts exceeded the 2002-03 Budget estimate by almost $9 million.

The original budget estimate for conveyance duty provided for a downturn in property market conditions in 2002-03 which did not eventuate.

Although conveyance duty receipts have continued to remain strong in the opening months of 2003-04, the possibility of a sudden weakening in market conditions remains a real threat to the financial position of the State Budget and must be provided for. It would be irresponsible to make ongoing expenditure commitments on the strength of short term revenue gains that could be reversed at a later stage.

Property-related revenues are by their nature exposed to strong cyclical variability often interspersed with extended periods of limited growth. Although property prices have risen strongly recently, this follows a long period of price stability during which sales values grew roughly in line with inflation. Land tax revenues were very flat for most of the 1990s apart from the introduction in 1997-98 of the Tax Equivalent Regime which resulted in land tax being levied on some government entities.

Future funding for public and community housing will be determined in the 2004-05 Budget process having regard to available funds and competing pressures across the full range of government expenditures.

POISON 1080

In reply to **Hon. CAROLINE SCHAEFER** (25 September).

The Hon. P. HOLLOWAY: The Minister for Environment and Conservation has provided the following information:

1. The Department of Human Services, through the Controlled Substances Act (CSA), administers 1080 under the Poison Schedule. The Animal and Plant Control Commission (APCC) has no ability to remove 1080 from the Poison Schedules.

2. The Minister for Health's office has advised me that conditions of sale implemented by the Minister on 1 December 2002, through the Department of Human Services (DHS), require ChemCert or equivalent accreditation for the purchase or supply of all schedule 7 poisons. 1080 was exempted from the requirement whilst further discussions between Primary Industries and Resources SA (PIRSA), the DHS and APCC were in progress.

I have been advised there is no difference in the opinion between the APCC and DHS. Both agencies recognise that schedule 7 poisons present a risk to human health and safety and landholders should be appropriately trained to handle them.

In addition to the above, I provide the following information:

Many farmers use poisons classified as S7 as appropriate, for a range of pest and weed control practices. They also use 1080 baits for fox control.

Since December 2002, farmers have been required to hold a current Chemcert certificate (or equivalent) to purchase poisons classified as S7 other than for 1080. Chemcert certification within the farming and associated rural sector is high. While precise figures based on enterprise are not available, it is estimated that over half the state's farms are linked to a Chemcert certificate holder.

For those farmers who do not use poisons classified as S7 other than 1080, Chemcert courses specifically tailored to use of 1080 baits have been available since March 2003.

Consequently I believe farmers generally are well placed to retain or gain access to 1080 baits, even if 1080 baits remain classified as S7.

WHYALLA SPECIAL SCHOOL

In reply to **Hon. T.J. STEPHENS** (23 September).

The Hon. P. HOLLOWAY: The Minister for Education and Children's Services has provided the following information:

The Principal of Whyalla Special School in conjunction with the School governing council determines the relief teaching resources considered necessary to best meet the needs of all students.

The Minister is advised that the Riding for Disabled Association presented the school governing council with a range of options to enable horse riding to be offered with less disruption, however these options are no longer available.

Through a letter, the school governing council informed parents of the conflict of interest with a paid teacher carrying out a voluntary duty (RDA Coaching) during school time. The council recognises a value to those students participating, however, the staffing, learning, care and financial burdens the program currently places on the schools is not justified.

Parents and caregivers have been advised that the Riding for Disabled Program does have a small number of vacancies in other lessons and interested parents should contact the Riding for Disabled Association directly if they wish their students to continue riding.

Whilst the Riding for Disabled Program is valuable and has obvious benefits, the Principal of Whyalla Special School as part of her review of past activities, is working to provide a variety of activities such as dance and movement, to cater for all students of the Whyalla Special School.

This government has a firm commitment to supporting staff-to-child ratios which are appropriate to the age and abilities of the children, in order to maximise their development opportunity. At the same time this government is working to ensure that staff workloads are kept manageable enough for continued high-quality care.

MATTERS OF INTEREST

CAMPERVAN AND MOTORHOME CLUB OF AUSTRALIA

The Hon. J. GAZZOLA: Last month I had the pleasure of representing the Minister for Tourism at the 18th Campervan and Camping Home National Rally held at the Paskeville field day site. The national event titled 'Copper Coast Capers' was also the occasion of the club's general meeting and third annual general meeting. I must confess that prior to this occasion I was somewhat ignorant of the role and nature of the club. Now I am amazed at the size and endeavours of the club.

The Hon. R.K. Sneath: Are you a member?

The Hon. J. GAZZOLA: No, I'm not a member. Some details will give members an idea. The CMCA—or 'the club' as it is better known—which was founded by Don and Erica Whitworth, is 17 years of age and has 34 500 members nationally. It also has a membership joining rate of 35 new members per day—a figure of which many political parties would be envious. Its numbers and rapid growth forced it to become a limited company, with its own national headquarters in Newcastle, complete with a staff of 10. The club even boasts its own monthly publication, *The Wanderer*—a glossy A4 publication—and its own website of, from memory, 190 pages in four languages. This is a club on the move in more ways than one.

The membership is further broken up into local chapters—some 63 in number. As one would understand, club national rallies attract large numbers of members (between 700 to 1 200) plus vehicles, which requires considerable logistical planning for an appropriate site, given that the largest motorhome can be the size of a public bus. The club then needs to meet with councils and shires to plan rallies to accommodate large numbers. Ever mindful of the need for good sites and the provision of service to members, the club has invested in its own rally site at Casino in New South Wales for a total expenditure of $2.5 million. It is pleasing to note that the club has strict rules on site environmental care and member behaviour.

Given the number of members, the club has considerable economic clout. Some of the figures on the economic largess distributed by members during a rally are eye opening. During the 13th anniversary rally in Townsville members spent $1.5 million in the town itself, and in excess of $3 million in North Queensland, for a total expenditure exceeding $5 million throughout Queensland. A private survey commissioned by the club and confirmed by the club's own research put club members' on-the-road costs at between $514 and $625 per week, and the cost of living component at between $340 and $372 per week. The national rally held at Forbes in the same year injected $1.7 million into local coffers. As well as these large national rallies, the various chapters conduct mini rallies, so country coffers bulge considerably during these events. Little wonder that councils and shires understand the tourist potential of these events.

It should also be pointed out that the club has won several major tourist awards. Although members and chapters are spread throughout Australia, or because of it, the club takes a strong interest in promoting a family atmosphere. Assistance—whether it be in respect of a vehicle breakdown, advice on road conditions, the need to find a spare part or the desire for fellowship—is readily available from fellow members or the national headquarters. Before I finish, a word of advice: if you are a regular country driver—as you are, Mr President—but not a motorhome lover, find out where the next rally is being held. In closing, I acknowledge the following staff and office bearers of the CMCA: Mr Alan Tesch; Mr Gary Rebgetz, Chairman; Mr John Osborne, General Manager; and Mr Don Eldred, a director. Further, I congratulate all those involved in the event and, finally, I also acknowledge the presence of the local member, the member for Goyder, who gave an animated talk on both the dangers of motorhome driving in California and presenting one's first speech in parliament.

INTERGENERATIONAL DEBT

The Hon. J.M.A. LENSINK: I wish to make some brief comments today about population policy and intergenerational debt from a generation X perspective. This is an issue which has recently received quite a lot of profile, courtesy of the Reserve Bank and some comments that the health minister made at last week's COTA AGM. In particular, minister Stevens referred to the commonwealth's intergenerational report which was released last year in the commonwealth budget papers. I have read the report from cover to cover because it addresses things of interest to me, in particular, sustainability of government finances, demographic changes in the nation and projections of revenue and expenditure in key areas of health, education and welfare portfolios.

One would think that undertaking such a scenario analysis over a 30-year time frame would be a useful thing to determine how vulnerable the government will be into the future. Interestingly, this is the rationale for the state government's Menadue review into health. Both reviews concluded that the way that we spend money on the subjects of their respective studies is currently unsustainable. I was amazed to hear the health minister describe the commonwealth report as 'ugly', promoting 'intergenerational conflict' and based on 'flawed methodology'. I was bemused that there were no arguments advanced for those assertions.

In 30 years I expect still to be in the work force. People of younger generations than myself will be buying their first homes and starting careers and families, while older folk will require government transfers via the Pharmaceutical Benefits Scheme, pensions and health care. I am quite happy for governments to be forward thinking enough, now, to reduce our tax burden in the future. I would have been even happier if Whitlam had not been so carefree and made his generation believe that everyone had a right to all sorts of free services, including a university education. I would have also been happy if those who could afford to do so in previous generations had been forced, as I am, to make provision for their own retirement. We all know of the current threat to the great Australian dream of owning our own home. Again, it is younger generations which are relatively disadvantaged. The

Reserve Bank may have been using somewhat alarmist language when it referred to 'intergenerational conflict' but I was pleased that it put baby boomers on notice about their well documented taxpayer funded high expectations, which are necessarily at the expense of X, Y, Nintendo and other following generations.

Younger people have already had to be better trained and educated to get their first job. We do not have the easy pathways of previous generations. Consequently, job opportunities and financial security are at the top of the priority list even though there are some people in my age bracket who alleviate this by staying at home or by deferring serious financial decisions. When I heard about the latest summit—managed, as usual, by baby boomers—wondering, 'What can we do to get our young people to breed?' I felt like saying, 'It's the expense, stupid.' Additional fees and charges that this government is imposing hit individuals and aggravate these problems. Government imposts on business, such as WorkCover costs, tax jobs and opportunities.

I will briefly outline some of those. Courtesy of the Rann Labor government we have had a new River Murray tax; increased gas bills (they were to go up by 5.6 per cent but who knows what they might be now); fines and traffic offences are to increase by 5.9 per cent; increased training costs are to be borne by apprentices and trainees, some up to 50 per cent; increases in car registration; and so on. Due to the increase in property values, there is a windfall to the government of about 45 per cent from areas such as stamp duty, ESL, land tax and water and sewerage.

I would like to remind the government that it needs to spend its funds wisely and efficiently and collect them wisely. In my view, this government's social engineering approach will directly hinder economic development, reduce opportunities for young South Australians and contribute to falling fertility levels.

LIBERAL PARTY

The Hon. R.K. SNEATH: I rise to speak about the difference in discipline between the Labor Party and the Liberal Party. Recently we saw an advertisement in *The Advertiser* from the Liberal Party asking for interested parties to stand for parliament.

An honourable member interjecting:

The Hon. R.K. SNEATH: Yes, I would say so. Obviously the prize for one of these lucky applicants could be the seat of Unley. Already, there is a major split in the Liberal Party and some are obviously trying to unseat the member for Unley in order to promote one of their own factional colleagues in the Liberal Party.

The member for Unley was a teacher in the 60s and I remember it being quite common for many teachers then to administer a yardstick or a piece of cane to the hand or buttocks of students caught—or, in my case, wrongly accused of—misbehaving. I must ask the member for Unley if he had a name for his yardstick. One of my teachers quite fondly called his 'Marmaduke', to whom I was introduced on several occasions. On the 24 November 2003 in *The Advertiser*, the member said:

> Certainly from my history in the Liberal Party, it is the sort of thing that certain. . . individuals—

He calls them something else—

> with greed and political ambition have done before.
>
> They will walk over anything and destroy anyone to realise their own ambitions.

That comes from a current member of the Liberal Party. This seems to be a very poor campaign by the member for Unley's opposition, if they think that administering a yardstick in the 60s as a teacher is going to lose him votes. In fact, among some people who attended school in the 40s, 50s and 60s, it might actually gain the member for Unley some votes. All the same, this is causing a rift and tearing the Liberal Party apart with factions bobbing up everywhere led by ambitious characters who remain faceless.

Members interjecting:

The Hon. R.K. SNEATH: I hope you have not got the Hon. Mr Terry Cameron running the opposition's campaign against the Hon. Mr Brindal. The opposition would have no hope because the Hon. Mr Cameron has never run a campaign that he has won; he has never won one. In today's *Advertiser*, the Hon. Mr Brindal states that he is confident that he will retain pre-selection in Unley. Senior parliamentarians among the Liberals say this will create a terrible rift in the party. The rumour is that the member for Unley is only the first name on the hit list. There are very strong rumours which say that the Hon. Mr Lucas is next. His colleagues are saying in the corridors that he has been here too long. They are blaming the Hon. Mr Lucas for the current high electricity prices. Another rumour which the Liberals are leaking to us, of which we were already aware, is that the Hon. Angus Redfern is lobbying behind the scenes to take over as shadow Attorney-General.

The Hon. T.G. Cameron: I rise on a point of order. I am not aware that we have an 'Angus Redfern' in this place. Is he referring to the Hon. Mr Redford?

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

The Hon. R.K. SNEATH: Of course, Mr President, this never happens within the Labor Party. The Labor Party is holding its annual convention at the weekend and there the party will be seen with a wonderful display of discipline, comradeship and constructive resolutions for developing uniform policies. Discipline and good policy won the last election for the Labor Party; discipline and good policy will win the next election for the Labor Party. On this occasion we will have the opportunity to replace those who misled the Labor people by crossing the floor last time.

Time expired.

MINISTER FOR ENERGY

The Hon. D.W. RIDGWAY: I rise today to speak on a particular incident which has resulted in the gross mistreatment of the member for Hartley in an apparent complete lack of respect for the impartial work of committees in this parliament. As a former member of the Social Development Committee, when the inquiry into poverty was handed down, I took great offence to the notion that the committee had recommended doorsnakes and light bulbs. I was certainly never party to such a recommendation. I am sure that all honourable members have heard the Minister for Energy's infamous doorsnake comment. For those who have not, I will quote the comment as reported on radio 5DN on 17 November this year at 3.20 p.m. He said:

> The government will provide them with a AAA-rated showerhead to cut energy and water consumption, two compact fluorescent light globes and a doorsnake.

This came as a result of a recommendation from a select committee of parliament into poverty and what we should do, in terms of energy supply, for low income households.

The Hon. R.K. Sneath: That's a lie.

The Hon. D.W. RIDGWAY: This was a recommendation. The minister said that this was the recommendation. He said:

> Two Liberal members, one that sits in the lower house with Wayne Matthew, right near him, Joe Scalzi, recommended this.

The minister misrepresented both the Social Development Committee and the member for Hartley and, in doing so, maligned the reputations of both. The Social Development Committee in its poverty inquiry, the 17th report of the committee, made no mention of door snakes and light globes. Particularly inept was the minister's assertion that two Liberal members were responsible for this recommendation. The minister knows that the committee is chaired by a member of the government who sits in this council. This is another example of the government's cheap tricks to cover up the real issue, which is providing some relief for low income earners in the face of a massive electricity price hike that the government promised to fix, and it is an issue that is proving to be far beyond the minister and the government.

The Social Development Committee appears to have been subject to attacks from members of the government not only from outside but also from within. I have been informed that, following a motion of the Social Development Committee requesting an apology from the Minister for Energy, the Presiding Member of the committee used every power available to her to defeat the motion. No doubt she intervened to stop scrutiny of the minister, who is, incidentally, her factional master in the Conlon-Bolkus left. It is completely unacceptable that this committee, which should have protected its members—

The Hon. T.G. Cameron: Speak up. We can't hear you over here.

The PRESIDENT: The reason the Hon. Mr Cameron cannot hear is that there is too much interjection on my right.

The Hon. D.W. RIDGWAY: —from vicious attacks, was manipulated in this manner. Committees of the parliament provide an invaluable service by informing the parliament. One of their key features is that they are apolitical and exist to provide a service. The treatment of this committee is an attack on the democratic processes of parliament, and all honourable members are fully aware that committees are an integral part of this process. The opposition and the people of South Australia will not stand for the bully-boy tactics of the minister and the Hon. Gail Gago.

These actions should leave the minister red-faced with embarrassment. Those members who stood up and tried to protect the powers of the Social Development Committee are to be applauded in attempting to uphold this parliamentary tradition to preserve the inviolability of parliamentary committees. They are the Hon. Terry Cameron, my colleague the Hon. Michelle Lensink, and Mr Joe Scalzi, the member for Hartley, who had his good name smeared by the manipulation of this parliamentary convention. The Hon. Gail Gago, the member for Florey and the member for Playford should be ashamed of their treatment of this committee. They are setting a dangerous example in their eagerness to jump into bed with the Minister for Energy.

Members interjecting:

The PRESIDENT: Order! Before I call the Hon. Mr Ian Gilfillan, I point out that it is generally not the province of the council to be critical of democratic committee deliberations. However, there has been a fair bit of political argy-bargy today and to rule one out and one in would be inconsistent to say the least. In future, I would ask all members to remember their obligations to their colleagues and the system of government.

PHARMACEUTICAL INDUSTRY

The Hon. IAN GILFILLAN: My matter of interest today relates to the pharmaceutical industry. It is a matter of considerable concern for the Democrats. For some time, this matter has been affecting an increasing number of businesses, and it is an issue that threatens our local economy in a fundamental way. I speak of horizontal integration within the retail and associated industries. In simple terms, it means the ever expanding appetite of supermarkets to take up small privately owned businesses. This is not a new trend. We have already seen supermarket chains extend their reach across the retail sector. There is hardly a supermarket now that does not include a fruit and veg shop and a butcher. In recent years, this has expanded to include liquor and petrol. Hotels and petrol retailers have felt the effect, as have other retailers already competing with Woolworths and Coles-Myer. It seems that next on the list is pharmaceuticals.

As members would know, regulation of the pharmaceutical industry is largely based at the state level. A national competition policy review of the regulation of pharmacies was initiated in 1999. The review was given three key terms of reference: ownership of pharmacies, location of pharmacies to dispense benefits under the Commonwealth Pharmaceutical Benefits Scheme, and the registration of pharmacists. The final report of the review was handed down in 2000 and its first recommendation was:

> The review recommends that:
> (a) legislative restrictions on who may own and operate community pharmacies are retained;
> (b) with existing exceptions, the ownership and control of community pharmacies continues to be confined to registered pharmacists.

This recommendation reinforces the existing restrictions, within state legislation, on who can manage and own a pharmacy—a rare occasion where a national competition policy review has not decimated the industry that it was reviewing. However, *The Age* of 13 September this year stated:

> Although state-based laws bar anyone other than a registered pharmacist from owning or having a financial interest in a pharmacy, the prohibition is far from watertight. There are ways of structuring arrangements to suit outsiders.

Woolworths CEO, Roger Corbett, announced earlier this year that they were looking for loopholes. In a Canberra radio interview, Ian Brown, a spokesperson for Woolworths stated:

> . . . we're creating many stores within stores. . . They will look like small pharmacies without the pharmacist. They do not have to have dispensing counters. We're planning to roll those out [in] about 100 stores nationwide in our network of 700 supermarkets. . .

While these will sell only health and beauty-type products, such as vitamins, complementary medicines or anything they can get away with without needing to be a licensed pharmacy, Mr Brown went on to say:

> . . . in the course of calendar year 2004 we would invite. . . one pharmacist to trade within a store.

Stores within stores, indeed! I recently wrote to pharmacists in South Australia on this matter and I assure members that there is considerable concern within the pharmaceutical sector about the direction that Woolworths is taking. One pharmacist who wrote back to me put the problem very eloquently, as follows:

> Honestly I am appalled at the prospect of a company [supermarket] that makes significant income from tobacco and alcohol attempting to convince us that it wants to be a player in the provision of Health Care.

The Democrats are also appalled at the moves of Woolworths and its attempt to circumnavigate the intention of our state legislation. It is an example of yet one more round in the assault on small business still recoiling from deregulation of shop trading hours—another move pushed by the big retailers. The small retailer continues to be hit by a volley of attacks from the likes of Woolworths and Coles-Myer.

It was interesting to note comments reported by crikey.com on 31 October. Woolworths CEO, Roger Corbett, fronted the Senate Economic Reference Committee inquiring into the effectiveness of the Trade Practices Act in protecting small business, and he was questioned on predatory pricing. Crikey.com reported the following:

> Sure, Corbett conceded, Woolworths sometimes dropped its prices when challenged by a competitor, but only if it was a big name competitor, never a small competitor whose prices it would merely match.

Why would they bother using predatory pricing against small businesses when they have so many other tools in their armoury that they can use to both push small businesses out of the market and create barriers preventing the entry of new businesses? This assault on the individual ownership, private ownership, of pharmacies is a very significant push by what I regard as the most predatory factor threatening small business currently in South Australia.

BUSINESS, MANUFACTURING AND TRADE DEPARTMENT

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak about the Department for Business, Manufacturing and Trade. Significant concerns have been expressed to me in recent weeks by people doing business with the department and officers within the department about problems with the performance of their minister and, subsequently, their department. Morale is at an all-time low and significant numbers of very good officers have considered their position and are resigning as soon as they can find alternative employment elsewhere. For the key economic development agency of government, the Department for Business, Manufacturing and Trade, to be in this state of affairs is a major problem.

I highlighted earlier today the concerns I had in relation to the minister's performance, which I described as inept, in terms of the appointment to the key position of chief executive. I have highlighted previously my concerns at the current review of the department as to what that will do in gutting that agency, particularly its support for regional areas, of which I am sure that you, Mr President, would be aware. I know that you would share some of those concerns, as well.

I refer to a subsequent issue concerning the review. On 22 September in the House of Assembly, my colleague the member for Waite asked a question of the minister about the review, and in his reply the minister said:

> All I am doing is bringing to the attention of the house recommendations that have been brought to the government by the Economic Development Board with the full support of the echo opposite.

That is, Mr Martin Hamilton-Smith. The minister continued:

> That notwithstanding, the answer to this question is that I understand that members opposite support fully recommendation 67.

After that answer was given, I am told that one of my senior colleagues in the House of Assembly advised the minister that what he said in the house was wrong, that he had misled the house, and that he should not make those sorts of statements. The position of the Liberal Party is that we endorse the general principles of the economic summit, but as I was a member of the communique drafting committee with the Treasurer and Deputy Premier, I know well that no-one on that committee endorsed all the recommendations of the report, including the Treasurer, and no-one wanted to endorse all those recommendations. There was a view that it would be impossible to get all delegates to the summit to endorse all the recommendations of the summit, given that the unions, business and political parties were represented. The form of words, which was suggested by me, was endorsed by the committee and then by the summit.

Having been advised that what he said in the house was untrue, subsequently on 31 October the minister released another statement under the heading 'Industry Minister calls on Lucas to come clean'. It reads:

> Minister McEwen was responding today to a statement issued by Mr Lucas slamming the very review he voted to support in May. . . The committee of review was established following unanimous support from the 280 delegates to the Economic Growth Summit, of which Rob Lucas was one.

It continues:

> The Growth Summit recommended and Rob Lucas supported. . . Isn't it time for Rob Lucas to come clean and tell us where he now stands on the other 72 summit recommendations which he supported in May?

It is disappointing to see the minister resorting to what I see as a schoolboy debating trick to try to mislead in this respect. It is untrue to suggest that I personally supported all the 72 summit recommendations at the economic summit. It is untrue to suggest that the Liberal Party representatives supported all 72 summit recommendations.

The minister was advised by a senior colleague of mine in the House of Assembly that his claims in this respect were untrue. What is disappointing is that, having been advised of that, the minister should then go public in the way that he has to make these incorrect and untrue claims about my position. I hope that the minister has the integrity to stand up in the House of Assembly and publicly apologise for the misleading press statement that he issued on 31 October and indicate that he was wrong in the claims that he made in that statement and that he had been advised that he was wrong prior to making that claim. I am sure that, if he is prepared to admit that he was wrong, some will think better of him for being honest enough to indicate that on this occasion he was wrong, and very significantly wrong, in those statements.

MEN'S SUPPORT SERVICES

The Hon. T.G. CAMERON: Alarming new research by Professor Sue Richardson from the National Institute of Labour Studies at Flinders University has revealed that a large group of South Australian men are in danger of becoming marginalised and isolated by their falling economic and social status. Professor Richardson is currently conducting an Australian Research Council funded study into the abilities needed to bring up children, and she revealed some shocking statistics. According to her research, being married (de jure or de facto) and having a full-time job are the preconditions for being parents, and at least one partner has to have a full-time job to support children.

The research showed an astonishingly high proportion of men in the prime ages—35 per cent of all South Australian men between 25 and 45—are not married or in full-time employment. They may not be roaming the streets in packs but the number of unattached or unemployed men is on the rise. Professor Richardson said that, whilst there has been some growth in the proportion of women in full-time work, it was not enough to cover the male shortfall. She said:

> It is not as if the wives are stepping into the husbands' shoes to become breadwinners.

Alarmingly, Professor Richardson said that research showed that at every age group at least 20 per cent of men without post school education are not even entering the work force. She said:

> They are not unemployed, they are not even looking for jobs. Men are, in a sense, born to work. If they haven't got jobs, many have few other sources of identity to fall back on.

According to Professor Richardson, there is a real possibility that men who fall out of the system will drift to the margins and become poor and lonely, which will result in a significant impact on the fabric of our society. This phenomenon of growing numbers of single men can be partly explained through the growth in the number of single mothers.

There is also psychological evidence that men cope much worse with idleness or loneliness than women. They are socialised into believing their identity comes from what they do with their work, not who they are. The combination of being defined by their unemployment and the failure to build strong relationships is an unhappy prospect, particularly as men grow older. The historical consequences of systemic underemployment are ominous. Historians have found that, around the turn of the last century, the children of unemployed, lower class Australian men experienced extremely high levels of mortality. According to the professor, the image of aimless men roaming the street is not a myth. In Europe, large numbers of men disenfranchised by lack of work in the 18th and 19th centuries became vehicles for social unrest and crime.

As I have stated previously, men's health compared to that of women is also worse off in almost every category, yet men's health is far less funded or promoted. Whether it be chronic conditions such as obesity, cancer, diabetes or cardiovascular disease, these all occur more frequently in men, and overall their life expectancy is five years lower than for women. When we combine these health statistics with falling economic and social status and the lower educational results of teenage boys, is it any wonder that male suicide rates are five times that of females. This is symptomatic of a group that has been conditioned to be undervalued, underappreciated and rendered invisible. Because these young males generally have low self-esteem and are disempowered, it is harder for them to accept their situation and take control of their lives. They may give up, but society should not give up on men. I believe that urgent action is required to address this imbalance.

At the moment it appears that we are hell-bent on creating an underclass of young, single, poorly educated males with low self-esteem who have few or no long-term employment prospects. There would be an outcry if we allowed this kind of social and economic conditioning to happen to our young women. Why is it then that these young men are not given the recognition and support they need to empower themselves? We need to turn it around, and turn it around now. If we do not, the price of inaction will be carried by both men and women.

LAW REFORM (IPP RECOMMENDATIONS) BILL

Adjourned debate on second reading.

(Continued from 24 November. Page 614.)

The Hon. A.J. REDFORD: First, I support the second reading of this bill, and I look forward to the committee stage. Before talking generally about this bill, I should disclose that I am a legal practitioner and that the firm I consult for does engage in representing clients who will be affected by this legislation. Further, out of an abundance of caution, I suspect that the passage of this legislation might adversely affect that legal firm and may even affect my capacity to earn an income should I return to legal practice.

I have read the contributions of the Hon. Paul Holloway, the Hon. Robert Lawson, the Hon. Nick Xenophon, the Hon. Ian Gilfillan and the Hon. Andrew Evans. I will not endeavour to go over their ground. However, I endorse the Hon. Ian Gilfillan's statement when he said:

> We understand the government's approach and the fact that it believes that it is acting with the best intentions.

I think that that would capture all contributors, whatever viewpoint they hold, in so far as this debate is concerned.

In this contribution I want to deal with two discrete issues. First, I refer to some comments made in August last year when we dealt with the government's proposals and, secondly, I will deal with some issues which have been brought to my attention, particularly by the Hon. Nick Xenophon, about certain departures that are contained within this legislation from those recommendations that are contained in the Ipp report.

Members might recall that last year, in August, we dealt with the Wrongs (Liability and Damages for Personal Injuries) Amendment Bill. In that debate, I raised a number of issues, and the rationale for the purposes of establishing relevance in so far as this bill is concerned was that that legislation was designed to alleviate the pressure on the insurance industry and the consequent pressure on small business and the volunteer sector in relation to premiums. On that occasion, I raised a series of questions, including what effect and what impact the measures then before the parliament would have and the impact of previous legislative amendments to the same effect on the motor accident scheme. I also asked a question in relation to the importance of the insurance industry being able to justify legislative change. Indeed, I went on and raised some issues in regard to legal fees.

I received a fairly detailed response from the Hon. Paul Holloway. In relation to the issue of what impact the legislation might have, the Hon. Paul Holloway, quite correctly, said that it would be hard to predict the precise or accurate effect that that legislation then before the parliament might have on insurance premiums. However, in a detailed series of statements to this place, he quite properly outlined the impact of similar amendments to the Motor Accident Commission and its financial position concerning third party injury. On that occasion he said:

> The experience of the Motor Accident Commission was that the introduction of the point scale, coupled with the threshold, produced a significant reduction in non-economic loss payments from what would have been awarded at common law.

I would be most interested to know from the minister whether or not the amendments that were passed last year have had a similar effect within the private insurance industry. I acknowledge that the government may not be in a position to give a definitive answer in relation to that. However, I would be satisfied if the government could at least give me some information about whether or not there has been any impact on the level of premiums that are being offered in the private sector as a consequence of those amendments; or, indeed, alternatively, whether insurance has become more readily available to the community and, in particular, small business as a consequence of that.

The Hon. Nick Xenophon: It has impacted on the level of profits in the insurance industry.

The Hon. A.J. REDFORD: The Hon. Nick Xenophon has probably answered part of it in that he has indicated it has probably impacted on the level of profits. The next comment that was made in relation to the Motor Accident Commission experience by the Treasurer, through the Hon. Paul Holloway, was the following:

> Even in larger claims—in the range of $100 000 to $500 000—it represents something like 25 per cent of the total cost. If the experience of the Motor Accident Commission can be directly applied to other bodily injury insurers, it would not be unreasonable to expect that, in injury claims, insurers could save up to two-thirds of this component of the claim in each case.

So, I would be interested to know whether that has, in fact, happened as a consequence of the legislation that we passed last year. The minister went on in that statement and made this assertion in so far as the Motor Accident Commission is concerned:

> In all, I suggest that the application of these limitations on damages can be seen to have made a very significant difference in motor accident cases. It is therefore entirely reasonable to assume that they will make a significant difference in other cases.

I would be interested to know whether or not the Treasurer can confirm that what he hoped would be the case when he gave the leader those instructions has, in fact, transpired. Indeed, the government went on, through the leader, to state:

> The government expects to see premium reductions.

I would be interested to know from the Treasurer whether or not there has been anything that might suggest that the legislative reforms that we adopted last year have led to the outcomes predicted by the Treasurer, and any information in relation to that.

It is important when dealing with some of these issues that we hold those who make those assertions accountable, particularly when we are moving on to what the Treasurer described when he introduced this legislation as 'the second stage of the government's legislative response to the crisis in the costs and availability of insurance'. Indeed, the credibility of the government and the Treasurer in relation to the promised outcomes may well have an influence on how we might respond in relation to this bill, particularly at the committee stage.

As part of the first stage of reforms, there was also a bill entitled the Recreational Services (Limitation of Liability) Bill, which was also dealt with in August of last year. I well remember that some amendments were moved by the opposition and supported by all the crossbenchers, with the exception of the Australian Democrats, and we had a rare deadlock conference. I know, Mr President, that you were very pleased to note that the views of the Legislative Council prevailed and the Treasurer saw the wisdom of the amendments that were supported by the Legislative Council. During the course of the committee stage of that debate, and in response to some issues that I raised concerning risk management, the Hon. Paul Holloway made some comments about the issue of risk management. In his statement—and I will read it in full lest I be accused of taking it out of context—he said:

> The above-mentioned agencies are working together to ensure that their risk management activities are coordinated where possible to complement each other and enhance the overall benefits to the community. They are also working with the Local Government Risk Services, which is a division of insurance broker Jardine Lloyd Thompson. It provides risk management advice to councils, and it facilitates the provision of public liability cover to a large number of community and sporting clubs associated with councils, with the aim of providing an extended resource base to coordinate a statewide risk management project for community, volunteer and tourism groups and bodies.

I think that that was probably a significant initiative on the part of the government in relation to what I would call market failure in relation to the provision of insurance services, and I will explain why I characterise it in that way.

It seems to me that it has been market failure and, in particular, the collapse of HIH, that has driven insurance products to the state of crisis in this country as opposed to benefits being paid to claimants. I would qualify that last statement by saying, of course, that it is difficult to overestimate the enormous effect that long-tail claims such as asbestos and other issues might have on the provision of insurance services. I would be very interested to hear from the government what outcomes have come from the initiatives of the insurance broker Jardine Lloyd Thompson and the government in relation to risk management and the provision of insurance. I would be grateful if we could have some detail about the small business sectors that have been assisted and also the volunteers. Certainly I do not expect a detailed analysis, but I would be very interested to hear, at the very least, anecdotal results from that particular initiative.

I was also grateful during the course of that debate to hear the following from the Hon. Paul Holloway:

> There is a lot of work to do, and the government is not suggesting that there are not many aspects to the public liability crisis within this country: there are many dimensions to it. One point that I would make is that the federal government has a particularly significant role. . .

He goes on and makes some gratuitous criticism of the federal government. I would be interested to know, apart from the legislative response and the initiatives to which I referred earlier in this contribution, what the government has been doing in relation to this issue.

The second topic I deal with in relation to this contribution is the issue touched on by the Hon. Nick Xenophon. A range of amendments contained within this bill are not precisely in accord with the Ipp recommendations. That may well conflict with the Treasurer's desire that there be 'a national response' to the insurance crisis and statements to the effect that we should not be out of step with what other states are doing. Lest I be misinterpreted, I do not accept that we in this state have to fall into line with any particular national approach. Quite frankly, the failure in the insurance area has been a market failure and, generally speaking, South Australia is of a size that we can secure premiums at a lower rate from within the South Australian market.

For those who look for some specific examples, the Law Society provides a service to its members, albeit a compulsory one, where premiums for professional indemnity

insurance are in the order of half that of premiums payable by some of their counterparts in other states—

The Hon. Nick Xenophon interjecting:

The Hon. A.J. REDFORD: The Hon. Nick Xenophon interjects (I think that is what I was alluding to earlier) and I put the question he asks: has the government considered outside the Jardine insurance broker initiative similar responses to those which have been adopted by the Law Society? I do not necessarily think that we have to fall in line with other states completely. However, consistent with what the Treasurer said in introducing this legislation in another place earlier this year and what the Hon. Paul Holloway said in introducing the legislation later in this place, I would like the government to explain and identify precisely what differences there are between what Ipp recommended in his report and what is contained within this legislation.

In order to assist the Treasurer, I will give some examples of what is different in this bill as opposed to what is contained in the Ipp report. The first example that I would draw to members' attention is the recommendation at page 105 of the Ipp report. In relation to the question of foreseeability—and I am sure all members and most avid readers of *Hansard* would understand to what I am alluding—the Ipp report says that there need to be some changes to the current common law test as to what is the appropriate test in terms of foreseeability of injury in determining whether or not there has been negligence. In that respect, the Ipp report states that the panel favours the phrase 'not insignificant'. It also states:

> The effect of this change would be that a person could be held liable for failure to take precautions against a risk only if the risk was not insignificant.

In line with the Hon. Nick Xenophon's proposed amendments (and I have seen some of them), I would be interested to know from the government why it has adopted the term 'not insignificant'. One might argue that it is a difficult term to apply in a practical sense. One suggestion that has been put to me by the Hon. Nick Xenophon is that it should be a risk that is 'realistic'. I will be interested to hear the government's comments.

Another example in relation to the differences is set out at paragraph 7.17 at page 106 of the Ipp report, which states:

> We also think it would be helpful to embody the negligence calculus in a statutory provision. This might encourage judges to address their minds more directly to the issue of whether it would be reasonable to require precautions to be taken against a particular risk.

The Ipp report suggests that the court's attention should be drawn to the calculus and the consideration of it. In other words, the court may consider that issue, whereas the legislation is to the effect that the court is to consider those matters. I wonder why there is a difference and what the government suggests might be the impact.

The next issue that I address is raised on page 132, particularly paragraph 8.36 of the report, which states:

> Duties of protection play a very important part in the law in safeguarding the interests of vulnerable members of society. We think that this area of the law is best left for development by the courts. We think that it is neither necessary nor desirable for us to make any general recommendation about the incidence of protective relationships.
>
> 8.37. We are reinforced in this conclusion by the clear impression we have gained from our consultations and research that, in general, this area of the law is not a source of controversy or of practical problems. The only context in which difficulties have been identified is that of the liability of occupiers of land to visitors. . .

Notwithstanding the fact that Ipp has made that recommendation, clause 38 seems to contradict it, and I would be grateful—particularly when we reach that part of the committee debate—if the government could explain and justify why it has departed from Ipp in that respect.

Another example appears at page 41 of the report and covers the area of professional negligence—specifically medical negligence. It states:

> In the Proposed Act, the test for determining the standard of care in cases in which a medical practitioner is alleged to have been negligent in providing treatment to a patient should be:
>
> (a) a medical practitioner is not negligent if the treatment provided was in accordance with an opinion widely held by a significant number of respected practitioners in the field, unless the court considers that the opinion was irrational.

At paragraph 3.21, the panel says that that test will 'address the sense of confusion and perception of erratic decision-making which (the panel has been told) have contributed to the difficulty that medical practitioners face in obtaining reasonably priced indemnity cover'. Without being in any way critical of what Ipp is saying, I am not sure how the use of the term 'widely held by a significant number of respected practitioners' will assist in leading to greater certainty. I will be very interested to hear from the government as to how it anticipates evidence relevant to that could be alluded to. For argument's sake, and to put it in a political context, it is very easy for an individual member to make statements on our behalf, saying that this is what members of parliament think, or what they do not think, or this is how they behave or do not behave. Indeed, the Speaker in another place often does that. I suggest to you, Mr President, that sometimes that does not reflect what is in fact the case.

It may well be suggested that that is a matter about which a judge should weigh up the evidence and determine its veracity. However, I am not sure how Ipp, or the government on its behalf, would interpret what is meant by 'an opinion widely held by a significant number of respected practitioners'. Indeed, we know that a lot of opinions that are widely held are simply not true. A widely held opinion is that ministers of the Crown do not need white cars, but that does not necessarily make it a fact nor does it do anything to advance the cause.

Again, I wonder what the government suggests would be argued if it were met with the following scenario, and I give this example. What happens if a couple of witnesses in a court case give evidence that a significant number of practitioners hold that opinion? I know that that is qualified by the term the opinion was 'irrational', but what if, based on the evidence, it is clear that, whilst it might not be irrational or widely held, the practitioner did not have a genuine view about the opinion? I would be interested to know how the government suggests that the court should apply that aspect.

Another example to which I allude is referred to at page 105 of the Ipp report, particularly at footnote 4. The Ipp report there refers to the issue of foreseeability. It alludes to what I was talking about earlier in relation to the issue of using 'realistic'. I wonder why the government would reject the use of 'realistic' and whether the government adopts what the author of the Ipp report says at note 4. Another example of a clear difference between the Ipp report and the legislation is alluded to at page 144 of the Ipp report, where it talks about mental harm or mental shock.

For those persons who are not familiar with this process, mental harm was an extension of the law and in legal terms a relatively recent extension where the classic case was the person who was told of an accident involving a family member or close personal friend and suffered what is known

as nervous shock. The common law, until the relevant changes by the common law, up until that stage had found that in those circumstances the damage was too remote, that there was no foreseeability and therefore the plaintiff could not recover. The law changed in the 1960s.

The Ipp recommendation is much broader than the government's formulation in this bill. Recommendation 34(c)(ii) includes whether the plaintiff was at the scene of shocking events or, and I emphasise, witnessed them or their aftermath. Those specific matters are not included in the bill and I would be very interested to know why. To go back to the issue of 'realistic', I understand that the Ipp report did not prefer 'realistic', but it considered it and did not give what I understand to be clear reasons as to why it should not be used as a term. Perhaps the government may be able to assist me there. I am happy to wait for the outcome of the debate on that issue when we get to that part in committee on the bill.

I apologise to members for being a bit tedious, but this is a difficult and technical bill. The circulation of *Hansard* will decline dramatically when we get to committee because it is a dry argument, but we are dealing with people's rights. The decisions we make in this place regarding this legislation will have a real and significant impact upon individuals. As members of parliament we have to find a balance and pursue broad social outcomes and strategic objectives. We are not here as lawyers to deal with individual cases but, having said that, we are here to keep in mind that those broad social objectives do hurt real people in a real way and we have to keep those things in mind.

Whether one is cynical about plaintiffs, plaintiff lawyers and recoveries by plaintiffs, we all know that in the absence of grace from the good Lord we may well either ourselves or a close family member suffer significant injuries and ultimately have to rely upon what we do here today and during committee. I support the second reading and look forward to the debate and thank the government for giving me the opportunity to speak today on this bill.

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

LOCHIEL PARK

Adjourned debate on motion of Hon. Carmel Zollo:

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

(Continued from 15 October. Page 349.)

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

Leave out all words after the words 'Legislative Council' and insert 'commends SPACE, Mr Joe Scalzi (the member for Hartley), the Hon. Nick Xenophon, Andrew Evans and Sandra Kanck, MLCs, for their contribution in maintaining pressure on the government to honour its pre-election promise to retain 100 per cent of Lochiel Park and that it congratulates the government for honouring 70 per cent of that promise.

I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

LAIDLAW, HON. DIANA

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

That this council congratulate the Hon. Diana Laidlaw for being awarded an honorary doctorate by Flinders University for her commitment to creating a supportive climate for the visual and performing arts in the state.

Other members' former colleague and my predecessor, the Hon. Diana Laidlaw, will become a doctor honoris causa of Flinders University for 'her commitment to creating a supportive climate for the visual and performing arts in South Australia.' Di received several accolades in this place and in the other place, so I will try to be brief in my comments in support of this motion.

As minister for the arts, Di Laidlaw oversaw the establishment of several new organisations for arts, including the Windmill Performing Arts for Children, the Cabaret Festival, the Festival of Ideas, and Wagner's *Ring* Cycle, which was staged in 1998 and which very successfully generated some $10 million in economic activity. She was also a very heavy advocate of Music Business Adelaide and Music House, the ASO, Country Arts SA and the Fringe Festival. One of her most significant contributions to this state has been in obtaining funding for redevelopment of the North Terrace precinct, the riverbank development ($13.5 million) and the West End and Hindley Street precincts.

Those four great institutions that benefited from her advocacy as minister for the arts included the Art Gallery, with extensions in 1996 which doubled the size of the gallery (that had been promised for many years by Labor but was delivered by Diana Laidlaw), the State Library ($40 million), the Festival Centre upgrade ($18 million) and the South Australian Museum ($20 million). They are some very significant infrastructure upgrades that were well in need of being carried out, and it took Diana Laidlaw to do it. The Liberal Party shadow minister for the arts, Martin Hamilton-Smith, has stated that it is now time to ensure that funding is getting to the artists themselves.

Diana Laidlaw was known as a reformist minister, and she cut through red tape that existed in the arts. When she took over the South Australian Film Corporation in 1993 it was in a bit of a sorry state, but it has gone on to become a stunningly successful organisation. Some of its greatest highlights were the movie *Shine*, which received $2 million in funding (directly through Diana Laidlaw's intervention), and *McLeod's Daughters*, which was brought to South Australia by the member for Frome (Hon. Rob Kerin). In regard to the film industry, in 2000-01 South Australia recorded the highest level of direct film spending in its history—some $33 million. As arts minister, Diana Laidlaw obtained significant resources—and I remind the chamber that these were under difficult budgetary circumstances, thanks to the State Bank. Diana Laidlaw was a member of a cabinet whose members could perhaps be described as not naturally being the most frequent attendees of arts activities.

The Hon. R.D. Lawson interjecting:

The Hon. J.M.A. LENSINK: With the exception of a few of our notable colleagues here. Well over $100 million of capital funding has been spent in that portfolio, and $55 million has been committed under the new administration, which is all to the credit of Di Laidlaw and which was achieved through her passion and enthusiasm.

When mentioning someone's abilities and record, I think it is always worth comparing and contrasting it just to see what the other options are. The new Labor government's arts minister is none other than Premier Rann, who has followed in Don Dunstan's footsteps in taking on the arts portfolio while being Premier. While he may have taken on the role, his commitment to the arts has been quite different. In its first budget, Labor cut $3.3 million, in its second budget it cut $1.2 million, and that amounts to some $6.6 million over four years.

In *The Advertiser* of 10 June 2003 the state was warned that the pattern beginning to emerge under Labor is of a continuing decline in recurrent arts funding and a shut down on capital works. Some of the organisations that have suffered are country theatres, the Australian Dance Theatre (which lost funding of 26 per cent), youth arts groups, community arts groups, Music House and the Barossa Music Festival. In August this year, we saw the resignation of Arts SA director Kathy Massey.

Yesterday, however, we saw one of those cute reheat funding announcements, which was rather falsely claimed to be a funding boost, announcing the arts industry development grants. I would like to point out, for the benefit of *The Advertiser*, that it failed to highlight that recurrent funding for this program has decreased by $3.8 million over the coming four years. The Premier also has chosen to ignore the advice of the arts industry in advocating peer review as the best approach to the allocation of arts funding. Without peer review, of course, the Premier has the opportunity to cherry pick programs that will fit within the government's unwritten policy of maximising headlines and retaining funds in the lead-up to the 2006 election. There is a lack of genuine commitment, I would say, by the Minister for the Arts, and the arts do not really know where they stand.

The opening statement of the Premier in estimates this year revealed that funding was being redirected from smaller community-based (including several country) activities to 'iconic Festival of Arts and the reborn Adelaide Film Festival'. It was also stated that 'increasing community involvement in the arts at every level is one of the prime aims of the government'. I would say that that is a contradiction, given that the arts industry development grant funds have been cut and the funding redirected to these 'iconic' (which is code for headline) programs.

In fact, in *The Advertiser* of 2 November 2002, it was predicted that 'Mr Rann is embarking on the negative first half of a pork-barrelling exercise, and he might be taking his lead from Steve Bracks', and that 'Mr Rann has bolstered major festivals but recurrent funding is markedly worse today than it was two years ago'. When arts organisations have made noises (understandably) that their funding has been cut, he has used the same sort of emotive language that he has used on lawyers and electricity companies of late: he told them to 'grow up and stop whining'. I ask the government whether that is the sort of language that we ought to be using with any organisation, given that Mr Rann is the Leader of the Government in this state.

I have seen Di, and she looks well. But no doubt she is very disappointed at what has been happening to the arts that she worked so hard to build up in this state. Nevertheless, she has been recognised for her contribution and, as Professor Anne Edwards, the Flinders University Vice Chancellor, stated in the press release, the arts could have no better champion. I leave the chamber with a suggestion for the government. Russell Starke of the *City Messenger*, in noting Diana's receiving this award, suggested that she really ought to be recognised in some greater way. He said that Laidlaw's battles were just as tough and her success just as notable, in comparing her to Don Dunstan. His suggestion is to rename Festival Drive 'Diana Laidlaw Way'.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. J.M.A. LENSINK: I encourage the government to consider that proposition and to stop being so dishonest and un-community minded in the way in which it treats the arts in this state. I commend the motion to the council.

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

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ANNUAL REPORT

The Hon. G.E. GAGO: I move:

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

This is the committee's 50th annual report. The Parliamentary Committees Act 1991 sets out the committee's principal areas of inquiry, which include any matter concerned with the environment or how the quality of the environment might be protected or improved; any matter concerned with the resources of the state or how they might be better conserved or utilised; any matter concerned with planning, land use or transportation; and any other matter concerned with the general development of the state. Additional committee responsibilities are outlined in the Environmental Protection Act 1993, the Wilderness Protection Act 1992, the Development Act 1993, the Aquaculture Act 2001 and the Upper South-East Dryland Salinity and Flood Management Act 2002.

In this reporting period the committee tabled three reports and considered 30 amendments to the development plan. As a result of submissions from community groups, councils and individuals, three of these amendments were investigated in greater detail by the committee. The committee has the opportunity to recommend changes to the minister for planning if it believes they are needed. The committee appreciates the assistance of staff at Planning SA who are always willing to provide information and advice to the committee.

In July 2002 the committee tabled its 46th report, on the hills face zone. The committee decided to undertake this inquiry as it did not believe that the hills face zone plan amended report dealt with the broader concerns of the community. The committee looked at the integrity of the long-term goals for the hills face zone. The report concentrated on issues related to the gradual erosion of the hills face zone's natural character by the inappropriate development of buildings and associated infrastructure. The committee made nine recommendations and looks forward to the results of the current government review inquiring into the management of the hills face zone.

In May 2003 the committee tabled its 48th report on the urban growth boundary. That report was also the result of a plan amendment report. The committee investigated the issues associated with the implementation of an urban growth boundary. These included: the availability of development sites; the price of houses and land; the cost of maintaining and replacing infrastructure; and the provision of social housing.

In October 2002 the committee had the pleasure of jointly hosting, with the Public Works Committee, the National Conference of Public Works and Environment Committees. This was a great opportunity for committees from parliaments throughout Australia and New Zealand to meet and discuss issues. The conference had a water theme and there were many expert speakers who challenged all listeners to become involved in the water debates that impact upon us all. Part of

the conference was a site visit to the northern suburbs to inspect water re-use using wetlands and aquifers at Parafield. Other site visits during the year included an inspection of the environmentally sensitive urban ecology project in Halifax Street, with its mud-brick homes and roof-top gardens. The committee also inspected the Wingfield Waste Management Centre; Resource Co and Jeffries at Wingfield and viewed the potential future site of the Buckland Park composting facility. The third site visit was a comprehensive tour of water re-use sites within the Patawalonga and Torrens catchment water management board's boundaries. The committee had the opportunity to learn about the capture and re-use of storm-water at the Morphettville Racecourse.

The final inquiry that the committee began in the last financial year was into stormwater management. Twenty-two witnesses provided evidence for a report that was tabled in September of this financial year. The committee is now inquiring into wind farms and is finding this both interesting and challenging as it covers a range of issues, from visual impacts to the national electricity market and renewable energy certificates. This report should be tabled early next year. Other committee interests included the investigation of erosion problems at Christie Creek that were exacerbated by the building of the Southern Expressway. Another matter about which the committee received correspondence was sand mining at Semaphore for the trial breakwater. As a result of community concern, the committee decided to receive regular updates about this project.

I would like to thank the members of the committee for their contribution to the activities of the committee and its reports. Only two of the members appointed after the last election remain on the committee: the Hon. Malcolm Buckby and Ms Lyn Breuer. The other four members, the Hon. Mike Elliott, the Hon. Diana Laidlaw, the Hon. Rory McEwen and the Hon. John Gazzola have retired or moved on to new responsibilities. These members have been replaced by the Hon. Ms Kanck, Mr Tom Koutsantonis, the Hon. David Ridgway and me. Finally, I would like to thank the staff for its ongoing support and assistance.

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

OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION COMMITTEE: WORKCOVER GOVERNANCE REFORM AND SAFEWORK SA

The Hon. J. GAZZOLA: I move:

That the interim report of the committee on the Statutes Amendment (WorkCover Governance Reform) Bill and the Occupational Health, Safety and Welfare (SafeWork SA) Amendment Bill be noted.

The committee has not concluded its deliberations. The bulk of the interim report comprises the evidence received by the committee. I would like to thank the members of the committee for their work to date and also note the good work of the secretary of the committee, Mr Rick Crump, and the research officer, Ms Sue Sedivy.

The Hon. A.J. REDFORD secured the adjournment of the debate.

DRY ZONE

The Hon. KATE REYNOLDS: I move:

That the regulations under the Liquor Licensing Act 1997 concerning long-term dry areas—Adelaide and North Adelaide—made on 30 October 2003 and laid on the table of this council on 12 November 2003 be disallowed.

I believe the dry zone is a racist attempt to keep Aboriginal people out of the public eye in Victoria Square and pushes public drinking out into the parklands and suburbs. It does not address the real problem but rather attempts to alienate Aboriginal people who have used the area as a culturally significant meeting place. The City of Adelaide's dry zone is racist, with Aboriginal people being the group who are primarily affected by these regulations. Victoria Square is a traditionally significant area for Aboriginal people and was once frequented by drinkers and non-drinkers alike, but now we are lucky to see any Aboriginal people in Victoria Square.

The implementation of the dry zone sent a clear message to Aboriginal people that they were the target and were not welcome in the city centre. Unfortunately, that message was loud and clear. Supposedly, an aim of the dry zone was to reduce public drinking in Victoria Square. However, if the issue was about public drunkenness, why not look to the hundreds of licensed clubs and hotels in the city? It seems that the government finds it acceptable for those who can afford to drink in trendy venues and who dress according to certain standards to become totally inebriated if they wish. Yet, those people who use public areas to socialise and participate in the sharing of drinking are not allowed to do so in the city square. If the government is concerned about drunkenness amongst Aboriginal people, why does it not speed up its plans for the Aboriginal detoxification facility? This is a far better solution than merely sweeping problems under the carpet.

The dry zone was supposedly to reduce the anti-social and criminal behaviour of public drinkers in Victoria Square. The evaluation report released in October this year suggests a reduction in criminal and anti-social behaviour in the dry zone area, reporting a reduction in the incidence of offences such as hindering or resisting police, indecent language, loitering, and urinating in public. The report then goes on to look at how perceptions of public safety were improved as though the two were connected. I find it difficult to connect the two. There is no mention of physical violence to members of the public or the reduction of anti-social or criminal behaviour, just of loitering, use of offensive language, etc. Whilst this behaviour may be undesirable, it is, in reality, of no threat to members of the public.

There needs to be a move towards changing perceptions amongst people to show that groups of Aboriginal people are no more threatening than groups of white people. We need to move towards accepting cultural differences. Some people drink at night, spend money on boutique wines and expensive cocktails, spill out onto the streets, and catch taxis home. Other people socialise under the trees during the day with take-out grog and then catch a train home. Both groups engage in what many would consider undesirable behaviour at times. The only difference is public perception.

Even if the people passing through Victoria Square do feel safer, what about those people on the fringes of the dry zone who, according to the report, feel less safe? This is an indicator that the dry zone pushes the so-called problem away rather than addressing it. Introducing dry areas as a means of improving public safety is a fallacy. It is about perceptions held by the public, so why not find ways to address racism and build cultural acceptance rather than accepting or even regulating racism which forces people away? I suggest that

the dry zone is an attempt to move Aboriginal people out of Victoria Square so that their consumption of alcohol takes place away from the public eye.

The evaluation report into the City of Adelaide's dry areas indicates the displacement of public drinkers from the city to the parklands. This further alienates those people from the city and their friends and family who visit from other parts of Adelaide. What I find even more disturbing is the displacement of what the report calls day visitors, who once used public transport to travel from the suburbs to meet friends in the city. This group made up a majority of drinkers in Victoria Square, and it is this group who now meet and drink in the suburbs.

This is disturbing on two counts. First, it means that people are further away from centrally located service providers. Initiatives such as the long-awaited stabilisation facility, which offers much-needed support to people who are habitual drinkers, is inaccessible to those who are forced out of the city centre. The promised detoxification and family centre, if it ever eventuates, will also no doubt be in the city, and will force people to come out of the suburbs when they are already in a fragile state. Surely this is just another barrier.

Another concern with people staying home and drinking in the suburbs without the support of service providers is the increased likelihood of domestic violence, fighting and brawling behind closed doors. Taking these issues into the private sphere is dangerous for both women and children by forcing people away from their traditional meeting place and taking the problem of inappropriate drinking away from the watchful eye of appropriate service providers.

The Democrats are not the lone critics of the continuation of the dry zone. Aboriginal representatives such as the Kaurna elder Tauto Sansbury and the CEO of the Aboriginal Legal Rights Movement, Neil Gillespe, do not support the dry zone. In a letter to *The Advertiser* dated 23 October, Dr W. Jonas, the Acting Race Discrimination Commissioner at HREOC, expressed concern over the dry zone and highlighted the importance of treating Aboriginal people with 'dignity and not as disposables that can be swept out of sight and out of mind'.

Monsignor David Cappo, Chair of the state government's Social Inclusion Board, is also a critic. The Inner City Administrators group, comprising groups such as the Adelaide Central Mission and the Aboriginal Sobriety Groups, withdrew their support from the state government working party set up to review the dry zone after the government extended it for another 12 months. The South Australian Council of Social Service (SACOSS) has steadfastly maintained its opposition. It is evident that people who are out there trying to solve the problems for socially disadvantaged people clearly oppose the dry zone. Even past supporters such as Councillor Anne Moran have withdrawn their support for the dry zone. She said on Radio 891 on 30 October that the dry zone has not worked.

The dry zone is not solving the problem of racism or inappropriate or excessive drinking in public places. It is simply sweeping it under the carpet away from the public eye. The government needs to concentrate on a broad level of strategies and to focus on a service response, not a regulatory response. That is why I urge my fellow members to disallow the regulations.

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

SOCIAL DEVELOPMENT COMMITTEE: SUPPORTED ACCOMMODATION

The Hon. G.E. GAGO: I move:

That the report of the committee on an inquiry into supported accommodation be noted.

I am pleased to report on the Social Development Committee's inquiry into supported accommodation. The report provides a number of important findings and recommendations which were unanimously agreed to by all committee members. The committee found that there has been a longstanding lack of community based supported accommodation for people with disabilities in this state. As a result, many people with disabilities are living in circumstances that would be entirely unacceptable to many members of the community. Also, many families are taking on enormous responsibilities for full-time care of people with disabilities.

The committee heard oral evidence from 38 people representing 18 agencies and organisations and five individuals and received 85 written submissions from 25 individuals and 60 organisations. Many witnesses who provided evidence were parents of people with disabilities representing community and family groups and organisations. The committee recognises and commends their contribution and the contribution of other carers in this state. The Social Development Committee thought to recommend strategies and efficiencies within current resource levels where possible, and we were aware that there are currently a wide range of successful initiatives aimed at maximising quality services within available funding that have already been implemented.

However, this inquiry has shown clearly that the lack of community based supported accommodation is a direct result of inadequate funding in both the disability and mental health sectors. Funding for accommodation support under the Commonwealth, State and Territories Disability Agreement has increased from 1998 to 2002. Also, significant additional disability services funding over the next four to five years was announced in the 2003-04 state budget, and that will go some way towards addressing these problems. However, increases have not matched rising demand in this state. Spending in the mental health sector also remains disproportionately concentrated on in-patient services.

Additional funding for a range of different models of community based supported accommodation in both rural and metropolitan areas is urgently required to meet the needs of people with disabilities now and in the future. This is needed for people who are currently living with families in institutions and those inappropriately catered for in other settings such as aged care facilities, acute sector facilities, supported residential facilities (SRFs) and boarding houses.

Before continuing, I acknowledge the work and cooperation of my colleagues Mr Jack Snelling, Mr Joe Scalzi, Ms Frances Bedford, the Hon. Michelle Lensink and the Hon. Terry Cameron. I also acknowledge the work of the research officer, Miss Susie Dunlop, and the secretaries to the committee, Ms Robyn Schutte and Ms Kristina Willis-Arnold, in preparing and writing the report—a considerable task. I also acknowledge that this inquiry resulted from a motion put to this council by the Hon. Sandra Kanck.

I will now provide a brief overview with some key findings and recommendations of the inquiry, beginning with the crucial issue of continuing unmet need. The committee found a continuing and significant level of unmet need for

supported accommodation amongst people with disabilities in this state, reflected in several areas:

· in large waiting lists and waiting times for supported accommodation (around 383 for Options Coordination clients alone in December 2002);

· in long-term, inappropriate placement of people with disabilities in alternatives such as SRFs, aged care facilities, hospitals and rehabilitation centres;

· in unacceptably high levels of long-term burden on unpaid, usually family, carers; and

· in continued admissions of people with disabilities into institutions.

The committee also received evidence that disability support services, including supported accommodation for people with psychiatric disability, are almost non-existent. Given strong evidence that appropriate disability support services can significantly reduce reliance on clinical and acute mental health services, access to such services is extremely important.

The committee found that there is also a high level of unmet need among people with disabilities in rural areas. While 26.9 per cent of the South Australian population lives outside the Adelaide metropolitan area, only about 8.7 per cent of supported accommodation places are outside the metropolitan area.

First and foremost, the committee recommends that adequate funding be immediately provided for community-based supported accommodation to meet the needs of those people currently on the options coordination urgent needs list for supported accommodation. Secondly, the committee calls for a strategic planning and funding framework to meet the current demand and future projected needs of people with disabilities in supported accommodation. This is particularly important in view of a demonstrated rise in the rate of people with non aged-related disabilities.

The framework should incorporate a range of models, including addressing the needs of people in rural areas, people with high level support needs, indigenous people, children with disabilities and people with disabilities exiting prisons. The committee also strongly encourages continued innovation in the development of supported accommodation models that balance quality of life with some necessary economies of scale. The committee also urges the state government to engage with the commonwealth to promote greater flexibility in the allocation of future, unmet needs growth funding to ensure that the state priority areas are addressed in future.

A major issue identified by the inquiry was that families are taking on enormous responsibilities for full-time care of people with disabilities, resulting in serious detriment to the physical, psychological, social and financial well-being of carers. The vast majority of people on the urgent needs list for supported accommodation currently live with family carers, and around 40 per cent of all adult mental health consumers reside with their families. The lack of any planned approach to placement of people with disabilities into supported accommodation exacerbates anxiety, stress and burn-out in families and limits their potential to work cooperatively with supported accommodation providers. Carers emphasised to the committee that greater respite and inhome supports, while urgently needed, cannot be the sole response to the lack of supported accommodation. Additional resources must be directed into planned supported accommodation where this is a real need.

The committee found that there was widespread support for deinstitutionalisation in both the disability and mental health sectors, provided that adequate community-based services are available. A move to community-based supported accommodation for people with disabilities is likely to entail a significant economic cost but is justified by improved integration and quality of life for people with disabilities. Its progress in South Australia has, however, lagged significantly behind other states. Inadequate provision of community-based supported accommodation during the process of deinstitutionalisation to date has also resulted in an increased burden on public housing, SRFs and also the criminal justice system. Also, there have been some negative impacts in terms of community perceptions and levels of homelessness.

The committee therefore recommends that the government develop a fully funded plan to ensure that deinstitutionalisation is completed in both the disability and mental health sectors within five to 10 years. It is crucial that adequate supported accommodation be supplied to people currently living with family carers and people who are inappropriately placed in other settings, as well as for those people who are leaving institutions.

Disability support services for people with a psychiatric disability are almost non-existent in this state. These people cannot access disability sector services, and the disability sector cannot incorporate an additional group in view of the already very high levels of unmet need. The committee therefore calls for a strategic planning and funding framework to include the development of a range of needed disability support services, including supported accommodation for people with psychiatric disability, as a matter of urgency. It is also recommended that the 16 current supported accommodation projects being developed by the Department of Human Services for people with a psychiatric disability be evaluated (when they are completed, of course) and, where found to be successful and where appropriate, expanded.

The committee found that supported residential facilities (SRFs) accommodate over 1 300 people in this state, most of whom have a significant disability and often a psychiatric disability. Based on the evidence received and some comprehensive research recently conducted by the Department of Human Services, the committee believes that SRFs are inappropriate for housing people who require more than basic support.

Also, the committee found that the SRF sector has, for at least the past decade, experienced financial difficulties, and ongoing closures have severely reduced the capacity of the sector. Also, closures are revealing large numbers of people with disabilities in need of more suitable supported accommodation. Members are probably aware that two weeks or so ago it was announced that the state government had approved a significant funding package over the next five years and a comprehensive strategy to support the needs of vulnerable people in SRFs in response to the crisis occurring in this sector. Also, an SRF ministerial advisory committee was established in 2003 to consider a review of the SRF act, to strengthen consumer protections, and to ensure standards of care are appropriate and there is broader reform of the SRF sector. A ministerial boarding house task force was also established in July 2003 and is due to make recommendations in April 2004.

The committee strongly supports the current directions for improved resourcing and reform of the SRF and boarding house sectors. For people remaining in SRFs, the committee strongly recommends that prescriptive strategies be urgently

developed to improve access to external services such as HACC and Options Coordination for residents.

The level of input required to provide care for children with disabilities can be difficult for many parents to sustain over the long term, especially in view of the lack of supports. Family breakdown can result in parents having to relinquish their child to the care of the state. Where children with disabilities are relinquished, they enter the alternative or foster care system in which they are increasingly difficult to place. Children who cannot be placed in alternative care may be placed in respite centres, residential facilities such as Minda, or occasionally in medical facilities, for extended periods of time. Currently, around 10 per cent, or approximately 120 children, in alternative care have a disability. The committee commends the contribution of foster carers in caring for children with disabilities in this state. The inquiry identified a lack of strategies to prevent the relinquishment of children with disabilities and it also highlighted the frustration that many families feel when resources are made available to foster carers that are, in fact, unavailable to them as natural parents.

The findings of the recent Layton child protection review strongly supports evidence received by the committee in relation to children with disabilities and their families. The recommendations of that report relating to children with disabilities are strongly endorsed by the committee. The committee also calls for improved strategies to prevent relinquishment, including improved inter-agency collaboration and specific brokerage funding for preventive supports to families.

It was widely recognised across the disability services sector that indigenous people are significantly under-represented as clients in disability services, including supported accommodation. The committee received evidence of a lack of indigenous-specific services and lack of services in rural and remote areas, and the widespread problem of acquired brain injury resulting from petrol sniffing in some indigenous communities. Some detailed research relating to the needs of indigenous people with disabilities has been undertaken by the Department of Human Services and the Coroner in South Australia. Furthermore, an Aboriginal Lands Standing Committee has been recently established.

Also in recognition of previously inadequate provisions for indigenous people with disabilities, the Disability Services Office has planned and implemented a range of initiatives, including the establishment of an Options Coordination Indigenous Unit in 2002 and an interim state indigenous disability network to advise the government. The committee recognises and supports current initiatives in disability and mental health services, as well as indigenous housing.

I will now talk about the standards of supported accommodation for people with disabilities in this state. In a situation where people with disabilities are reliant upon higher levels of agency and staff involvement in their everyday lives, effective mechanisms to ensure the quality of accommodation and support services are extremely important. Both the disability and mental health sectors have developed a range of processes to ensure appropriate monitoring standards and, although the work of the Disability Services Office is particularly well developed in this regard, the committee has called for improved advocacy and complaints mechanisms.

Equitable access to community resources such as public housing and the Home and Community Care (HACC) program, Domiciliary Care Services and the independent living equipment program are important to assist people with disabilities to remain in their own homes in the community for as long as possible. In view of the important contribution of the South Australian Housing Trust and the Aboriginal Housing Authority to provide housing for people with disabilities in this state, declining public housing stock is a serious concern. Many witnesses also expressed the view that services such as HACC and domiciliary care should also be available to people living in a range of settings, including SRFs and boarding houses, although one of our findings was that this is often not the case. Equipment and home modifications can play a very important role in enabling people with disabilities to remain at home. The committee supports the recommendation of the DHS administrative review of the independent living equipment program completed in 2002, and calls for a further increase in equipment and modification provisions through the program.

Access to suitable daytime activities such as employment and other day options is also important for the quality of life and community integration of people with disability and reduces the pressure on daytime support services in the home, wherever they may be. Some of the other issues which the committee noted included that there are unacceptably large numbers of people with disabilities aged under 65 living in aged care facilities, including many in rural and remote areas, where alternatives to aged care facilities were found to be limited; and also additional pressure is being placed on disability services funding due to increasing numbers of people with disabilities who are surviving into old age. In conclusion, I would like to stress the urgent need for the government to address existing unmet need for community based supported accommodation amongst people with disabilities.

The government has a responsibility to provide quality of life and community inclusion for these members of our community who, in many instances, have suffered a long-standing disadvantage. Furthermore, we must relieve the unacceptable level of pressure on family carers and ensure that people with disabilities are not being placed in inappropriate forms of accommodation, such as young people being placed in aged care facilities. I would also like to stress the need for a strategic planning and funding framework to meet the future need for supported accommodation by people with disabilities in the mental health sector. This should be in the context of development of a comprehensive disability support services framework for people with a psychiatric disability.

There is also a need for a definitive resolution regarding deinstitutionalisation in this state. Traditional institutional care solutions are no longer acceptable to either clients or their families, or to the community at large. However, deinstitutionalisation must be supported by the provision of adequate community based supported accommodation and adequate transitional funding to facilitate the deinstitutionalisation process. Both the disability and mental health sectors in this state have demonstrated high levels of competence and innovation in maximising services to people with disabilities within very limited resources; and there have also been some funding improvements in recent years in recognition of high levels of unmet need. However, additional funding must be provided urgently to address existing unmet need and the implementation of a comprehensive plan to provide for the supported accommodation needs of people with disabilities in this state in the future.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

MEMBER'S REMARKS

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

Leave granted.

The Hon. A.J. REDFORD: Today, the Minister for Agriculture and, I understand, the Treasurer in another place, made a ministerial statement referring to me and, in particular, a question I asked yesterday. In that statement the Treasurer demanded that I should apologise. In his statement the Treasurer stated that it was the Under Treasurer who wrote in the performance evaluation document the following:

> The credit for these outcomes lies with the Treasurer and the government but the Under Treasurer has provided strong support.

I have now checked the documents provided to me again. The documents I was provided were similar—there were three similar documents. The documents came to me from the FOI officer and appeared in the schedule as the 'signed CE performance agreement (including completed assessments) between the Treasurer and the Under Treasurer for the period to 30.6.03', and as such I assumed that it was the Treasurer's assessment.

The document itself was undated, so I could not determine the sequence of events other than by reference to the schedule. The documents were copied after I received them in this office. However, unlike the Treasurer, who has refused to apologise to the Hon. Rob Lucas regarding the black hole statements and budget allocation for teacher pay rises, I apologise—

The Hon. R.K. SNEATH: Mr President, I rise on a point of order.

The PRESIDENT: I think the honourable member is about to say that the Hon. Mr Redford is introducing new grounds and that he cannot debate the issue.

The Hon. A.J. REDFORD: I apologise for attributing comments in this document to the Treasurer.

ELECTRICITY INDUSTRY

The Hon. SANDRA KANCK: I move:

1. That a select committee of the Legislative Council be established to inquire into and report on the electricity industry in South Australia with the view to reducing the price for households and small businesses, with particular reference to—
   - (a) the effect of the national electricity market on retail prices;
   - (b) the effect of the lease of the electricity assets on the retail price, in particular the effect of distribution and network charges;
   - (c) the nature of cross-subsidies within the market;
   - (d) non-disclosure of standing contract prices committed to by retailers for the purchase of their electricity;
   - (e) the effectiveness of the Essential Services Commission Act, including the interaction between the minister and the commissioner;
   - (f) options for the future, including increasing supply and managing demand;
   - (g) service standards, including electricity supply and reliability; and
   - (h) any other related matters.
2. That standing order 389 be suspended as to enable the chairperson of the committee to have a deliberative vote only.
3. That this council permit the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.
4. That standing order 396 be suspended as to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

The exorbitant price of electricity in South Australia is the single most contentious issue facing the Rann government. This government was elected on the pledge that it would reduce the price of electricity in South Australia. Since that election pledge the price of electricity for small consumers has skyrocketed 25 per cent. We now have the spectacle of the Rann government claiming that what it actually promised was cheaper power than would have been delivered if the Liberals had won government. I will not even bother to analyse that piece of newspeak. That is not to say that I lay the blame for the price of electricity at the feet of the Rann government: it has simply failed in keeping a substantial election promise.

It is much clearer that the former Liberal government played a significant role in increasing the price of electricity by its decision to deregulate and then privatise the industry in South Australia. Nevertheless, the Labor Party in opposition at that time is hardly blameless. In 1994, when we were dealing with the Electricity Corporations Bill, the shadow treasurer at that time (Hon. Kevin Foley) had this to say:

> . . . as long as the government is prepared to acknowledge that the purest form of Hilmer—

and for those who do not know what 'Hilmer' is, Hilmer was responsible for competition policy—

> for this state will cause irrevocable damage to our industrial, economic and domestic base, I am there with the minister.

That is profoundly cynical, particularly when the Labor Party in opposition supported that legislation.

Whilst I have the opportunity, I want to make it clear—and put on the record for those who have become aware of these issues only in recent times—that the Democrats opposed the bill that led to the splitting up of ETSA and also to the establishment of the National Electricity Bill. I want to read some of my comments from 1996 about that issue, and I must say that I am impressed by my accuracy. I asked:

> So, who will gain from the national electricity market?
>
> *The Hon. R.K. Sneath interjecting:*

The Hon. SANDRA KANCK: I think that the Hon. Mr Sneath will find that it is a very good source and that he will be amazed at how accurate I was. I continued:

> Those businesses which are larger consumers of energy stand to gain, at least in the short term. . .
>
> There will be a benefit also for the producers of electricity. . . in the short term companies which are large consumers of electricity will be able to purchase their power requirements at lower prices than at present but in the longer term nothing is guaranteed. In the longer term, it will be that the big multi-national power companies which will gain, and that gain will occur at the expense of local companies, courtesy of privatisation.

Those were my comments in my second reading contribution on the National Electricity (South Australia) Bill 1996. I had this to say on the Electricity Corporations (Generation Corporation) Amendment Bill 1996:

> I predict that other electricity industry assets owned by South Australians would also be needed to be put on the market. For South Australia, then, entry into the national electricity market means privatisation in the not too distant future and probably more job losses. Government assurances that there is no intention to privatise any major component of ETSA is meaningless—as meaningless as Labor's recently stated commitment to the maintenance of publicly-owned generation and distribution capacity. . . So I am tipping that, after a March 1997 election—

and I was out a little bit, because it was October—

> we will see moves to privatise the electricity corporation.

I then observed:

Through these electricity Bills, we are seeing a voluntary act of centralisation by the States.

So, the Democrats opposed the second reading on both those bills. I figure that if I was able to see that so clearly in 1996, both the government and the opposition should have been able to do so, too. Two days ago, we saw the release of the paper by the Essential Services Commissioner, and I want to read from that. The paper was entitled 'Electricity Prices—the True Story'. He states:

The high prices (and price rises) experienced by residential consumers are therefore a direct result of these policy initiatives—

and that is what we were talking about in 1994 and 1996—

to reduce the cost of electricity to local business.

Later on in the document he states:

This transfer from residential (as well as small business) to large/medium business consumers was not arbitrary; it was based on the 'user pays' philosophy, on the removal of 'cross subsidies' between these customer groups which experts determined did apply in the 1990/91 tariff structures.

Later he says:

In other words, it is the Commission's view that the pricing outcomes are exactly what were to be expected from the energy market and competition reforms endorsed by all Governments in the early 1990s.

Finally, he says:

The pendulum has swung in the last ten years from residential to business consumers, and if it has swung too far, it is up to the policy makers to correct it, if that is what they wish. But they have achieved their original objective.

I think that that is probably the crux of the matter before us at the present time, that it is now up to the policy-makers, if they do not like the situation, to do something about it.

I think that it is important that we address the current situation with all the objectivity that we can muster. The terms of reference for this committee are very wide and allow this parliament, through a select committee of this chamber, to address the whole electricity industry in South Australia. I do not want South Australians to be put at risk—of their lives, in the case of the elderly and those with disabilities—during either the depths of winter or the height of summer because the price of electricity is out of their reach.

I want electricity to be treated once again as an essential service. I hope that this committee will be crucial in delivering that outcome. Getting cheaper prices is what I hope will drive this committee. I know that some people are a little sceptical about whether that can be achieved, and I know that some people have already said: 'Not another committee!' However, I believe that they are mistaken.

Since deregulation and privatisation of the electricity industry in South Australia, there has not been a comprehensive investigation of the electricity industry. Given that we have moved from a vertically integrated, centrally controlled, state owned cooperative electricity system to a disaggregated, market based, privatised system, it is surprising that the industry has not been subjected to greater scrutiny. If you add to that equation the very high prices that we now have, it really is extraordinary that there has been no attempt other than this to come to grips with the changes that have, unfortunately, been rung in.

I have been trying for some time to get a committee to seriously investigate this situation. I have called on the Rann government on a number of occasions to set up a high-powered independent inquiry into the issue, but the government has studiously ignored my call. So I approached the Leader of the Opposition, Rob Kerin, and suggested a parliamentary committee.

I am very pleased that the opposition leader was courageous enough to back my plan. I know that there were those who were surprised, because they saw that the Liberals would be put under scrutiny for their previous actions. I believe that being seen to be in the game of searching for answers to the current problems will far outweigh any retrospective political problems for the Liberals. I urge Labor and Independent members in this chamber to follow the opposition's lead in this case.

I do not know what the outcome will be of this committee. I hope that there will be recommendations about reform of the national electricity market. As the lead legislator with the national electricity bill in 1996, South Australia has at least some influence. I urge members to support this motion. I also ask for their support in dealing with this quickly, so that we can vote before the end of next week. I know that this is a little faster than some business with which we deal. Nevertheless, the issue of electricity prices is so important for South Australians that it deserves this sense of urgency. If I can have that cooperation, it will mean that committee will be able to meet quickly, begin the process of advertising for submissions and begin in the new year to start hearing the evidence so that we can, as a parliament, come up with concrete solutions to give South Australians a decent price for their power.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to support the motion. In doing so, I indicate that I think that the time for extensive debate and discussion about the complex issues will be during the committee stage, and I do not intend to offer views or comments on the range of the terms of reference that have been moved by the Hon. Sandra Kanck.

At the outset, I indicate that Liberal members will not only support the motion but will also support the Hon. Sandra Kanck's request, as a private member, to have the matter voted on before the end of next week; whether that will be Wednesday or Thursday will ultimately be determined by the Hon. Sandra Kanck and members of this chamber. Liberal members will support not only the motion but also the request of the honourable member to have the matter voted upon before the end of next week.

The Hon. Sandra Kanck has outlined the background to this: a discussion she had with the leader of the Liberal Party, Rob Kerin. As with all issues, Rob Kerin was prepared to consider the proposal fairly and impartially and ultimately from the viewpoint of what will be best in terms of the public interest in this area. On that basis Rob Kerin, the Leader of the Opposition, indicated that he accepted that there might be some who present evidence to the committee who might wish to apportion some blame to the former Liberal government. Equally, there may be some who wish to apportion blame to the current Labor government and perhaps to federal governments and others. All will be involved but, nevertheless, the Leader of the Opposition adopted a view that this was an important enough issue that it ought to be addressed by a committee of inquiry and that we ought to do so quickly. As the Hon. Sandra Kanck has indicated, hopefully by early next year people can start presenting evidence, after they have been given an appropriate time to provide written submissions to the select committee.

Personally I strongly support the position the Leader of the Opposition has adopted in relation to this issue. Many

statements have been made in recent months that I would dearly love to have responded to. There have been a lot of misstatements and errors alleged in terms of what occurred and the reasons for their occurring during the preparation for the national market and during privatisation. This committee will provide an appropriate forum to place on the record the facts in relation to a number of those issues.

Whilst I suspect that necessarily there will be an investigation of the background and the past in relation to this, the key issues, from where we are now, are: what are the policy options for the future, what is this government doing and, more importantly, what will the next government need to do to ensure we have an electricity industry as efficient and effective as possible in South Australia? That, broadly, will be summarised by increased supply options, increased generation interconnection options and, in some way, management of demand in South Australia. A range of options have been proffered in recent weeks that touch upon proposals for managing demand. In the broad they will be the sorts of issues and policy options that I hope this committee will get its teeth into.

To look at the supply issues, we went for a period of almost 10 to 15 years during the early to mid-1980s to the mid-1990s where very little extra supply was provided in South Australia. In the four years between 1997 and 2001 there was a 40 per cent increase in supply capacity in South Australia. Without that 40 per cent increase we would have suffered massive load shedding last summer and would again in coming summers as well. The concern many of us have from the opposition is that the new minister is sadly lacking in terms of capacity to manage his portfolio and sadly lacking in interest. His great policy response has been a door snake and two light globes, which is the best he has been able to offer in almost 18 months in terms of policy options. A number of unkind telephone callers have had some suggestions for the Minister for Energy as to what he might like to do with his door snake option, which I will not place on the public record.

Members interjecting:

The Hon. R.I. LUCAS: Mr Doorsnake himself, the Minister for Energy.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: I can assure you that if you put one in both ears it would not light up the Hon. Bob Sneath. Supply options are a critical part of this. An important part of this debate will be the never-ending debate in relation to wind power. There have been a number of quite sensible contributions to the policy debate about wind power in South Australia and, nationally, the impact on the grid, and it would be well worth while for the select committee to get its teeth into the pros and cons of a massive expansion of wind supply in terms of supply options and the impact on the grid. A number of rational commentators in this area have raised some important questions we will have to address as a community in relation to future supply of electricity and the impact on prices as a result of greater quantities of wind power being integrated into our grid.

The second element is demand management. We have seen a number of suggestions in terms of the integral meters, rationing of power to businesses on a rotational basis—a range of options have been offered in terms of demand management and again I hope the committee will get its teeth into it. It is much more than the paucity of policy offerings from the current minister—such as its all being solved by a door snake and two light globes, which seems to be the best that can be offered by the Minister for Energy.

The other important thing in terms of the future of the electricity market nationally is the regulatory structures at the national level. There is a huge debate going on about a supposedly single national regulator and major changes at the national level, which have been significantly held up by the petulant display of premiers, including our own, walking out of the COAG meeting when key decisions about the national electricity market had to be resolved. Sadly, petulant displays by premiers, including our own, walking out of COAG meeting mean that critical decisions about changes to the national electricity market have been held up and delayed by the actions of this government.

This government has managed to escape criticism from the media in South Australia on this issue. When we look at policy options for the future, the shape and structure of the regulatory framework for the national market are critical issues that are not attracting enough debate here in South Australia. Naturally, when a minister suggests that a door snake and two lights globes is the solution, that will dominate talk-back radio and media discussion. We need not discuss the door snake and light globe option to the extent that we have—

The Hon. Caroline Schaefer: Python Pat.

The Hon. R.I. LUCAS: I had not heard the minister referred to as that and it would be unparliamentary to call him Python Pat. I am not interested in that, but critical decisions are not being made by this government and other governments at the moment at the national level in terms of the regulatory framework. In terms of how we structure the national market, the three broad areas of future policy options are: supply options, demand management and the national regulatory framework.

The Hon. J.F. Stefani interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Stefani says the upgraded equipment; that is also critical. In all of those areas there are significant policy decisions that will have to be taken. We are not seeing from this government a recognition of the importance of any of those three areas of the management of the national electricity market.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Sneath, by way of consistent interjection, is spoiling for a fight on this issue. I would be happy to reciprocate on any occasion and I would welcome the Hon. Mr Sneath on to the committee.

An honourable member interjecting:

The Hon. R.I. LUCAS: No, they did not; the House of Assembly did.

Members interjecting:

The Hon. R.I. LUCAS: They are not in the House of Assembly. The challenge I put to the Hon. Mr Sneath is that if he wants to put his mouth where his brain is (or whatever substitutes for his brain), let him get the numbers to get on the electricity committee and I will happily engage with him there, rather than here this evening.

Members interjecting:

The Hon. R.I. LUCAS: Absolutely, we will be there. Let us see if the Hon. Mr Sneath can be there. With those comments I indicate the Liberal Party's support for the motion and for a vote on this before the end of the next parliamentary week.

The Hon. J.F. STEFANI: I was not going to participate in this debate but I have been encouraged by the interjections

to say a few words. I concur with the comments of the Leader of the Opposition about the supply of electricity. I remind members, in particular government members, that they were very much against the Pelican Point power station. The Treasurer, the Hon. Kevin Foley, went to the barricades to stop the world. He was going to lie down before the bulldozers to stop that power station. I remind members that if we did not have that power station right now we would be in real trouble.

The supply and generation of additional electricity are crucial issues for South Australians. South Australia depends on the power supply. If we deny the opportunity to properly assess the requirements of our state, the future direction to provide power for the expansion of industry and the reliability of the industry to operate, we will be doomed. The editorial in *The Advertiser* identified that as the great challenge. The committee to be set up, which I happily support, will need to look at, indeed a very critical part of its investigation will be, supply. I indicate my support.

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

[Sitting suspended from 6 to 7.45 p.m.]

LAW REFORM (IPP RECOMMENDATIONS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 694.)

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank members for their contributions to the debate on this bill. Members have made many comments and asked a great number of questions about the bill. Some of these questions related to what may be called economic matters, for instance, the insurance crisis and the situation of insurance companies, and other questions related to the legal aspects of the bill. I will address the former matters first.

As a general response to the contributions, I note that in developing the government's response to the Ipp review the Treasurer has consulted extensively with interested stakeholders. There are certain recommendations of the Ipp report that we will not be implementing (notwithstanding that they have been adopted in other states), having been convinced by feedback through the consultation process that their adoption would result in unduly harsh impacts.

The government believes that the bill, while obviously not pleasing everyone, strikes an appropriate balance between ensuring that people take responsibility for their own safety while not unduly restricting the rights of injured parties to seek remedies when they suffer from the negligence of others.

The Hon. Andrew Evans asked whether the government had investigated alternative measures, including insurance pooling. Apart from the package of tort law reforms being pursued by the government, attempts have been made to assist, as far as practicable, community organisations in particular to overcome their public liability insurance difficulties. The government's captive insurance organisation, SAICORP, has worked closely with the Local Government Mutual Liability Scheme to assist community groups to seek to obtain improved public liability insurance outcomes in the commercial market.

Where appropriate in certain circumstances the potential for pooling arrangements through national associations or other mechanisms has been raised with community groups as a potential solution. The government has also provided one-off financial assistance to historic railway organisations to meet their public liability insurance costs this year and has established a working party involving industry representatives to attempt to find a viable long-term solution.

The Hon. Nick Xenophon quoted the Treasurer's statements regarding the response of insurance companies to the tort law reforms. On numerous occasions the Treasurer has made his views known to insurers at ministerial meetings and other communications with industry leaders. With respect to the commitments made by insurers, the communique from the 15 November 2002 Ministerial Meeting on Public Liability Insurance records that 'industry representatives present at the meeting assured ministers that adoption of the Ipp recommendations will increase the availability of public liability insurance cover, particularly in the community sector, and will bring certainty and stability to pricing' and that the industry agreed with the actuarial assessments presented to ministers as to the likely reductions in premiums flowing from implementation of the Ipp proposals.

At the latest ministerial meeting held on 6 August 2003 in Adelaide, representatives of the insurance industry 'assured ministers that tort law reform is improving insurance conditions in the Australian market and that some capacity and price stability is returning'. The ACCC has been requested by the commonwealth government to monitor costs and premiums in the public liability and professional indemnity sectors of the insurance market, including giving consideration to the impact on premiums resulting from the legal reforms being pursued by all governments.

The first of these reports was released in early August 2003. While the ACCC reported that insurers expected further increases in premiums during 2003 there were some indications that, at least in public liability insurance, the reforms were anticipated to somewhat reduce the magnitude of those increases. The report only reflected the perceived impact of reforms undertaken up to the end of 2002 and accordingly the ACCC concluded that it was too early to assess the impact of the reforms on costs and premiums. It is likely that the impact of the reforms being pursued by all governments will take some time to materialise in reduced claims cost.

The commonwealth government has indicated that, if necessary, it will review the extent of the ACCC's powers, including more formal processes, if it becomes clear that cost savings are not being passed on to consumers. The Hon. Nick Xenophon queried the evidence base which justifies the reforms contained in the bill, including in respect of the arguments that average payouts for personal injury claims are lower in this state than in New South Wales.

While it is the case that average claims are higher in New South Wales (and the ACT) than other jurisdictions (including South Australia), a report prepared by Trowbridge Deloitte for the Heads of Treasuries Insurance Issues Working Group in May 2002 found that all jurisdictions had experienced strong rates of increase in the average size of bodily injury claims in recent years which was well above wage inflation, including South Australia. Furthermore, the most recent ACCC price monitoring report indicated that average public liability insurance premiums had shown similar trends across all jurisdictions—being fairly flat between 1997 and 2000, increasing in 2001 and rising steeply in 2002. South Australia experienced similar trends to other

jurisdictions in public liability insurance premiums over this period.

In relation to legal aspects of the bill, the Hon. Robert Lawson summarised the effect of the bill and its relation to the recommendations of the Ipp committee. He also referred to similar measures that had been taken in other states. He referred particularly to Victoria which he said had chosen not to enact legislation adopting much of the Ipp report and described it as having 'supinely abandoned adopting the recommendations of the national committee'.

I should correct this impression in that the Victorian government, on 28 October 2003, introduced the Wrongs and Other Acts (Law of Negligence) Bill 2003 which adopts the principal recommendations of the Ipp report dealing with the duty of care, causation, obvious risk, negligence of professionals, contributory negligence, mental harm, the liability of public authorities and other matters.

The honourable member also mentioned the Western Australian Civil Liability Amendment Bill. That legislation has now passed the Western Australian parliament. It received royal assent on 30 October 2003 and is to commence on proclamation. As the honourable member said, it adopts many of the core recommendations of the Ipp report, although not those dealing with the standard of care for professionals. However, I believe that the Western Australian government has announced that the standard of care for health professionals will be the subject of a future bill.

The honourable member lamented the fact that the present bill does not provide for proportionate liability in property damage and economic loss cases. The government also regrets this. The government plans such legislation but believes it is important that, if at all possible, proportionate liability laws should be nationally consistent. Although the concept is simple and has been nationally agreed, the execution of proportionate liability is technically complex and some points remain under discussion nationally. This explains why, although some states have legislated for proportionate liability, they have not yet brought their provisions into operation.

Only recently, on 13 November, the New South Wales government introduced legislation that proposes to make several amendments to the Civil Liability Act concerning proportionate liability. The government hopes that members can see that it would be undesirable to have varying models of proportionate liability around Australia if this can be avoided. If we must wait a little longer, in the hope of finalising a national model, the government thinks that this would be wise. The honourable member also pointed out the absence of professional standards measures from this bill. This is because such measures are the subject of a separate bill that has been introduced in another place. That bill is in keeping with legislation in New South Wales and Western Australia and, with a model outlined by the Hon. Mr Lawson, I hope it will earn his support.

The Hon. Mr Lawson also pointed out that, in the provision dealing with the standard of care for professionals, the bill provides that the court may reject the widely held view of the profession concerned if persuaded that this opinion is irrational. The honourable member foreshadowed a question about why this term has been adopted instead of the familiar legal term 'unreasonable'. The Hon. Mr Xenophon also drew attention to this provision. It may be helpful—and perhaps save time in committee—if I take the opportunity to explain the reason now. This provision in clause 24 (proposed new section 41) adopts Ipp recommendation 3. The Ipp report says that an important consideration in this area is to give guidance to the court about when it would be justified in not deferring to medical opinion. The recommendation, therefore, is that the court is to be guided by opinion widely held in the relevant profession unless that opinion is irrational.

This test is derived from the decision of the House of Lords in the case of Bolitho v City and Hackney Health Authority (1998) Appeal Cases 232. The Ipp report makes clear at paragraph 3.17 that the purpose of using this term, rather than the term 'unreasonable', is to give professionals as much protection as is desirable in the public interest. As Ipp observes—

The Hon. Nick Xenophon: Why are you using the House of Lords? Why are you going to England? What is wrong with Australian cases?

The Hon. P. HOLLOWAY: Sometimes there are precedents in other states that set lessons.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It is not a question of that; it is a question of whether that particular case has lessons for us. As Ipp observes, the chance that an opinion, which was widely held by a significant number of respected practitioners in the relevant field would be held to be irrational, is very small. The term 'irrational' sets a higher standard than the familiar term 'unreasonable'. For example, *The Macquarie Dictionary* gives us one meaning of 'irrational' as utterly illogical; or, not in accordance with reason. This is different from saying that something is merely unreasonable, which the Macquarie defines as, not guided by reason or good sense. The use of the term 'irrational' rather than 'unreasonable' is a linchpin of the provision. The policy is that, if it is widely held in Australia by members of the relevant profession that the action in question is competent professional practice, then the courts should normally accept that it is so.

The reasoning is that, in general, it is fair to allow the profession, with the benefit of its qualifications and collective experience, to identify what is competent practice rather than leaving this to the courts. However, there should be an exception which acknowledges that even learned opinion, widely accepted, can sometimes go off the rails. The provision, therefore, works by giving the doctor a defence based on a widely accepted judgment within the profession, but giving a court the power to override this, if in fact the judgment makes no sense. The Hon. Mr Xenophon noted that the term 'irrational' is not defined and asked whether the dictionary definition was intended. Although there is no definition, some authority for what is meant can be found in the Bolitho case. Under the proposed provision, the court will have to ask the question: has the widely held opinion some logical basis; or is it capable of withstanding logical analysis?

It is only where the opinion cannot be logically supported at all that it is irrational—short of that, the opinion provides a defence, even if some might consider it unreasonable. As Lord Browne-Wilkinson said in Bolitho at page 243:

> It would be wrong to allow such assessment to deteriorate into seeking to persuade the judge to prefer one of two views both of which are capable of being logically supported. It is only where a judge can be satisfied that the body of expert opinion cannot be logically supported at all that such opinion will not provide the benchmark by reference to which the defendant's conduct falls to be assessed.

As the Ipp committee says at paragraph 3.21, under the proposed model it would not be for the court to adjudicate between the opinions. If the term 'unreasonable' were used

instead, then arguably the court could depart from the view widely held in the profession if it saw a reason to disagree with it. That would not be very different from the current law and it would not give the doctors and other professionals the protection that this provision seeks to give them.

The Ipp committee was satisfied (as it notes at paragraph 3.20) that the recommended rule contains sufficient safeguards to satisfy the reasonable requirements of patients, medical practitioners and the wider community. It hoped that the proposed test would address the sense of confusion that the panel had been told contributed to the difficulty faced by doctors in obtaining reasonably priced insurance. The report goes on to note (paragraph 3.23) that the irrational treatment proviso enables the community, through the court, to exercise control over the very exceptional cases where even the modified Bolam test does not provide adequate safeguards.

The government agrees with the arguments made by the Ipp committee. It believes the present law is unsatisfactory because it potentially exposes professional people to liability, even when they have conscientiously followed practices that are widely held in the profession to be proper and correct. All that is needed is for the court to prefer the opinion of one expert who is prepared to say that the practice is inadequate. This makes it difficult for a professional to know whether he or she has acted correctly, and likewise, makes it difficult for insurers to gauge the risk of insuring a particular profession.

We have seen the cost of professional indemnity insurance rise substantially in recent times. Many professionals have made representations to the government that something must be done. If professionals are to continue to provide their full range of services to the public at reasonable cost, we must act to reduce the uncertainty created by the law in this area. That is the aim of this provision. The intention is that the professional should be entitled to rely on opinions widely held in the Australian profession about what is competent practice, but should lose that defence if in fact the opinion is so far wrong that it can be considered irrational. Of course, the defence proposed by this provision will not be available in cases where a professional has obviously made a mistake; for example, where a doctor has operated on the wrong limb or a lawyer has allowed a time limit to slip by. In that case, the opinion of the profession will be that the conduct was not competent practice and the professional can gain no help from this provision.

Rather, this provision will be particularly useful where a professional has had to make a choice among several possible courses of conduct, and the chosen course produces an adverse result. If the choice was made in accordance with what is widely held in the profession in Australia to be competent practice, then, in general, the professional was not negligent. The government would be very concerned at any watering down of this important provision. The Hon. Mr Xenophon has asked a number of questions about particular provisions of this bill. In relation to proposed new section 32(1)(b), precautions against risk, he asked about the expression 'not insignificant' and posed the question: insignificant to whom? This provision deals with when a risk of harm is foreseeable for the purpose of giving rise to a duty of care.

The background, as the honourable member explained, is the decision of the High Court in the case of Wyong Shire Council v Shirt. In that case the threshold tested foreseeability was said to be whether the risk was 'far-fetched or fanciful'. If not, then it was foreseeable for this purpose. The aim of the Ipp committee, in this context, is to raise that threshold. The term 'not insignificant' was the term selected by the Ipp committee after considering and rejecting alternative expressions. The committee points out that the double negative is intentional. It is intended to set a standard that is higher than 'far-fetched or fanciful', but not so high as 'significant'. If the risk is insignificant, then a reasonable person would not be negligent in failing to take precautions against it. If it is not so, then precautions may be required, and that is the second stage of the court's inquiry.

The court looks at the case from the point of view of a reasonable person. The question, then, is whether the risk should be judged insignificant in the circumstances; that is, was it insignificant to a reasonable person. If the court thinks that it was insignificant, then there will be no finding of negligence for failure to take precautions against it. The honourable member has asked about the relation between proposed new section 32(1)(b) and 32(2)(a). He thought that the reference to 'the probability that harm would occur' was irrelevant if the defendant need only take precautions against risks that are 'not insignificant'.

It is important to understand that subsections (1) and (2) set out a two-stage process. The Ipp committee recommended this because evidence presented to it suggested that there is a tendency in practice to conflate two separate inquiries. The first is whether the identified risk of harm was foreseeable and was such as to give rise to a duty of care. If a risk is not foreseeable then there is no duty of care to guard against that risk. Foreseeability is a different matter from probability, as the Ipp committee explains, because foreseeability can vary with knowledge. Something very unlikely may be foreseeable if you have relevant information. So the committee recommends that there may be a legislative statement separately setting out the requirement for foreseeability, including the finding that the risk is not insignificant, that is, not one that a reasonable person would be justified in disregarding. Unless the matters listed in proposed new section 32(1) are made out, the defendant will not be negligent, even though he or she failed to take any precautions because there is no breach of a duty of care.

The second step is that set out in proposed new section 32(2). Having found that the risk was foreseeable and was not insignificant, the court must then proceed to determine the content of the duty of care, that is, what a reasonable person would have done about the risk. It is at this stage that the negligence calculus comes in, that is, the weighing of various factors to determine what should have been done. These are the four factors set out in 32(2) and they include the probability that harm would occur if precautions were not taken. Even though a risk was not insignificant, it does not follow automatically that precautions must be taken. This is the error into which the Ipp committee found that courts and lawyers have occasionally fallen. Rather, to decide where precautions should have been taken, one weighs up the likelihood of harm if they were not taken, the likely seriousness of that harm, the burden of taking precautions to avoid it and the social utility of the risk-creating activity. These four factors have been derived from the judgment of Justice Mason to which the honourable member referred.

The Hon. Mr Xenophon also asked what sort of burden is referred to here. For example, if it is too costly to avoid the risk, will defendants be absolved of their duty to take care even if the potential harm is catastrophic? The answer is that any kind of burden could be considered, although cost is an obvious one. The court has to weigh up all four factors and any other relevant considerations and make a judgment about

whether a reasonable person would have taken precautions. In the case of catastrophic potential harm, and particularly if that harm is probable, that may outweigh the burden. In the case of a small risk of minor harm, the burden may outweigh that. It is a question for the court in every case.

The member also asked about the reference to social utility and its relation to the factors referred to by Justice Mason in the Shirt case. This is one of the four factors to be considered. It derives from Justice Mason's references to any other conflicting responsibilities which the defendant may have, that is, responsibilities to other people or to the public at large. It is particularly relevant, for example, to emergency situations. It is well accepted that a lower standard of care may apply in an emergency situation compared with that which would apply under more ideal conditions. For instance, an ambulance that exceeds the speed limit or proceeds against a red light may not be negligent if it is doing so in an attempt to get a critically injured person to hospital. Using the calculus, the activity may not be negligent, even though there is an evident risk of harm from this activity. The harm could be serious and it could be easily avoided. If this part of the calculus were missing, the court might be forced to conclude that the ambulance driver was negligent in speeding.

The honourable member devoted some time to proposed new section 33 dealing with a duty of care in relation to mental harm. He was concerned at the statement about when a duty of care not to cause another person mental harm will arise. The government has adopted the Ipp recommendations faithfully in this context. The Ipp committee clearly derived its recommendation directly from the High Court's decision in the Tame and Annetts cases, and the government does not believe that the provision here proposed will produce results inconsistent with those cases.

The proposal here is that, in the context of deciding whether the defendant ought reasonably to have foreseen the harm to the plaintiff, the question will be whether the defendant should have realised that a person of normal fortitude in the plaintiff's position might suffer a psychiatric illness in the circumstances. The provision goes on to list some of the circumstances that must be considered. The reason for the rule is that it is not sensible to put the defendant under a duty of care just because an unusual person of special psychiatric vulnerability might react adversely to the defendant's actions. As Chief Justice Gleeson explained in the Tame case:

> The variety of degrees of susceptibility to emotional disturbance and psychiatric illness has led courts to refer to 'a normal standard of susceptibility' as one of a number of general guidelines in judging reasonable foreseeability. This does not mean that judges suffer from the delusion that there is a 'normal' person with whose emotional and psychological qualities those of any other person may readily be compared. It is a way of expressing the idea that there are some people with such a degree of susceptibility to psychiatric injury that it is ordinarily unreasonable to require strangers to have in contemplation the possibility of harm to them, or to expect strangers to take care to avoid such harm.

It is in just that sense that the expression is being used in this bill. It is setting a limit to foreseeability. It does not, of course, mean that a person with special vulnerability cannot recover. They can do so if they are injured in circumstances that also had the potential to injure a person without that special vulnerability.

The different results in the Tame and Annetts cases illustrate how this would work. In the Tame case, Mrs Tame sued over an error in a police report. The report incorrectly stated that she had been driving with a blood alcohol reading of 0.14 per cent. In fact, she had no alcohol in her blood at all at the relevant time. This mistake so disturbed her that she suffered a debilitating mental illness. She claimed damages from the government for the negligence of the police.

The High Court found that a reasonable person in the position of the police officer could not have been expected to foresee that an error of this sort, writing down the wrong figure in the report, would cause such an illness. Because the harm was not reasonably foreseeable, the police officer was not negligent. That is, a duty of care does not arise just because a person of special vulnerability might develop an illness in response to your actions. The court also noted that there was no relationship connecting Mrs Tame and the police officer such as would give rise to a duty of care, but rather that a duty of care toward her would tend to conflict with the discharge of the officer's duties. Again, that is a factor that would be weighed under this provision.

Conversely, in the Annetts case, it was held reasonable to expect the station owners to foresee that persons of ordinary fortitude in the position of Mr and Mrs Annetts might suffer a mental illness as a result of what happened to their son. That would be the expected result under this proposed provision. Factors that would tell in favour of finding a duty of care would include the parent-child relationship between the plaintiffs and the deceased and the relationship of reliance between the parents and the station owners. The measure provides for an exception where you know or should know that the person concerned is not of normal mental fortitude. This exception is referred to expressly by Justice Gaudron in the Tame/Annetts cases. An example might be where the defendant is the plaintiff's psychiatrist.

The honourable member suggested that this rule is at odds with the eggshell skull rule, that is, the rule that you must take your victim as you find him. That rule, however, is about the assessment of damages. It says that if you are negligent and injure someone then you are liable for the whole of the resulting damage, even if it is unexpectedly large because the plaintiff is an especially vulnerable person. That rule is not changed by this bill. Proposed new section 33 is not about the assessment of damages but about whether a duty of care arises. If you could not be expected to foresee that your actions might harm a person of ordinary mental fortitude, you are not negligent. If you could be, then you are, and if you happen to harm a person who turns out to be especially vulnerable, you pay the full price.

In deciding what you could reasonably foresee, the court is to consider the matters listed in 33(2). They are the factors to be weighed. They have been derived from the Tame and Annetts cases. Those cases did not hold that these factors are of no relevance but only that they are not to be regarded as pre-conditions. The Chief Justice there said:

> The common law of Australia should not, and does not, limit liability for damages for psychiatric injury to cases where the injury is caused by a sudden shock, or to cases where a plaintiff has directly received a distressing phenomenon or its immediate aftermath. It does not follow, however, that such factual considerations are never relevant to the question whether it is reasonable to require one person to have in contemplation injury of the kind that has been suffered by another and to take reasonable care to guard against such injury. In particular, they may be relevant to the nature of the relationship between plaintiff and defendant, and to the making of a judgment as to whether the relationship is such as to import such a requirement.

In other words, as the Ipp committee says, these considerations are no longer pre-conditions but they have not been abandoned by the common law. Rather, they are relevant to be taken into account, and this clause so provides. As an

example, the requirement for sudden shock has been abandoned by the High Court as a pre-condition of liability. In the Annetts case, the parents pieced together over several months the truth about what had happened to their son. The High Court did not consider that to be a bar to recovery. Similarly, under this provision, if the injury was the result of a sudden shock, that may incline the court more readily to find that it was foreseeable, because one can expect people to realise that a sudden shock can produce an illness, but the absence of a sudden shock will not be decisive against a finding of foreseeability because the other factors must also be considered.

The honourable member asked particularly about the proposed consideration of a pre-existing relationship between the plaintiff and the defendant. He thought that it may be superfluous because of subparagraph (iii) which talks about the nature of any relationship between the plaintiff and the person imperilled. These are two distinct considerations. For instance, in the Annetts case, the parent/child relationship between the plaintiffs and the person imperilled was obviously a very important factor. So was the relationship between the plaintiffs and the defendants. The High Court laid some emphasis on the latter as a factor that weighed in favour of a finding of liability despite the absence of any sudden shock. The station owners had promised Mr and Mrs Annetts that they would take good care of their son, and it was in reliance on this assurance that the parents had agreed to let him go. This relationship of reliance explained in part why the station owners were held liable. The honourable member appeared concerned that this would undo the effect of the decisions in Tame and Annetts. That is not their intention, nor (the government believes) their effect. The very same factors that the court weighed in those cases are the factors required by this bill to be considered by our courts.

The Hon. Mr Xenophon also spoke about the provisions dealing with obvious risk. He asked the government to explain how a risk could be obvious if it were not prominent, conspicuous or physically observable. The Hon. Mr Evans made the same point. The answer is that a risk may be well understood by everyone even if it does not take a physical form. One example is the risk that, if you go bush walking in a national park, you might be bitten by a snake. There may be no sign of snakes and you may not know for sure whether or not there are any in the park—that is, the risk may not be conspicuous or physically observable. Just the same, the danger is so readily apparent to most people that it is fair to call it obvious. Another example is the risk faced by a body surfer that one of the approaching waves may be a dumper. There is no way of telling this by looking at the wave and, in that sense, the risk is not prominent, conspicuous or physically observable. Just the same, it is quite reasonable to expect people to realise it. That is, a risk can be obvious to the mind even if it is not obvious to sight, as the dictionary definition mentioned by the honourable member indicates.

The honourable member asked why the government had departed from the Ipp specifications on this point. The Ipp committee made a far more reaching recommendation. It proposed a statement that 'obvious risks include risks that are patent or matters of common knowledge' and 'a risk may be obvious even though it is of low probability'. The government originally planned to incorporate these statements but was met with adverse comment, including from the Law Society and the Plaintiff Lawyers Association. The provision of the bill is therefore a modification of the recommendations which particularly captures the concept that matters of common knowledge can be obvious even if they are not physically observable. The government thinks the provision is quite reasonable. People should look out for obvious risks and avoid them. People who ignore obvious risks and come to grief should not be able to blame others. Our liability system is fault based, and that means taking account of the fault of all parties, including the injured party.

The honourable member also asked about the effect of these provisions on the diving cases. As he pointed out, there have been some cases in which the courts have held a council, tourist authority or other entity liable for failure to warn users of a swimming area about hazards such as submerged rocks and sand bars, and other cases in which these entities have been exonerated. The answer is that each case will depend on its own facts. The court must consider whether, in the circumstances, the risk is one that would have been obvious to a reasonable person in the position of the plaintiff. If the risk is obvious, two consequences flow.

First, the defendant is not obliged to warn the plaintiff about it unless the plaintiff has specifically asked or one of the other exceptions proposed in section 38(2) applies. Secondly, if the defendant raises a defence of voluntary assumption of risk, the plaintiff will be taken to have known about the risk unless he or she shows that in fact he or she did not know about it. In other words, the effect of the bill is that if, as a matter of fact, the risk would have been obvious to a reasonable person in the plaintiff's position, then it will be treated, at least initially, as having been obvious to the plaintiff. The government thinks that this is commonsense. Consider the Romeo case, where a person suffered injury after stepping over a cliff. The risk was found to be so obvious that there was no duty to warn. Indeed, if there were a duty to warn in such circumstances, the cliff tops and beaches of Australia would soon be festooned with signs.

The honourable member asked if the government acknowledges that the effect of proposed new sections 36 and 37 will be that there is less of an obligation on councils and others to put up warning notices. That depends on where the present obligation is thought to lie. The courts have produced different results in different cases. In the Nagle case, the tourist authority was held liable because a man dived into shallow water and struck his head on a submerged rock. The authority's negligence was in failing to put up a warning sign. Under this provision, the result might have been different if it were correct to characterise the risk as obvious. However, in the Romeo case, the council was held not to have been negligent, despite the absence of a warning sign near the cliff edge. That result would be the same under this provision. In Romeo, Justice Kirby said that 'where a risk is obvious to a person exercising reasonable care for his or her own safety, the notion that the occupier must warn the entrant about that risk is neither reasonable nor just'. These provisions are entirely consistent with that rule.

The honourable member asked about new section 37(2), which deals with the defence of voluntary assumption of risk. The effect of the provision is that, if the risk is found to be obvious, then the plaintiff will be taken to have known about it, unless he or she proves otherwise. The honourable member asked why the onus had been shifted to the plaintiff. The answer is that it is reasonable, if a risk is in fact obvious, to presume that the plaintiff knew about it because a reasonable person in the plaintiff's position would have known about it, and it is fair to start from the assumption that the plaintiff is a reasonable person. If, however, the plaintiff did not actually know about the risk, then the plaintiff is in the best position

to prove this. The member referred to shifting an onus of risk. Rather, what is shifted here is the burden of proof of a particular fact—that is, the obligation to displace the presumption. This should not be difficult if, in fact, the plaintiff was not aware of the risk because it is simply a matter of giving that evidence. No-one is better placed to prove the plaintiff's state of knowledge than the plaintiff.

The honourable member asked in particular about the interaction between this provision and the rule that this defence is not available in road accident cases as regards a driver's intoxication. The answer is that the two can coexist. Proposed new section 37 is a general provision giving an aid to proof of the volenti defence. However, of course, it cannot be used where the defence is, as a matter of statute, unavailable. That is the case in claims covered by section 24K(6) of the Wrongs Act, that is, intoxication cases. That section is moved but is not amended by this bill.

The honourable member asked whether the defence of voluntary assumption of risk would be expanded by this provision. This depends on what is meant by 'expanded'. The defence is not changed, although proposed subsection (3) would add a limit to it in that, if a reasonable person would not have taken steps to avoid the risk, then the defence will fail. This is thought to reflect the common law but the government acknowledges, as the member points out, that there have been very few of these cases determined by the courts.

In other respects, the provision does not enlarge the common law. The defence is the same as ever, but it makes it easier to prove. This was the intention of the committee. It thought that the defence should be easier to prove and proposed to achieve this by the means set out in proposed sections 37(1) and (2). I foreshadow a minor amendment to this provision to clarify it.

The honourable member asked whether proposed new section 38 was a bar to recovery of damages. It is simply a statement about the defendant's duty of care. That duty does not extend to warning people about obvious risks. If the sole basis of the plaintiff's action against the defendant is that the defendant failed to warn of a risk, and the defendant proves that the risk was obvious, the defendant will not be in breach of duty of care and the case will fail.

The honourable member also asked about what is intended by a request for advice, or information about a risk, particularly when the risk is not physically observable. Again, this will be a question of fact in each case. In the example I gave earlier, if the park authorities were asked about whether there were any venomous snakes to be found in the park, the authorities would have to disclose what they knew about it. This need not be problematic.

The honourable member asked why proposed new section 39 was necessary, since it simply restates the common law. The answer is that it is sometimes worth stating the law so that it is clear to all and so that it does not change, except by the will of parliament. The government acknowledges that this provision does not change the law.

In relation to proposed new section 41, the honourable member said that this was simply a restatement of the Bolam test. With respect, that is not so. The Ipp committee was at pains to point out some problems with the Bolam test and did not urge its direct restoration but a modification of it, and that modification is embodied in the bill. In particular, concerns that this might be a 'mate's defence', as the member said, are addressed by the requirement for the defendant to prove that what he or she did accords with what is widely accepted in Australia to be competent, professional practice. Unless it is, in fact, widely held to be so, the defence will fail.

The honourable member asked whether this provision would alter the result of the Kite case: that would depend on the evidence called. If the doctor were able to establish that it is widely accepted in Australia to be competent medical practice not to have any system for following up the result of biopsies with pathology services, then the result would be different; whether that could be proved is another matter—and I would have thought it doubtful.

The honourable member also asked about the distinction being drawn in proposed new section 41(4) between 'universally accepted' and 'widely accepted'. The intention here is that the court may be satisfied that conduct is widely accepted in Australia as competent conduct, even if it is not accepted by every practitioner in the field in Australia as being so. It is not uncommon for there to be different schools of thought, or minority or dissenting voices within a profession, about a particular practice. Indeed, it would be surprising to find any profession in which all its members were in perfect agreement on everything. Nonetheless, if the view is widely held, it can be relied on by the court.

The honourable member mentioned the proposal to restore the highway immunity rule and asked whether the government acknowledges that the provision would overturn the result in the Brodie case: it does. The government does not agree that road authorities should be liable in negligence for failure to maintain or repair a road. The result is that the courts can say how the budgets of these authorities are to be expended. The government does not think that is the role of the courts.

The honourable member asked whether the government had considered a sunset clause and placing an obligation on authorities to deal with risks of injury. The government is open to the possibility of dealing with this issue in the long term by a defence based on compliance with road maintenance standards. Some work is being done to explore this option, but that work is not well advanced and a sunset clause is not considered desirable.

The honourable member spoke about the proposed amendments to the Limitation of Actions Act. He said that new section 45A would impose a six-year time limit for children. This is not a time limit (the child can still sue up to the age of 21) but is simply a requirement to give notice. He asked why the claim for gratuitous services should be denied if there has been a failure to give notice. The intention is that there should be a potential penalty for failure to give notice as a way of encouraging parents or guardians to notify of claims within six years of the event. This is considered to strike a fair balance between the interests of the child in retaining the entitlement to sue up to the age of 21 and the interests of the defendant in finding out within a reasonable period whether he or she is to be sued.

The government was asked to consider adopting a six-year time limit for children's claims. Although absolute limits for children apply in the ACT and in Tasmania and although time is to be allowed to run against children in Victoria and New South Wales, this government has declined to do that. At the same time, the government acknowledges the difficulty for doctors in particular who must continue to take out insurance cover, perhaps well into retirement, because they do not know whether they may be sued as a result of some incident many years before.

The bill tries to protect children by maintaining the current time limit but yet assist defendants by providing for early

notice. Of course, the bill does not provide that a child is automatically deprived of damages for gratuitous services if there has not been a notice. The court is to consider whether there is good reason for the failure to notify. If, as the honourable member suggests, the failure occurred because no-one knew that the child had sustained an injury, the court is likely to find that to be a good reason and, if so, no penalty will apply.

In relation to proposed section 48(3a)(a) to be added to the Limitation of Actions Act, the examples given are meant to amplify the concept proposed in (3a)(b), that is, the new material fact having major significance on an assessment of the plaintiff's loss. This is a matter of judgment for the court. The court will have to look at the new fact in the context of the case.

I hope that I have covered the many questions asked by members, and I thank them for their careful attention to the bill and their thoughtful contributions. I look forward to the committee stage of the debate at a later date.

Bill read a second time.

STATUTORY AUTHORITIES REVIEW COMMITTEE: SOUTH AUSTRALIAN HOUSING TRUST

Adjourned debate on motion of Hon. R.K. Sneath:

That the report of the committee on an Inquiry into the South Australian Housing Trust be noted.

(Continued from 12 November. Page 550.)

The Hon. T.J. STEPHENS: I rise to make a brief contribution on the motion of the Hon. Robert Sneath. As the honourable member has already indicated, the Statutory Authorities Review Committee received a request from the Legislative Council to inquire into the policies and practices of the South Australian Housing Trust in dealing with difficult and disruptive tenants. The committee conducted an inquiry, and the terms of reference are reflected in the initial motion.

The committee advertised for written submissions prior to inviting witnesses to give verbal evidence to the committee. It received 97 written submissions, and so it was decided to extend the closing date to 31 March 2003. I was certainly surprised by the level of media coverage on this obviously important issue, which demonstrates the importance of the Housing Trust as a matter of public policy and the important role it plays in the lives of many South Australians. The committee received the majority of its evidence at Parliament House. In addition, the committee travelled to Murray Bridge, Port Augusta, Port Pirie and Whyalla.

The committee concluded that the South Australian public housing system has changed dramatically in recent years due to the shift in commonwealth and state funding for public housing. The Housing Trust's services reflect these changes, and priority is now on emergency housing for underprivileged members of the community. This has led to many people in trust homes who are single parents, or suffering from mental illness, or chronically unemployed or dependent on other social services.

At the conclusion of the inquiry some 33 recommendations were made. I was pleased with how bold those recommendations were. Before I go on further, it must be noted and acknowledged that disruptive tenants represent an extremely small percentage of residents in trust housing. We must acknowledge that 98 per cent of trust tenants are extremely good tenants and realise the privilege they have in public housing at low rental rates. The Hon. Bob Sneath's exhaustive speech has covered many of the recommendations that were of particular concern to us as a committee.

I make the point that tenants must understand—and many of them do—that public housing is a privilege bestowed on them by the taxpayers, for people who are unable to afford private sector housing and those who are in emergency situations. Unfortunately, a minority of the tenants see public housing as a right to which they are entitled, come what may, regardless of how their behaviour impacts on their neighbours. I take that point so that those people know that the committee realises that we all have a responsibility to our neighbours to live in some degree of peace and harmony.

A key point that became apparent to me during the inquiry was that deinstitutionalisation of people with mental health problems has gone too far. It was a commonly held view of the committee that this issue needs urgent attention. In conclusion, I thank not only committee members for their diligent work but also: Mr Gareth Hickery, secretary of the committee; Tim Ryan, our extremely hardworking research officer; and, Cynthia Gray, our administrative assistant. I extend a very big thank you to all those who took the time and effort to give what turned out to be very valuable evidence.

The Hon. CAROLINE SCHAEFER: In speaking to this report it is important to quote the duties of the Statutory Authorities Review Committee as stated under the Parliamentary Committees Act. The functions of the committee as defined under section 15C of the Parliamentary Committees Act are:

(a) to inquire into, consider and report on any statutory authority referred to it under this act, including—
  (i) the need for the authority to continue in existence;

and, in the case of the Housing Trust, I am sure there is no argument there—

  (ii) the functions of the authority and the need for the authority to continue to perform those functions;

again, there is no argument there—

  (iii) the net effect of the authority and its operations on the finances of the state;
  (iv) whether the authority and its operations provide the most effective, efficient and economical means for achieving the purposes for which the authority was established;
  (v) whether the structure of the authority is appropriate to its functions;
  (vi) whether the functions or operations of the statutory authority duplicate or overlap in any respect the functions or operations of another authority, body or person;

(b) to perform such other functions as are imposed on the committee under this or any other act.

Under section 16 of the Parliamentary Committees Act any matter that is relevant to the functions of the Committee may be referred to the Committee:

(a) by resolution of the Committee's appointing house or houses;
(b) by the Governor, by notice published in the *Gazette*;
(c) of the Committee's own motion.

It can therefore be argued that in its 33 recommendations this committee has gone well outside its duties under the act. Indeed the Hon. Bob Sneath argued at the time of the reference to the committee that an inquiry into disruptive tenancies of the Housing Trust was beyond this committee's duties. There is, of course, always the escape clause in any standing committee reference, which finishes with 'and any

other matter', which I suppose covers our findings and our dealings with this matter in the first place.

At the time of our original debate as to whether we would accept this reference or refer it to the Social Development Committee, I supported the Hon. Nick Xenophon in his desire to have the matter dealt with by the committee on which he serves, and there is no doubt that it has been a most interesting inquiry. However, I think the purpose of the parliamentary committee system will be diminished if we become driven by the press and populism. We see quite enough of that coming from the government without the cross-party committees becoming involved.

It is important to state that the committee found no fault with the Housing Trust in the way it fulfils its statutory duties. Rather, we questioned the direction in which those duties have taken the trust over the years. It would be easy if one looked simply at the findings and recommendations to assume some inefficiencies of operation, and that is simply not the case. Our observation was that the apparent inefficiencies are generally as a result of a lack of resources or a lack of legislative direction. Over the years, it has become the policy of successive governments to turn the Housing Trust from an opportunity for families to live in subsidised housing to a compulsion for the trust to become housing of last resort. Therefore, it has no option but to house those who have often been rejected by the private sector, for whatever reason. It is my belief that many of the problems outlined in our report are as a result of that policy and not the result of the trust straying from its statutory duties. As mentioned by the chair, the Hon. Bob Sneath, the trust was helpful throughout our inquiry and I thank it for assigning an officer to attend all our hearings and answer our questions as they arose.

It also commendable that the new Director of the Housing Trust outlined some new directions that he intends to take. I look forward to observing the success or otherwise of this new policy. The committee has resolved to take a watching brief and call back key players in 12 months to find out how many of our recommendations have been implemented and what is their success rate. It was certainly rewarding to find that we have been listened to at this stage and it appears that many of our recommendations will become part of the new Housing Trust policy.

Much has been made already of the committee's recommendation of what Mr Sneath describes as 'the three strikes and you're out' policy and I therefore do not plan to elaborate a great deal on that. It is, however, vital to stress that the vast majority of Housing Trust tenants are peaceful, law-abiding citizens and good tenants. It is the few who are not who make life unbearable for their neighbours and, in many cases, get away with doing so over a long period. Nevertheless, it appears to me that the media have played up the behaviour of these people to a point where those in private accommodation shy away from having Housing Trust neighbours. This is simply not fair on all the good Housing Trust tenants in South Australia.

As has been mentioned by other speakers, one of the difficulties we found was that frustrated neighbours who complained consistently about disruptive tenants received little backup or intervention from the trust. Many times these people would complain, first, to the trust, then to the police and, in cases of obvious abuse, also to the South Australian Mental Health Services and, where children were involved, also to Family and Youth Services. They therefore knew that they had made multiple complaints.

It came as a surprise to me—and I believe to others on the committee and certainly to Housing Trust complainants who attended hearings—to find that there is no interchange of information between these agencies, so each agency believed they were receiving a complaint in isolation, whereas in fact the disruptive tenants had already established a history of disruption and sometimes violence. We have therefore recommended that the ministers responsible for the various key agencies develop as a priority a memorandum of understanding between those agencies to require the exchange of relevant information to assist in the efficient and proper execution of each agency's duties.

We also found that one of the few formal methods of complaint is to appeal to the Residential Tenancies Tribunal. However, in many cases, the very act of appearing before the tribunal was intimidating for the complainant. In most cases, it appears that the disruptive tenant had access to advocacy, whereas the complainant had no such support; the person they had complained about was informed of the complaint and they had to very often appear at the same time as the person about whom they were complaining.

We have made a series of recommendations which, hopefully, will make this process less traumatic for the person who has complained, including that the difficult and disruptive tenants policy be amended to promote early intervention, that references to appearing before the tribunal be removed and that personal information not be released as a matter of course. We also found that the trust is allowed to keep only scant historical records of tenants' behaviour, and that it has no way of recording previous breaches, including such things as a previous police record. We have recommended that a more updated and standardised recording of data be introduced.

The committee has also recommended a series of much stronger deterrents than has ever been suggested in this state before, including, as I have said, eviction. They also include that an habitually disruptive tenant automatically not be rehoused or assisted for a period of 12 months, and other quite severe measures (I believe that most of these have already been reported in the press). In many cases, the good tenant is the one who suffers as a result of the bad behaviour of others. They are the tenants who are asked to transfer, even though they have not caused the problem.

Recommendation 13 is that the trust's priority should be to remove or evict a disruptive tenant, however, recognising that in some cases a non-disruptive tenant will be transferred, that the trust incorporate measures to lessen the impact on a tenant transferred as a result of the disruptive tenant's behaviour, such as offering a greater choice of accommodation. The committee has also recommended that the trust be allowed to make direct deductions of rent from salary or other compulsory methods of payment as a condition of tenancy, because it was our belief that far more time and effort seem to have been expended on the collection of bad debts than on ensuring the safe and peaceful housing of its many good clients.

Many people have complained over a long period of time with little or no results, in their view. We have therefore suggested in recommendation 17 that a policy that includes a specific time frame for investigation and preliminary outcomes of that investigation be reported to the tenants in writing so that they at least know that some action is being taken. It is a sad state of affairs that many of the disruptive tenants—but by no means all—who were reported to us suffer from mental illnesses, and the consistent closure of

other suitable accommodation leaves them nowhere else to go. Further, officers of the Housing Trust have little training in dealing with such clients.

Recommendations 22, 23 and 24 suggest developing protocols for dealing with clients with a mental illness and that client supports are made a condition of tenancy. But most importantly, we acknowledge that some people, through no fault of their own, are incapable of caring for themselves in open housing. We have asked that the minister acknowledge this, and develop as a priority specialist housing or supported accommodation for those who are unable to live independently and in harmony with their neighbours. To do less than this, while bringing in measures such as eviction, would be to simply seek a bandaid measure for an ever increasing social problem.

I have spoken briefly on only some of the main findings of the report. I do not intend to elaborate on all 33 recommendations. However, I have found the inquiry to be extremely interesting, and I would like to thank the committee staff, Mr Gareth Hickery and Mr Tim Ryan, for their very professional assistance. I believe that those who have a particular interest in this matter will find the report to be an extremely well researched and well written document. As I have said, I think all of us who participated in the inquiry found that, although the vast majority of tenants are exemplary, the treatment meted out to them by the few who will not comply is absolutely appalling. I hope that this report moves some way down the track of giving the trust sufficient powers to alleviate some of the problems for those people.

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

SUMMARY OFFENCES (TATTOOING AND PIERCING) AMENDMENT BILL

In committee.

Clause 1.

The Hon. CARMEL ZOLLO: Given the number of amendments on file, I would like to place on the record that I appreciate the commitment of honourable members to what they would see as an improvement to this legislation. In particular, I appreciate that, in this chamber especially, with respect to legislation that is being debated, no matter how limited in its intent, it will always be a target for further amendment. However, I would like to remind members that this is a piece of private members legislation, which was meant to be a quick redress to a problem that was obviously of importance to members in the other chamber. It was of such importance that it was quickly facilitated—on the same day, from memory. Sometimes, of course, it can take a number of years to bring private members legislation to fruition. I remind members that it is not a piece of government legislation.

The Hon. R.D. LAWSON: The Liberal opposition well understands that this is private members legislation. We make no apology for the fact that we see it as our responsibility in this chamber to improve a measure of this kind and to give serious consideration to amendments moved by all members and, where appropriate, support them and, where not, state our reason for opposing them.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. IAN GILFILLAN: I move:

Page 3, line 24 to page 4, line 16—Leave out section 21B and insert:

Piercing to be performed in hygienic conditions, etc

21B.(1) A person who pierces any part of the body of a person must ensure—

(a) that the person whose body is to be pierced has been advised of the risks involved in the piercing (including the risks of any infection developing after the piercing) and of appropriate methods of caring for the pierced area that will minimise the risk of infection; and

(b) that the premises in which the piercing takes place are equipped with sterilising equipment and other equipment that is suitable and necessary for undertaking piercing and that all instruments that, in the course of the piercing, will come into contact with the area to be pierced are sterilised; and

(c) that the piercing is performed in a suitable room with adequate lighting and that the area immediately surrounding the person whose body is to be pierced is in a clean and hygienic condition; and

(d) that—

(i) if the piercing occurs by inserting into the person's body a needle or other instrument and then removing the needle or instrument, the needle or other instrument—

(A) is, immediately before the piercing, individually packaged in a sealed wrapping or container on which the manufacturer has indicated that the packaged contents are sterile; and

(B) is only removed from that packaging in the view of the person whose body is to be pierced; and

(C) is, immediately after the piercing, disposed of in a manner that minimised the risk of persons having accidental contact with the used needle or instrument; or

(ii) if the piercing occurs by inserting into the person's body an instrument or object that is not removed from the body by the person performing the piercing, the instrument or object is in a clean and hygienic condition and has not previously been used to pierce any part of a person's body;and

(e) that all dressings and substances that are used in the course of performing the piercing have been hygienically stored.

Maximum penalty: $1 250.

(2) If a police officer believes, on reasonable grounds, that piercing of the type described in subsection (1) is occurring or has occurred on any premises, the officer may enter and inspect the premises for the purposes of determining whether subsection (1) is being, or has been, complied with.

(3) This section does not apply in relation to a piercing performed for a medical or therapeutic purpose.

I know it was a long time ago, but I outlined the intention of this extensive amendment in my second reading contribution. I am sure that honourable members have assessed their position with respect to my amendment.

In simple terms, the intention of this amendment is that the intended accredited operator must inform the person to be pierced of the risks and appropriate methods of caring for the pierced area. The premises must be equipped with sterilising equipment; the piercing must be done in a well-lit and clean environment; and the needle must be in sterile packaging and opened in front of the person to be pierced. This amendment mirrors the observations made by the AMA regarding this legislation. I believe that the amendment substantially improves the legislation that is before us and I urge support for it.

The Hon. R.D. LAWSON: I indicate that the Liberal opposition will not be supporting the honourable member's amendment. However, we do have an amendment on file which I will move later. It is designed to achieve the objective of hygienic and appropriate standards. Rather than lay down the prescriptive conditions that the honourable member's amendment proposes, namely, specifying the lighting etc., we

believe a more appropriate way is to adopt a code of practice. I said it was our amendment but it is the Hon. Mr Cameron's amendment and, in his absence, I will move it on his behalf. Rather than the Hon. Mr Gilfillan's proposed hygiene regime, we prefer the Hon. Mr Cameron's code of practice which will allow flexibility and which will require the minister, after consultation with bodies representing tattooists and body piercers, to have a code published in the *Gazette*.

We go further than the Hon. Terry Cameron in another amendment to say that, if that code of practice is not adhered to, the piercer will be guilty of conduct which can be visited with disciplinary action. The Hon. Mr Gilfillan will not mind me saying that he was a little disingenuous in the way in which he put his amendment because not only does it lay down the conditions of hygiene but it also repeals new section 21B, which prohibits the piercing of minors. The Hon. Ian Gilfillan's proposal would not only insist upon hygiene but it would remove the prohibition against the piercing of minors.

We support special provisions in relation to the piercing of minors. We will support the Hon. Mr Cameron's proposal that there be a differential regime. The regime which applies to genital piercing will be a prohibition for anybody under the age of 18; that is, there will be no genital piercing for people under the age of 18. Those under the age of 16 can be pierced, in our view, if parental consent is obtained. For those reasons, we are not supporting the Hon. Ian Gilfillan's amendment.

The Hon. NICK XENOPHON: I am horrified that the Hon. Mr Lawson has accused the Hon. Mr Gilfillan of disingenuousness or of being somewhat disingenuous: I do not think that the Hon. Mr Gilfillan has a disingenuous bone in his body. Clearly, this is an intentional attempt to gut the intent of the bill.

Members interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): I do not think the Hon. Mr Xenophon needs any assistance.

The Hon. NICK XENOPHON: I do not support the amendment, largely for the reasons set out by the Hon. Mr Lawson. I am concerned that it undermines the intent of the bill in terms of the protection of minors. I commend the member for Enfield for getting this bill through the other place and the Hon. Carmel Zollo for her work on the bill. I will wait to hear the arguments of the Hon. Mr Lawson on his amendment, but I am concerned that it is too prescriptive and that it fundamentally undermines the intent of the bill.

The Hon. CARMEL ZOLLO: The government cannot support these amendments. I appreciate that they are well-intentioned, but the member for Enfield's view is that the hygiene of piercing and tattooing establishments is already controlled under the Public and Environmental Health Act and enforced by environmental health officers employed by local government. This fact fully addresses the outcomes sought by the Hon. Ian Gilfillan.

It is not appropriate that the police, who have no training in infection control, should be responsible for the inspection of premises for hygienic determinations: that is already undertaken by local council environmental health officers. Also, the hygiene amendments proposed do not conform with best practice for infection control, including the national guidelines and the Australian standards.

The ACTING CHAIRMAN: I will give the Hon. Mr Gilfillan the opportunity to speak while I clarify how the amendment is to be put.

The Hon. IAN GILFILLAN: It is very gracious of you, Mr Acting Chairman, to allow me to let my disingenuousness have its head. I did refer members to my second reading contribution. Those who can remember it verbatim (and my contribution was the principal Democrat contribution) will recall that the Democrats believed that there ought not to be any restriction on younger people having access to these services but—and it is a large 'but'—that these services should be controlled medically and supervised efficiently so that using them is not undertaken recklessly. That is the risk, and the price will be paid if we drive younger people through the prescription of this legislation.

I think that the Hon. Nick Xenophon has misused the phrase 'too prescriptive'. The Democrat amendment in essence is not prescriptive: it does not prescribe that a person has to be of a certain age or has to have written consent but that when they avail themselves of either the piercing or tattooing from properly accredited persons that it has to be done in a way that does not risk their health.

I am sorry to hear from those who have spoken on my amendment that they will oppose it. I think that this will be the recipe for a far worse situation than would pertain than if we let it be legally permissible for younger people to have access to these people who will be properly scrutinised and provide services which are of a superficial nature but provide them in a safe and supervised manner.

The Hon. R.D. LAWSON: In response to the Hon. Ian Gilfillan on that point, we agree with the underlying sentiment of appropriate hygiene—that is why we support the proposed code of practice published by the Minister for Health that will address all the issues about which the honourable member is concerned. On behalf of Hon. Terry Cameron, I move:

Page 3, lines 25 to 27—Leave out all words in these lines after 'minor' (first occurring) in line 25.

This is the first of a series of amendments, some of which I indicate the Liberal Party will be supporting and some of which we will not be supporting. This amendment is part of a proposal to remove the necessity for a parent to accompany a person being pierced when a minor is undergoing the procedure. I indicate that the Liberal Party will not support the amendment of the Hon. Terry Cameron.

The Hon. CARMEL ZOLLO: On behalf of the member for Enfield, I indicate that we will oppose this amendment. It has the effect of removing the requirement to be accompanied by a parent or guardian. Clearly, it was the intention of the member in the other place to support 18 years and above.

The Hon. IAN GILFILLAN: I think it would be useful to make a couple of observations. This will clearly determine the fate of my amendment—yes or no. If I am not successful, I intend to call for a division. However, I want to indicate again that, if I am unsuccessful, we will be looking sympathetically at the amendment moved by Mr Lawson on behalf of Mr Cameron but which Mr Lawson is not going to support. So that we have a clear track ahead of us, I indicate that, if we are not successful in our amendment, we will be—contrary to Mr Lawson—actually supporting the amendment that he moves. Interesting chemistry, indeed!

The committee divided on the Hon. Ian Gilfillan's amendment:

AYES (3)

Gilfillan, I. (teller)	Kanck, S. M.
Reynolds, K.	

NOES (17)

Dawkins, J. S. L.	Evans, A. L.
Gago, G. E.	Gazzola, J.
Holloway, P.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	Xenophon, N.
Zollo, C. (teller)	

Majority of 14 for the noes.

Amendment thus negatived.

The Hon. Mr Cameron's amendment negatived.

The Hon. R.D. LAWSON: On behalf of the Hon. Terry Cameron, I move:

Page 3, line 29 to page 4, line 4—Leave out subsections (2) and (3).

This is not strictly consequential. It actually relates to the record-taking and keeping of the piercing of minors. The Hon. Mr Cameron proposed that the requirements to keep records be deleted. Once again, I am moving that amendment on his behalf. However, as I indicated to him, and as I indicate to the committee, the Liberal Party does not support Mr Cameron's proposal.

The Hon. CARMEL ZOLLO: I indicate on behalf of the member for Enfield that the government does not support this amendment. It is consequential to some extent because it talks about the administrative processes to ensure accountability of the industry. We do not support it.

The Hon. IAN GILFILLAN: I indicate Democrat support for this amendment. I indicated earlier that, were we unsuccessful and we found the Hon. Terry Cameron's amendments supportable, we would support them. Although he has not had a great success rate until now, this is matter standing in its own right and I indicate Democrat support for the amendment.

The Hon. A.L. EVANS: Family First supports the amendment.

Amendment negatived.

The Hon. R.D. LAWSON: On behalf of the Hon. Terry Cameron, I move:

Page 4, lines 13 to 14—Leave out '18 years' and insert:
16 or 18 years, as the case may require

The effect of this amendment is to allow a differential to be made between genital piercing and piercing of other parts of the body. This amendment really makes sense in connection with the definition, which is contained in the following amendment of the Hon. Mr Cameron, and in those circumstances it might be appropriate for me to move that amendment as well because this and the next amendment standing in the name of the Hon. Mr Cameron are closely related and interdependent. On behalf of the Hon. Terry Cameron, I move:

Page 4, after line 15—Insert new definition as follows:
'minor' means—
(a) in the case of a genital piercing—a person under the age of 18 years; or
(b) in all other cases—a person under the age of 16 years;

This amendment inserts a new definition of 'minor'. The new definition will be that a minor, for the purposes of this act, is to be treated differently when the person is engaged in genital piercing or piercing of other parts of the body. For genital piercing, a minor is any person under the age of 18 years, and there is a total prohibition of the genital piercing of a minor. In all other cases, a minor is a person under the age of 16 years for the piercing of other body parts. The Liberal Party supports these amendments proposed by the Hon. Terry Cameron.

The Hon. CARMEL ZOLLO: I indicate, on behalf of the member for Enfield, that we will not support these amendments. Both of them are consequential. The intent was to have a new blanket age of 18 years or over for all piercings other than ear lobes, so we do not support it.

The Hon. IAN GILFILLAN: I indicate support for the amendment. I am not sure whether the government is under the ear lobe in the vertical position, horizontal position or upside down position.

The Hon. A.L. EVANS: Family First supports the amendment.

The Hon. NICK XENOPHON: I support the member for Enfield's position on this amendment. I do not support the amendment, so I support the position as set out by the Hon. Carmel Zollo.

The committee divided on the amendments:

AYES (12)

Dawkins, J. S. L.	Gilfillan, I.
Kanck, S. M.	Lawson, R. D. (teller)
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Reynolds, K.
Ridgway, D. W.	Schaefer, C. V.
Stefani, J. F.	Stephens, T. J.

NOES (7)

Evans, A. L.	Gago, G. E.
Gazzola, J.	Holloway, P.
Roberts, T. G.	Sneath, R. K.
Zollo, C. (teller)	

PAIR(S)

Cameron, T. G.	Xenophon, N.

Majority of 5 for the ayes.

Amendments thus carried.

The Hon. R.D. LAWSON: On behalf of the Hon. Mr Cameron, I move:

Page 4, line 17 to page 5, line 15—Leave out section 21C and insert new sections as follows:

Registration

21C.(1) A person must not tattoo or pierce another person unless registered by the minister under this act.
Maximum penalty: $1 250

(2) An application for registration under this section must—
(a) be made in a manner and form approved by the minister; and
(b) be accompanied by the prescribed fee.

(3) The minister may refuse to register a person, or revoke the registration of a person, if the minister considers that the person is not a fit and proper person to be registered.

(4) Subject to this section, registration under this section remains in force for a term of one year.

(5) A person who objects to a decision of the minister under this section—
(a) refusing to register that person; or
(b) revoking the registration of that person,
may appeal against the decision to the Administrative and Disciplinary Division of the District Court.

(6) An appeal under this section must be lodged with the District Court within 21 days after the decision being appealed against.

Code of practice

21D.(1) The minister must, after consultation with at least one body that represents the interests of tattooists and body piercers in South Australia, establish a code of practice for tattooists and body piercers.

(2) The minister must publish the code of practice in the *Gazette*.

(3) The minister may vary or revoke the code of practice by notice in the *Gazette*.
(4) A tattooist or body piercer who contravenes the code of practice is guilty of an offence.
Maximum penalty: $1 250.

New section 21C deals with registration of tattooists and piercers. The original bill did not contain any registration provisions. The Hon. Mr Cameron proposes that registration be required. New section 21C of the existing bill provides for a cooling-off period and this amendment seeks to delete that cooling-off period and also to insert registration requirements. The second part of this amendment inserts a new section 21D dealing with a proposed code of practice. This is the health code of practice to which I referred earlier in the committee stage.

I can indicate that the Liberal opposition will not support the elimination of the cooling-off period: we will support the continuance of the existing provision, so we will vote against the first part of the proposal. However, we will support the insertion of the new proposed section 21D for the code of practice, as previously foreshadowed. We believe that it is appropriate to have a cooling-off period and support the existing provision.

The Hon. CARMEL ZOLLO: On behalf of the member for Enfield, I indicate that we want to leave in the three-day cooling-off period. We reject the amendment and also, of course, reject the registration section of 21C(1). I place on the record that the provision to register piercers and tattooists using the Summary Offences Act is problematic. The Office of Consumer and Business Affairs would not be able to support it due to a lack of infrastructure for registration or enforcement capacity. Had this been accepted, we would be of the view that this provision may be more appropriately placed within the Public and Environment Health Act 1987 which, of course, is currently under review.

If the decision to register tattooists' and piercers' premises was placed in the Public and Environmental Health Act, it would improve surveillance and investigations. The registration of premises with local councils would have resource implications for local councils and the environmental health service and would need to be discussed with the Minister for Local Government, the Local Government Association and local councils. As indicated, we do not support this amendment.

The Hon. IAN GILFILLAN: The Democrats support this amendment. We have no problem in identifying ourselves as a party support. We have individual freedom, of course, in any vote, but our approach to this legislation is united and we are able to represent this as a Democrat position in this place. I find it somewhat curious that when the Hon. Carmel Zollo represents a position I have not yet been able to interpret whether in fact, it is an official Labor Party position or just a coalition of those in the Labor Party who happen to be in sympathy with the member for Enfield. I know that this is not necessarily relevant to the amendment.

The Hon. T.G. Roberts: It is a very small coalition!

The Hon. IAN GILFILLAN: Well, how they vote would give evidence, but they may fracture on this one. We could see all sorts of disintegration of so-called unity. However, on the other hand, the Democrats are rock solid: we support this amendment.

The Hon. R.D. LAWSON: I express gratitude to the honourable member for that very perceptive observation on members opposite. But, in indicating that we do not support registration in the manner proposed by the Hon. Terry Cameron, I foreshadow that, in an amendment that I will move a little later, we seek a form of negative registration, which will mean that persons in this industry will be entitled to continue in the industry whilst obeying codes of practices and other fair business principles. But, if they fail to discharge those obligations, they can, on application of the Office of Consumer and Business Affairs, be precluded by the court from participating in the industry. We favour a form of negative licensing, which is quite common amongst occupational and professional licensing regimes in this state.

The Hon. CARMEL ZOLLO: For the record, I indicate that the government, on behalf of the member for Enfield, does not support new section 21D, the code of practice.

The Hon. R.D. LAWSON: I move:

Page 5, after line 16—Insert:
Disciplinary action
21E. (1) There is proper cause for disciplinary action against a person conducting, or formerly conducting, the business of tattooing or body piercing if—
(a) the person has acted contrary to an assurance accepted by the Commissioner under the *Fair Trading Act 1987*; or
(b) the person or any other person has acted contrary to section 21A, 21B, 21C, or 21D or otherwise unlawfully, or improperly, negligently or unfairly, in the course of conducting, or being employed or otherwise engaged in, that business.
(2) Disciplinary action may be taken against each director of a body corporate that is conducting, or formerly conducted, the business of tattooing or body piercing if there is proper cause for disciplinary action against the body corporate.
(3) Disciplinary action may not be taken against a person in relation to the act or default of another if that person could not reasonably be expected to have prevented that act or default.
(4) The Commissioner or any other person may lodge with the Court a complaint setting out matters that are alleged to constitute grounds for disciplinary action under this section.
(5) On the lodging of a complaint, the Court may conduct a hearing for the purpose of determining whether the matters alleged in the complaint constitute grounds for disciplinary action under this section.
(6) Without limiting the usual powers of the Court, the Court may during the hearing—
(a) allow an adjournment to enable the Commissioner to investigate or further investigate matters to which the complaint relates; and
(b) allow the modification of the complaint or additional allegations to be included in the complaint subject to any conditions as to adjournment and notice to parties and other conditions that the Court may think fit to impose.
(7) On the hearing of a complaint, the Court may, if it is satisfied on the balance of probabilities that there is proper cause for taking disciplinary action against the person to whom the complaint relates, by an order or orders do one or more of the following:
(a) reprimand the person;
(b) impose a fine not exceeding $2 500 on the person;
(c) prohibit the person from conducting, or being employed or otherwise engaged in, the business of tattooing or body piercing;
(d) prohibit the person from being a director of a body corporate that conducts the business of tattooing or body piercing.
(8) The Court may—
(a) stipulate that a prohibition is to apply—
(i) for a specified period (not exceeding 7 years); or
(ii) until the fulfilment of stipulated conditions; and
(b) stipulate that an order relating to a person is to have effect at a specified future time and impose conditions as to the conduct of the person or the person's business until that time.
(9) If—
(a) a person has been found guilty of an offence; and
(b) the circumstances of the offence form, in whole or in part, the subject matter of the complaint,
the person is not liable to a fine under subsection (7) in respect of conduct giving rise to the offence.

(10) If a person contravenes or fails to comply with a condition imposed by the Court as to the conduct of the person or the person's business, the person is guilty of an offence.
Maximum penalty: $35 000 or imprisonment for 6 months.
(11) If a person—
(a) conducts, or is employed or otherwise engaged in, the business of tattooing or body piercing; or
(b) becomes a director of a body corporate that conducts the business of tattooing or body piercing,
in contravention of an order of the Court, the person is guilty of an offence.
Maximum penalty: $35 000 or imprisonment for 6 months.
(12) In this section—
"Court" means the Administrative and Disciplinary Division of the District Court;
"Director" of a body corporate includes—
(a) a person occupying or acting in the position of director or member of the governing body of the body corporate, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position; and
(b) any person in accordance with whose directions or instructions the directors or members of the governing body of the body corporate are accustomed to act;

This amendment was placed on file in a slightly different form in October but has been put on file and circulated today in a slightly amended form to take account of the fact that the code of practice, clause 21D, has now been included in the bill. The effect of this clause, which is quite a lengthy but standard one, is designed to effect the negative licensing I mentioned in my contribution to the previous clause.

It provides that there is proper cause for disciplinary action against a person conducting the business of tattooing or body piercing if the person has acted against assurances given to the commissioner under the Fair Trading Act, or has contravened other provisions of this act. Disciplinary action can be taken against a person, which can lead to a banning order by the court. It could also lead to other penalties, from a reprimand to a fine not exceeding $2 500.

This clause contains a further provision that if a person is directed by the court to engage in particular conduct but fails to obey the order of the court, a maximum penalty of $35 000 or imprisonment can be imposed. In this case, the court is the administrative and disciplinary division of the District Court. This provision is modelled on other trade and occupational provisions in various acts, and the penalty of $35 000 or imprisonment for six months is comparable to the provisions that apply, for example, in the Land Agents Act, the Conveyancers Act, the Travel Agents Act and the Land Valuers Act for similar contraventions.

The Hon. CARMEL ZOLLO: I indicate that we do not agree with the filed amendment of the Hon. Robert Lawson. On the contrary, we believe that the penalties proposed are considerably larger than offences within the Summary Offences Act and that the Fair Trading Act is an unrelated act to the Summary Offences Act. Would it not be appropriate to include the amendment in the Summary Offences Act, because it is not a regulatory act?

The Hon. IAN GILFILLAN: The Democrats oppose the amendment. We feel there is a penalty for lack of compliance with the code of practice, which is the result of the Hon. Terry Cameron's amendment, including new section 21D. We believe that, if anything, the amendment moved by the Hon. Mr Lawson makes what now has evolved as a bad bill even worse, very cumbersome and quite undeserving of support.

The Hon. A.L. EVANS: Family First supports the amendment.

The committee divided on the amendment:

AYES (10

Dawkins, J. S. L.	Evans, A. L.
Lawson, R. D. (teller)	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V.
Stefani, J. F.	Stephens, T. J.

NOES (9)

Gago, G. E.	Gazzola, J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Reynolds, K.
Roberts, T. G.	Sneath, R. K.
Zollo, C. (teller)	

PAIR(S)

Cameron, T. G.	Xenophon, N.

Majority of 1 for the ayes.

Amendment thus carried; clause as amended passed.

Title passed.

Bill reported with amendments; committee's report adopted.

DIGNITY IN DYING BILL

In committee.

Clause 1.

The CHAIRMAN: I understand there is an agreement to allow the Hon. Ms Lensink to make a contribution as she was not a member of this place when the bill was introduced.

The Hon. J.M.A. LENSINK: I thank all members for allowing me the indulgence to put my views on the record as this is an issue of some significance; and all members would have their views on it and I appreciate the opportunity to express my viewpoint on this bill. My consideration of this bill has given me some cause for a degree of internal conflict because as a Liberal I am natural attracted to the rights of individuals to choose their own path, so long as they do not harm others. The logic of some farmers I have spoken to about this issue is that, if their dog is sick and suffering, they have the choice to shoot it, but we are not allowed to do the same to ourselves.

The Hon. R.D. Lawson: 'Logic' and 'farmers' in the same sentence?

The Hon. J.M.A. LENSINK: I always thought the Hon. Mr Lawson was well behaved, but he is interjecting and distracting me. I would like to express that I have some concerns with the bill as it currently exists. My interpretation of most people's views—the person in the street who is surveyed about his or her opinion on 'euthanasia'—is that they are generally supportive. The term 'euthanasia', as most people understand it, signifies the choice of someone who is suffering the end stage of a terminal illness to hasten their death through the administration of some means. Such a definition implies several assumptions: firstly, the person is terminally ill; secondly, in the end stage; and, thirdly, able to make a decision for themselves that they wish to end their life. I would like to examine this state's Consent to Medical Treatment and Palliative Care Act 1995 which, at the time, was a very forward looking act and which addressed a number of issues which are tied up in this debate of what is and what is not euthanasia.

This act entitles people to the right to refuse treatment and it appropriately addresses, according to community standards, issues relating to prolonging life through the use of ventilators or feeding. Section 17 contains the provisions which enable some administration of this under certain conditions,

and under the title 'The care of people who are dying' it states:

> A medical practitioner responsible for the treatment or care of a patient in the terminal phase of a terminal illness, or a person participating in the treatment or care of the patient under the medical practitioner's supervision, incurs no civil or criminal liability by administering medical treatment with the intention of relieving pain or distress—
>
> (a) with the consent of the patient or the patient's representative; and
>
> (b) in good faith and without negligence; and
>
> (c) in accordance with proper professional standards of palliative care even though—

and these are the key words—

> an incidental effect of the treatment is to hasten the death of the patient.

Having worked in hospitals (including the hospice at Daw Park), I have some first-hand experience of people in such situations and understand that, in a practical way, this section enables doctors to administer end stage relief with the protection that they can expect not to be prosecuted for hastening death. I believe that these laws serve South Australia well for people wanting to access some form of hastening the end of their life if they are in the end stage of suffering.

Some of my concerns centre upon what can sometimes be described as 'elder abuse'. I am acutely aware that older people can be the subject of coercion, or even bullying, and, unfortunately, most often at the hands of their relatives. Therefore, I have concerns about providing such power to people who may be family, loved ones or guardians of a person in this situation. I have great fears for the potential abuse of a system that might make it easier to administer such abuse. As I looked through the debates, I noted that the Hon. Robert Lawson described it quite well in that he talked about 'hoops' and the means by which this bill, if it were to become an act, might carry out in practice.

I also have some strong concerns concerning particular definitions in the bill. For example, the definition of 'hopelessly ill', on my reading, is too broad and easy to include various forms of mental illness, particularly depression. Depression is a treatable illness, but without detection it can be truly devastating and can cause people to have completely different points of view than if they were treated for their illness. Therefore, I have strong concerns with that area as well. I am open to considering amendments but, I must say that it is highly unlikely that I will be able to support this bill as it asks me to make too many leaps of faith to consider that this would be a good service to the people of South Australia.

Clause passed.

Progress reported; committee to sit again.

ASYLUM SEEKERS

Adjourned debate on motion of Hon. Kate Reynolds:

That the South Australian parliament condemns mandatory detention and the Pacific Solution as crimes against humanity.

(Continued from 22 October. Page 429.)

The Hon. KATE REYNOLDS: Since I spoke on 22 October in this place, we have seen further evidence of the federal government's determination to ignore its obligations under international law, that is, obligations intended to protect the human rights of asylum seekers. The government claims that the 14 people aboard the *Minasa Bone*, which arrived at Melville Island, did not claim asylum in Australia cannot be believed. The government's record is one of consistently misleading the Australian people about the legality and impact of its treatment of refugees. As the federal Leader of the Australian Democrats has said, this latest episode has been characterised by secrecy, deceit and blatant lies, and it is no wonder that the Howard government has lost the right to be trusted and believed on this issue.

As Senator Bartlett told the parliament, the suggestion that somehow this group of people might have sailed over here and forgotten to ask for asylum, or did not think of it, or were never going to ask, is ludicrous. We believe that extent of willingness to weave a fabric of deception around so many aspects of this policy area is one of the reasons why it is so problematic. Surely the government cannot expect us to believe that these people travelled all the way from Turkey, and then jumped on an unsafe boat to sail from Indonesia to Australia just out of idle curiosity. Nor can the minister pretend that Kurdish people in Turkey do not suffer significant and constant persecution.

It is the Democrats' view that the Howard government's insistence that it is not breaking international law is a sick joke. Towing asylum seekers back out to sea and refusing, firstly, to acknowledge and, secondly, to assess their claims for protection, is a flagrant breach of international law, as well as a breach of common decency and humanity. Instead of ensuring that we meet our legal and humanitarian obligations, the government is wasting millions of dollars trying to avoid them. Earlier this week, it was revealed that the federal government has spent $41 million of taxpayer's money fighting to keep asylum seekers and their children behind bars. Expensive private lawyers, rather than highly qualified public servants, were also engaged to chop parts of Australia from the migration zone in a cynical attempt to prevent asylum seekers arriving by boat and from exercising their rights under international law to claim asylum. It is time the government was honest about people seeking asylum in this country.

A Mr Jonathon Hogarth of Humbug Scrub has succinctly expressed the views of those Australians who have not swallowed the government's line about illegal entry. On 11 November *The Advertiser* printed his letter.

The Hon. T.J. Stephens: Where's he from?

The Hon. KATE REYNOLDS: He's from Humbug Scrub.

The Hon. T.J. Stephens: Where's that?

The Hon. KATE REYNOLDS: In the Adelaide Hills. He said:

> The comments regarding illegal immigrants by Darren Appleby (*The Advertiser*, 7/11/03) show he is misinformed regarding the circumstances from which genuine refugees flee their countries.
>
> He says: 'There are correct measures by which such people can begin a new life here.' That is an appalling over-simplification of the real situation.
>
> These so-called correct measures are not available to many refugees, hence their utter desperation. In addition, asylum seekers and potential refugees are not 'illegal' under international law until processed, refused and then overstaying an order to leave.
>
> It is not an offence to seek asylum in another country even if you arrive by boat. By all means send back those who do not have genuine refugee claims but let us not fall for the falsity that there are 'measures' by which these people can come here. Many of these people would be imprisoned or even shot if they were to seek permission to leave their countries due to circumstances we would find totally intolerable.

So, despite the government's deliberate, persistent and manipulative use of the term 'illegal', it is not illegal to arrive

in Australia without a visa in order to seek protection from persecution. The government is a repeat offender in breaching international law through its policies and practices such as mandatory detention (especially of children), separating families, ambushing boats at sea, possibly allowing boats to sink and adults, children and babies to drown and, now, towing boats back out to sea. It is the government's laws, introduced I note with ALP support, which intend to erode human rights by further preventing people from being able to seek protection from persecution in Australia. The government's suggestion that 'our borders are being eaten away and that border security is at risk' from people smugglers is also simply not true.

As my federal colleague, Senator Bartlett, who shares my passion for this issue. told the media this week, threats to our security come from people like Frenchman Willie Brigitte who can waltz in here on an electronic travel visa and swan around the country doing whatever he wants for six months. The threats do not come from asylum seekers who report their presence and intentions and who can be fully assessed when they arrive. The government's actions do not target people smugglers: they target refugees. Refugees are the ones being made to suffer. Thousands of these people are living a precarious existence in detention centres or in the Australian community in fear. They face an uncertain future and many are being kept forcibly separated from their families.

As David Marr and Marion Wilkinson wrote in their book *Dark Victory*, which I commend to all members, criminals deliver asylum seekers to Australia, but the asylum seekers' claims for protection are real. According to the Immigration Department's annual report, 9 160 asylum seekers arrived by boat and applied for protection on reaching Australia between July 1999 and June 2002. After being detained, 8 260 of these people were eventually recognised as refugees, that is, people fleeing persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion. These 8 260 recognised refugees mean that 90 per cent of the people the federal government called illegals, queue jumpers and other offensive and misleading names were subsequently recognised by Australia as refugees in need of asylum.

Father Frank Brennan was in Adelaide last week for the release of his book *Tampering With Asylum*, which argues that the federal government's hardline response to arrivals by boat is a massive over-reaction, possible only because Australia is a remote country with few asylum seekers and no land borders. But last week, like many of us, he could not contain his outrage at a comment made by the Prime Minister on 14 November. In his letter to *The Australian* published on 22 November, Frank Brennan, who has been recognised nationally and internationally for his human rights work, wrote:

> Could our leaders explain why we continue to detain unauthorised arrivals, including children, once we know they are not a health or security risk and once we know they are no more likely to abscond than other asylum seekers living in the community?
>
> On 14 November 2003 John Howard said: 'The point of our policy is to deter people from arriving here illegally. . . That's what people have to understand.'
>
> Philip Ruddock never tired of telling us: 'Detention is not punitive nor meant as a deterrent. But it is essential that unauthorised arrivals are not allowed to enter the community until we are able to establish their identity and that they do not constitute a security and health risk. Detention ensures that they are available for processing any claims to remain in Australia and that importantly they are available for quick removal should they have no right to remain.'
>
> Yet 90 per cent of the last wave of boat people were proved to be refugees and not in need of removal. Those in detention are six times more likely to succeed in an appeal to the Refugee Review Tribunal. So much for better processing in detention. Though we remove more than 10 000 people every year, on average only 222 of them are boat people.
>
> Has the PM given us the truth? We detain children hoping to deter others. Ruddock knew there was one problem with this. The High Court says detention for such a purpose is unconstitutional unless authorised and supervised by a court.

I would also like to put on the record the words of Mr Michael Roach, whose letter to the editor was published in *The Advertiser* earlier in the month. He wrote:

> Most Australians may indeed want our borders and sovereignty respected as Andrew Phillips claims in his letter of 15 November, but most do not want other human beings, especially innocent women and children, callously mistreated in order to achieve that end.
>
> Obviously the government thinks the end justifies the means, but decent Australians want solutions that respect our traditional values—truth, honesty, a fair go and compassion—and abhor the government's callous demonisation and victimisation, purely for political advantage, of people fleeing persecution and privation.

In the next paragraph I think Mr Roach is referring to countries such as Germany, the UK and the US, who receive the largest numbers of individual asylum applications of all countries in the world and seven or eight times as many as Australia did in 2001. He says:

> If countries having a serious problem with asylum seekers can still act humanely, why can't we?

Professor Lowitja O'Donoghue says that 200 years ago her people, the indigenous people of Australia, experienced an influx of boat people, begging the question: what would have happened if her ancestors had been able to turn those boat people away?

Returning to the issue of mandatory detention, in evidence to the Parliamentary Human Rights Subcommittee in August 2002, Dr Ozdowski, the Human Rights and Equal Opportunity Commissioner said:

> My view is that the longer people are in detention the more mentally damaged they are. In circumstances where you have families especially, but not only families, who went through the process and were unsuccessful and who cannot be returned, I think they should be afforded a bridging visa and they should be able to wait in the community until conditions change. There is a whole range of systems we could use to ensure that they do not abscond, but I think keeping them in detention centres, especially young people, is inhuman and creates enormous damage to them in the long-term.

I have spoken many times in this place about the effect on individuals and families of being locked up for years at a time with no idea of what the future may bring. Every day new stories reach my office—new stories of despair, physical and mental illness, and new stories of ignorance, mistreatment and inaction by those supposedly responsible for overseeing the treatment of detainees. At this very moment a woman—a mother of three young children—is locked inside a hospital not 10 kilometres from here, unable to speak or walk as a result of being in detention for years. Two weeks ago she was near death. Her husband and their children are, understandably, at the limits of their emotional endurance.

Members of this place and the other place have expressed privately to me their concerns about Australia's policy of locking up people, who have committed no crime, in detention centres far from the public eye and far from the supports and services they need and deserve and are entitled to under international law. With assistance from the Myer Foundation, an alliance of more than 25 national church and community organisations, called Justice for Asylum Seekers,

has developed a proposal for a reception and transitional processing system which they have put to the federal government.

This system can give significantly better and more humane experiences for asylum seekers, can meet the government's security requirements and can significantly reduce the overall cost to the taxpayer. Essentially, after health, identity and security checks, asylum seekers would be placed and supported in community accommodation, with families with children being given the highest priority for community based care. Better and cheaper alternatives to the current system of mandatory detention exist and have been proven to be successful in other countries. There is no excuse for Australia to punish and damage asylum seekers as it does, whilst still trying to claim that detention is not meant as a deterrent.

Here, in South Australia, members would be acutely aware of the impact of indefinite or long-term detention because one of the most notorious detention centres, namely Baxter Immigration Detention Centre, is located within our state borders and poses a significant challenge for our health and education systems in particular. Although I also note that community concern about our treatment of asylum seekers is increasing at such a rate that we now also have refugee support groups in rapidly growing numbers. For example, at last count, we have 28 Circles of Friends, who provide much needed practical and emotional support to asylum seekers in detention and upon their release.

The current system of mandatory detention was introduced under a Labor government and continues today despite the fact that these people have committed no offence, under either international or Australian law, by arriving as they have. We now have law makers who refuse to respect the rule of law, who seek to destroy human rights and to deceive the Australian people and the international community about how we treat people who arrive in this country fleeing conditions that most of us cannot imagine, and seeking protection for themselves and their children.

The Australian Democrats remain concerned that the ALP's asylum seeker and refugee policy retains the legislative framework which underpins the coalition's Pacific Solution. The ALP's policy, like the coalition's, is based on the inhumane policy of deter, detect and deny. We hope that ALP members will soon begin actively trying to change this policy. However, right here and now, if honourable members from either side of the house have a shred of doubt about what the federal government is doing in our name, I urge you to support my motion. I understand that it is always difficult to express a dissenting view from the government's side or the side of the opposition, but let's face it, both sides have acquiesced in these injustices. I urge you to take this opportunity to show your commitment to the rule of law, to seek to change the stance taken by your respective parties on our treatment of asylum seekers and to protect our borders. If honourable members want ideas about how this can be done, I suggest they read *Tampering with Asylum* and consider the proposals put forward by Frank Brennan which include:

- that those claiming to be asylum seekers inside our territorial waters, coming from Indonesia, be escorted for processing by navy personnel who place the highest importance on the safety of life at sea and who always respond to those in distress.
- though the government is committed to building an immigration facility on Christmas Island, that it should not be used to isolate asylum seekers from advice and assistance. Initial detention at Christmas Island should be limited to identity, health and security checks. There should be resident child protection officers at Christmas Island. No child should be treated as a security risk.
- that those who have passed these checks and not been screened out as bogus claimants be moved to the mainland on a structured release program for processing of their refugee claim.
- that successful applicants be given a visa that entitles them to family reunion and international travel as specifically provided in Article 28 of the convention on refugees (which Australia is unquestionably breaching). A temporary protection visa should be made permanent if our protection obligations are still invoked three years later.
- that Australia maintain a commitment to at least 12 000 offshore refugee and humanitarian places each year in our migration program regardless of the number of successful onshore applications for refugee status. There is no reason to think that our onshore caseload will increase exponentially given the improved regional arrangements, the virtual offshore border and the tighter controls within Australian territory.
- that the government abolish the Pacific Solution.
- that the government abolish the concept of a distinct Australian migration zone given that our processing and appeal system can be sufficiently streamlined to process all comers. Asylum seekers entering Australian territory should be processed by Australian officials and given protection in Australia.
- that the government must accept that judicial review of tribunal decisions is essential to maintaining the integrity of an administrative system that operates in private and with persons appointed by the government on short-term contracts.

I will close, as I began this speech, with the words of Julian Burnside QC. He told Australia, using the opportunity of an interview with the ABC television program *Compass* which aired last Sunday:

> What's at stake in the issue at the lowest level is the proper treatment of individual human beings, people who come here seeking our help. At a higher level, what is at stake is Australia's spirit as a generous country and its reputation as a humanitarian country. I long for the day when Australia can be restored to the generosity we once showed. I really miss that Australia.

So do I. I urge honourable members to support my motion.

The Hon. SANDRA KANCK: I am utterly ashamed by the policy of mandatory detention that Australian governments, both Labor and Liberal, have put in place over the last 13 years. It was legislation first introduced by the Keating government in 1992 that has put in place the foundation for this inhumane treatment that we now see. There is no doubt that mandatory detention is illegal. On at least three occasions, the United Nations Human Rights Committee has come to this conclusion. In September this year, the Human Rights Commission deliberated on the case of Mr B. In that case, 13 international experts decided by a majority of 12-1 that the detention of Mr B and his son was in breach of Article 9.1 of the International Covenant on Civil and Political Rights. That committee found that Australia should have considered less invasive means of achieving compliance with Australia's immigration policies, such as the imposition of reporting obligations, sureties or other conditions. Mr B's barrister, Mr Nicholas Poynder, said:

> Mr Ruddock and his legal advisers are utterly isolated on the issue of mandatory detention. There is no body—national or international—which credibly contends that mandatory detention is

not in breach of human rights. Their repeated denials of Australia's serious and continuing breach of the human rights of asylum seekers is now no more than a sick joke.

As my colleague the Hon. Kate Reynolds has observed, 90 per cent of the so-called boat people, these asylum seekers, were ultimately found to be genuine refugees. It is surely in the national interest to treat these people as humanely as possible so that, once they are granted permanent refugee status, they can move out into our society and become contributing members of our society. Instead, we marginalise them. We incarcerate them. We place them under appalling mental stress. My understanding is that you will not find a mentally healthy person in any of our detention centres.

In October, I went to the annual Barton Pope lecture. Dr Louise Newman from the New South Wales Institute of Psychiatry spoke on the topic 'Responding to Child Abuse and Neglect'. She took everyone's breath away about 15 minutes into that address when she decided to focus on the child abuse that occurs in our detention centres. I quote from part of her speech:

> The conditions under which children have and continue to be held is also of great concern. Children are exposed to trauma of multiple types in the detention facilities. Many have witnessed riots, behavioural disturbance and self-harm and suicidal behaviour. Many have experienced harsh punitive and dehumanising treatment at the hands of a dysfunctional regime operating on a penal model as opposed to the necessary health and welfare model.
>
> Many have been exposed to trauma in their countries of origin and during their flight to Australia, only to have this trauma compounded as they enter the bizarre world of a detention facility where all are treated as guilty although no crime has been committed. Children see their parents becoming progressively more depressed and despairing and suffering the guilt of having ended up in a place of punishment and indefinite detention. I have sat with a father begging me for poison to kill himself so great was his guilt and his belief that his children would have a better chance of release if he was dead.
>
> Children's experience of trauma in these environments is essentially unmediated as parents are frequently depressed and traumatised themselves and unable to support their children in processing and understanding their situation. Recovery becomes a virtual impossibility for children in an environment of ongoing trauma that comes to represent nothing but their own vulnerability and entrapment. Mental health and child development are significantly damaged by these experiences. Children have clear signs of developmental delay and attachment difficulties. These are particularly marked in those children born in detention whose whole experience of life has been in harsh and depriving environments with traumatised and depressed parents.
>
> These children show features consistent with a pattern of emotional neglect and deprivation and have socially indiscriminate attachment behaviours. Some show disturbing autistic-like features that shocked the world when we saw footage of children from Romanian orphanages; yet this is here—the product of a system advocated by an advanced liberal democracy with a stated commitment to the protection of infants and children.

I challenge members in this place to vote against this motion when they hear information like that. Dr Newman, along with a couple of her colleagues, Silove and Steele, studied 11 families of one particular ethnic group in a remote detention centre, which she did not name, obviously for protection of these people. There were 11 families with 22 children between them. Of those 22 children, 21 were suffering from major depression. Eleven had post-traumatic stress disorder and 11 were suffering separation anxiety. These young children had attachment disorders and they feared abandonment. They were experiencing withdrawal and developmental delays.

These must be crimes against humanity. How can anyone say that it is okay to treat any child in our care in such a way as to cause such profound disturbance to them? All adults and children in this group met diagnostic criteria for at least one mental disorder. We should be ashamed of ourselves as a country with statistics like this! Dr Newman challenged her professional colleagues to take a stand against what she accurately called state-sponsored child abuse. Her personal observations from visiting detention centres were that the children were called by number and not name, that there was no education available, that there was no safe place to play, that the surrounds did not contain the sort of stimuli that promote healthy mental and emotional development for children, that the children are exposed to self-harming and suicidal adults and that the environment of the detention centres was itself brutalising and dehumanising.

Dr Newman felt so strongly about this institutionalised child abuse that she made her own recommendation to the 250 people attending that lecture, and that was: the Australian government revoke the policy of indefinite detention without trial, as international experience and Australian research has shown it to be unnecessary for processing refugee status and because it produces psychological damage that is unacceptable on ethical and humanitarian grounds. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

MUTUAL COMMUNITY AND HEALTHSCOPE LIMITED

Adjourned debate on motion of Hon. N. Xenophon:

I. That a select committee of the Legislative Council be appointed to investigate and report upon the current dispute between Mutual Community (the trading name of BUPA Australia Health Pty Ltd in South Australia) and Healthscope Limited, and in particular:

(a) The management structure of the Adelaide Community Healthcare Alliance (ACHA) with respect to the Ashford Hospital, Flinders Private Hospital and Memorial Hospital;

(b) The decision of the ACHA Board and contractual arrangements entered into by the ACHA Board for Healthscope Limited to operate and manage the Ashford Hospital, Flinders Private Hospital and Memorial Hospital, including performance measures and future options given under the contractual arrangements;

(c) The contractual dispute between Healthscope Limited and Mutual Community in relation to contractual payments for services provided to Mutual Community members at the Ashford Hospital, Flinders Private Hospital and Memorial Hospital;

(d) The impact (including potential impact) of this dispute on South Australian consumers of health services in South Australian private hospitals;

(e) The powers available to the Minister for Health to protect South Australian health consumers during the dispute, and in particular the powers pursuant to part 4A of the South Australian Health Commission Act 1976; and

(f) Any other matter.

II. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

III. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.

IV. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 15 October. Page 342.)

The Hon. NICK XENOPHON: I move:

That this order of the day be discharged.

Motion carried.

NATIONAL ENVIRONMENT PROTECTION COUNCIL (SOUTH AUSTRALIA) (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

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

Leave granted.

The *National Environment Protection Council (South Australia) (Miscellaneous) Amendment Bill 2003* amends the *National Environment Protection Council (South Australia) Act 1995* to implement mirror provisions to reflect those amendments made to the Commonwealth *National Environment Protection Council Act 1994* on 19 December 2002.

The Bill builds upon the commitment South Australia made to National Environment Protection Council processes when it signed the *Intergovernmental Agreement on the Environment* in 1992.

The National Environment Protection Council (NEPC), was established following a special Premiers' conference in October 1990 under the *Intergovernmental Agreement on the Environment*, which came into effect on 1 May 1992. The establishment of NEPC marked the commitment of the Commonwealth, States and Territories to cooperatively work together to address environment protection issues of national importance.

NEPC is a statutory body with law making powers established by the Commonwealth *National Environment Protection Council Act 1994*. Mirror legislation has been established in each of the States and Territories. In South Australia, the mirror legislation is the *National Environment Protection Council Act (South Australia) 1995*.

Members of NEPC include the Federal Environment Minister and Ministers appointed by first Ministers from each participating jurisdiction. South Australia is represented on NEPC by the Minister for Environment and Conservation.

The objectives of NEPC are enshrined in the NEPC Acts. The first objective is to ensure that all the people of Australia enjoy the benefit of equivalent protection from air, water, soil and noise pollution, wherever they live in Australia. The second objective is to ensure that business decisions are not distorted, and markets are not fragmented, by differing environmental standards operating across Australian jurisdictions.

The two primary functions under the NEPC Act are to make National Environment Protection Measures (NEPMs), and to assess and report on their implementation and effectiveness in participating jurisdictions.

NEPMs are measures through which national environment protection issues can be addressed in a co-operative manner by all Australian jurisdictions. They are framework-setting statutory instruments that outline agreed national objectives for protecting particular aspects of the environment. Once made by NEPC, NEPMs become laws that bind each participating State, Territory and the Commonwealth.

To date, five NEPMs are in place in Australia:

- The Ambient Air Quality Measure;
- The National Pollution Inventory Measure;
- The Movement of Controlled Waste between States and Territories Measure;
- The Assessment of Site Contamination Measure; and
- The Used Packaging Materials Measure.

In accordance with the requirements of the Commonwealth NEPC Act, a review of the Act was undertaken in October 2000, the *Report of the Review of the National Environment Protection Council Acts (Commonwealth, State and Territory) 2001*. The Review looked into the operation of the legislation to examine the extent to which the objects of the Act were being achieved. NEPC concluded that significant progress had been made on matters of national environment protection, and that only minor amendments to the legislation were deemed necessary.

The Commonwealth *National Environment Protection Council Amendment Act 2002* was enacted as a result of the Review. Amendments to the Commonwealth NEPC Act include a simplified process for amending NEPMs, a requirement for five yearly reviews of the NEPC Acts and provisions enabling the NEPC Service Corporation and NEPC Executive Officer to provide Secretariat services to the newly established Environment Protection and Heritage Council.

Relevant State and Territory Ministers in all jurisdictions agreed to amend legislation to mirror the Commonwealth amendments resulting from the Review. As a result, the South Australian Act needs to be amended to reflect the amendments made to the Commonwealth Act.

The Bill proposes to amend the South Australian Act to simplify procedures in relation to the variation of NEPMs. Currently, every variation to a NEPM no matter how administrative or procedural, must undergo an extensive, resource intensive consultation and impact assessment process. While this is imperative for more significant variations, a simplified, more streamlined process for minor variations will ensure that NEPC continues to be an efficient and effective vehicle through which environmental outcomes for Australia can be achieved.

The Bill also provides for the Act to be reviewed at further five-yearly intervals. The introduction of five-yearly reviews of the legislation will provide a mechanism through which the Australian community can become further engaged in shaping the roles and functions of an important forum for national environment protection. This will thereby ensure that NEPC's objectives continue to meet the needs and expectations of the community that it serves.

The Bill will also amend the Act to allow the NEPC Service Corporation, which provides secretariat services and project management for NEPC, to extend its support and assistance to other Ministerial Councils, including the new Environment Protection and Heritage Council. The Environment Protection and Heritage Council was formed following a review in 2001 of all Ministerial Councils by the Council of Australian Governments, and includes NEPC, parts of ANZECC and the Heritage Minister's Meeting. The Bill ensures there is no legal ambiguity with respect to the ambit of the NEPC Service Corporation's functions.

Finally, the Bill amends the Act to reflect changes to Commonwealth legislation, namely the *Public Service Act 1999* and the *Commonwealth Authorities and Companies Act 1997*. These are routine, minor amendments and are required to update the Act so that it remains consistent with relevant Commonwealth legislation.

All of the amendments in this Bill are mirror amendments that have already been made to the Commonwealth Act. Other States and Territories have commenced processes to make the required amendments to their respective legislation. It is time for South Australia to fulfil its commitment to NEPC by implementing amendments that will ensure that South Australia's legislation continues to be in step with its Commonwealth, State and Territory counterparts, and so that the legal jurisdiction to protect the Australian environment continues to remain seamless.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *National Environment Protection Council (South Australia) Act 1995*

4—Amendment of section 6—Definitions

This clause inserts two new definitions in the Act. The definition of ***Ministerial Council*** is consequential to clauses 5 and 8. Those amendments will enable the NEPC Service Corporation ("the Service Corporation") to service Ministerial Councils that include environment protection in their functions. The definition of ***minor variation*** is consequential to clause 7.

5—Amendment of section 13—Powers of the Council

This clause amends section 13 of the Act to provide that the National Environment Protection Council ("the Council") has the power to direct the Service Corporation to provide assistance and support to Ministerial Councils in addition to the Council.

6—Amendment of section 20—Variation or revocation of measures

Section 20 of the Act entitles the Council to vary or revoke national environment protection measures. This clause inserts a new subsection (5) into section 20 of the Act to provide that sections 20(2) and 20(4) do not apply to a minor variation of a national environment protection measure under new Division 2A.

7—Insertion of Part 3 Division 2A

This clause inserts a new Division 2A—Minor variation of national environment protection measures—into the Act. This Division provides for the making of minor variations to national environment protection measures by the Council and contains the procedures the Council must follow when making a minor variation.

New section 22A(1) sets out the conditions under which the Council may determine whether a variation to a national environment protection measure is a minor variation.

New section 22A(2) requires that the Council prepares a draft of the proposed variation and a statement explaining the reasons for making the variation, the nature and effect of the variation and the reasons why the Council is satisfied the variation is a minor variation.

New section 22B prescribes the public consultation requirements that the Council must complete before a minor variation is made.

New section 22C provides that when making a minor variation the Council must have regard to any submissions it receives that relate to the proposed variation or explanatory statement, whether the measure is consistent with section 3 of the Agreement, relevant international agreements to which Australia is a party and any regional environmental differences in Australia.

8—Amendment of section 36—Functions of the Service Corporation

This clause inserts a new section 36(aa) into the Act to enable the Service Corporation to provide assistance and support to other Ministerial Councils as directed by the Council. This clause also inserts a reference to section 36(aa) in section 36(b) to enable the Service Corporation to do anything incidental or conducive to its provision of assistance to other Ministerial Councils.

9—Amendment of section 43—Leave of absence

This clause amends section 43 of the Act to clarify that the leave entitlements of the NEPC Executive Officer are not subject to section 87E of the Public Service Act 1922 of the Commonwealth.

10—Amendment of section 49—Public Service staff of Service Corporation

This clause amends section 49 of the Act consequentially to the passing of the Public Service Act 1999 of the Commonwealth.

11—Amendment of section 51—Staff seconded to Service Corporation

This clause amends section 51 of the Act consequentially to the passing of the Public Service Act 1999 of the Commonwealth.

12—Amendment of section 56—Application of money of Service Corporation

This clause amends section 56 of the Act consequentially to the passing of the Commonwealth Authorities and Companies Act 1997 of the Commonwealth.

13—Substitution of section 58

This clause amends section 56 of the Act consequentially to the passing of the Commonwealth Authorities and Companies Act 1997 of the Commonwealth.

14—Amendment of section 63—Review of operation of Act

This clause inserts additional sections 63(3) and 64(4) which provide for the Act to be reviewed at 5 yearly intervals after the first 5 year review and for the report of each further review to be tabled in Parliament within 1 year after the end of the period to which it relates.

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

STATUTES AMENDMENT (BUSHFIRE SUMMIT RECOMMENDATIONS) 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.

At the Premier's Bushfire Summit, on 23 May, 2003, there was agreement to support amendments to the Country Fires Act 1989 to allow for the issue of expiation notices by SAPOL officers and by local government enforcement officers.

At present, considerable investigation time is required to prepare the necessary court documents and the courts are required to spend time on hearing these matters. The use of expiation notices for minor offences can substantially reduce enforcement costs. It also allows alleged offenders to save the costs of appearing in court, and the benefit of expiating an offence rather than incurring a conviction.

The Premier's Bushfire Summit identified offences of failing to undertake hazard reduction on private property, and minor offences of misusing fire during the fire danger season, as offences suitable for expiation. Further consultation with metropolitan and rural fire prevention officers subsequently identified the precise offences of a minor nature that were most suitable for expiation. This Bill gives effect to the recommendations of the Premier's Bushfire Summit.

General principles of expiation

The expiation of an offence is not an admission of guilt. A person who expiates an offence is not thereby convicted. A person who receives an expiation notice may pay the fee, thereby expiating the offence, or elect to be prosecuted, risking a conviction. A person who does neither will be convicted when the expiation notice is later enforced.

Because expiation fees are set at a level well below the maximum penalty for an offence, most people elect to pay the fee rather than incur the risk and inconvenience of contesting the matter in court. Therefore, offences that can be expiated are usually dealt with in greater numbers, and with greater efficiency than offences that are prosecuted.

Expiation is appropriate for high-volume regulatory offences when penalties involved are not severe. However, expiation is not suitable for serious offences. For offences perceived as real crime, justice demands exposure to higher penalties, accompanied by the formality and procedure of a court hearing.

Nor is expiation appropriate for offences which depend upon a subjective assessment of a person's intent, or whether an alleged offender's actions were “reasonable”. If there is room for disagreement over matters of this type, it is more likely that an alleged offender will want an impartial adjudication, and it is more appropriate that an assessment be made by a court. Therefore, the demands of both efficiency and justice dictate that expiation of offences ought to be reserved for minor offences that can be objectively measured or assessed.

Lighting fires in the open air during the fire danger season

In addition to general property offences such as arson, there are presently three separate general statutory provisions, relevant to bushfire risk, under which the lighting of a fire is an offence.

At the highest end of the scale, section 85B of the *Criminal Law Consolidation Act 1935* provides for a maximum penalty of 20 years imprisonment for causing a bushfire. This offence requires a mental element of either intention or reckless indifference. This offence came into operation on 31 October, 2002. It is an offence far too serious to expiate.

The next most serious offence, “endangering life or property” contrary to section 52 of the *Country Fires Act 1989*, carries a penalty of Division 5 fine (not exceeding $8,000) or division 5 imprisonment (up to 2 years). Statutory defences to this charge include taking “all reasonable precautions to prevent the spread of the fire.” Both the serious nature of the penalties, and the fact that “reasonable” precautions are a defence suggest that this offence should not be made expiable.

Thirdly, the offence of lighting or maintaining a fire in the open air during the fire danger season, contrary to s36(1) of the *Country Fires Act* carries a penalty, for a first offence, of a Division 6 fine, (not exceeding $4,000) or Division 6 imprisonment (up to one year). For subsequent offences penalties are increased to Division 5 fine (not exceeding $10,000) or Division 5 imprisonment (up to 2 years). There are many statutory exceptions in s36(2), under which lighting a fire in the open during the fire danger season is not an offence.

Since 1990, there have been 427 prosecutions for offences of lighting or maintaining a fire in the open air during the fire danger season, contrary to section 36(1) of the *Country Fires Act*. 313 defendants (73%) were ordered to pay fines. 60% of fines exceeded $500. 40% of fines exceeded $1,000. Only 2% of fines were below $200. 34 defendants (8%) were sentenced to perform community service. Only three times has an offender been sentenced to a term of imprisonment, and on two of those occasions the sentences were suspended.

Section 36(1) is subject to subsection (2). In other words, subsection (2) provides a list of circumstances that constitute exceptions to the prohibition in s36(1). Therefore a person who lit a fire in circumstances permitted by s36(2) would not commit an offence against s36(1). The fires permitted by s36(2) include small camp fires, incinerators, welding, soldering, gas or electric barbecues, or a fire that is permitted by a permit obtained under s38. In most cases, however, fires permitted by s36 (including those authorised by a permit issued under s38) are subject to conditions that:

- the fires must be properly contained,
- land around the fire must be cleared of all flammable material to a distance of at least four metres,
- a supply of water adequate to extinguish the fire must be at hand, and
- a person who is able to control the fire must be present.

A person who breached one of these conditions would have committed an offence against s36(1). If a breach was of a minor nature, it would not necessarily be appropriate to pursue a conviction for an offence against s36(1). It would be more appropriate and convenient if local government fire protection officers or SAPOL had the discretion to deal with minor offences of this nature by the issue of an expiation notice.

This does not mean that every time a person lights a fire in the open air during the fire danger season, the offence ought to be expiable. A person who caused a bushfire with intent or reckless indifference could and should be prosecuted under s85B of the *Criminal Law Consolidation Act*. A person who caused a fire that endangered life or property could and should be prosecuted under s52 of the *Country Fires Act*. Likewise the more serious cases of "lighting a fire in the open air during the fire danger season" that do not fall under either of the other two provisions could and should be prosecuted under s36(1) of the *Country Fires Act*.

Therefore this Bill allows for the issue of an expiation notice only for a "prescribed offence" against s36(1). In an unusual step, I have instructed Parliamentary Counsel to draft proposed Regulations to indicate the offences that the Government intends to prescribe, so that they would become expiable under this provision. Copies of these draft regulations are available to Honourable Members. They indicate that expiation is intended to be possible only for offences of a relatively minor nature, when an offender has done no more than breach one of the specific conditions listed in s36(2), or one of a number of specific conditions of a permit issued under section 38.

The expiation fee for a prescribed offence is to be set at $210, which is a relatively minor amount compared to the serious penalties, including imprisonment, that would be available to a court if a person were to be prosecuted for an offence against section 36(1).

Restriction on the use of certain appliances etc

Section 46 of the Act provides that:

> "A person must not, during the fire danger season, operate an engine, vehicle or appliance of a prescribed kind in the open air, or use any flammable or explosive material of a prescribed kind, or carry out any prescribed activity, except in accordance with the relevant regulations.

For the purposes of section 46, regulations 36 through to 45 prescribe:

36. Stationary engines
37. Internal combustion engines
38. Vehicles
39. Aircraft
40. Welders and other tools
41. Bee smoking appliances
42. Rabbit fumigators
43. Bird scarers
44. Fireworks
45. Explosive materials for blasting trees or timber

The Regulations also prescribe various conditions for the use of each of these prescribed appliances during the fire danger season. Some of the conditions are of a subjective nature and hence not suitable for expiable offences. However this Bill proposes that expiation be permitted for breaches of prescribed conditions. The draft Regulations prescribe a limited number of the existing regulatory provisions for this purpose. These conditions are

- that space immediately around and above the appliance is cleared of all flammable material to a distance of at least four metres, and/or
- that a shovel, or rake, and/or a portable water spray in good working order are at hand.

Contravening either of these existing requirements, when applicable, would be a "prescribed offence". In these circumstances, an expiation notice could be issued. The expiation fee proposed by this Bill is $210 which is, again, a relatively minor amount compared to the serious penalties that would be available to a court if a person were to be prosecuted for an offence against section 46.

Other Expiable offences

There are two other existing offences that this Bill proposes to make expiable. They are offences against section 45, requiring caravans to carry fire extinguishers, and section 47(1) which prohibits smoking in the open air within two metres of flammable bush or grass (outside the area of a municipality or township). In each case the expiation fee is to be set at $160.

Duties to prevent fires on private land

A major initiative of this Bill is to give local councils greater power to enforce a private landowner's existing obligation to reduce fire hazards.

Under both section 40 of the *Country Fires Act*, and s60B of the *South Australian Metropolitan Fire Service Act*, a council has the power to issue a notice to a landowner, requiring the landowner to reduce fire hazards, such as flammable vegetation, or any flammable material on the land.

A landowner who fails to comply with such a notice commits an offence. In these circumstances, a council might arrange to have the necessary hazard reduction work performed, and recover its costs from the landowner as a debt. However this would not necessarily be a deterrent to a landowner. In the past, councils have found it difficult to prosecute landowners for these offences, and as long ago as 1999, the Local Government Association requested the power to issue expiation notices for these offences.

In the past, this request was denied, on the grounds that the Government did not want to trivialise the offence, or reduce its seriousness in any way. Nevertheless, the Government now recognises that obtaining the power to issue expiation notices would significantly increase councils' capacity to enforce these offences. If failure to comply with a notice is made expiable, then some offenders who previously might not have been prosecuted would at least be invited to expiate their offences. This would presumably increase awareness of fire safety, and reduce the risk of bushfires.

Therefore this Bill permits expiation of this offence, without reducing the significant penalty that is to remain as a deterrent for a wilful offence of failing to comply with a notice. To achieve these dual purposes, the Bill proposes two significant changes to section 40 of the *Country Fires Act*.

First, the Bill provides that a council's power to issue a hazard reduction notice need not be dependent upon an assessment of the landowner's actions or lack of actions. Rather, the council's power is to arise in any circumstances where the council believes that there is an unreasonable risk. This is equivalent to the provision that already exists at s60B(2) of the *South Australian Metropolitan Fire Service Act.*

Second, the Bill abolishes the defence of "reasonable excuse" and instead creates two categories of offenders. Those who "wilfully" fail to comply with a notice will be subject to a maximum penalty of $10,000, as they are at present. For all others, the Bill proposes an offence of strict liability, and a maximum penalty of $1,250. An expiation notice may be given to the latter category of offender. The expiation fee is $160. The Bill proposes this change in both section 40 of the *Country Fires Act*, and in the equivalent section 60B of the *South Australian Metropolitan Fire Service Act*.

Who may issue expiation notices?

Section 6(3) of the *Expiation of Offences Act 1996* relevantly provides:

> (3) An expiation notice may only be given by—
> (a) a member of the police force; or
> (b) a person who is authorised in writing by—
> (i) the Minister responsible for the administration of the Act against which the offence is alleged to have been committed; or
> (ii) the statutory authority or council responsible for the enforcement of the provision against which the offence is alleged to have been committed,
> to give expiation notices for the alleged offence; or

It is proposed that the relevant statutory authority, being the CFS Board, would appoint only suitably trained fire prevention officers, employed by councils, as persons who may issue expiation notices for most of the expiable offences under the *Country Fires Act*.

For the sake of consistency, the Bill provides that where a council is responsible for the enforcement of particular provisions (as it is

for offences against section 40) then the council may not authorise anyone other than a fire prevention officer to do so.

Expiation notices could also be issued by police officers, under section 6(3) of the *Expiation of Offences Act*. However there is no suggestion that either CFS (or MFS) firefighters will be authorised to issue expiation notices.

Conclusion

This Bill represents a commitment by the Government to one of the main recommendations arising from the Premier's Bushfire Summit. It is a sensible initiative to allow for the expiation of a limited number of offences, without reducing the penalties for serious bushfire-related offences.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

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

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Country Fires Act 1989*

4—Amendment of section 34—Fire prevention officers

Under section 34(4) of the *Country Fires Act 1989*, fire prevention officers may delegate powers or functions. The amendment proposed by this clause has the effect of preventing fire prevention officers from delegating functions or powers provided under an Act other than the *Country Fires Act 1989*. This would mean, for example, that a fire prevention officer given the power to issue expiation notices under the *Expiation of Offences Act 1996* would not be able to delegate that power to another person.

5—Amendment of section 36—Fires during fire danger season

This clause amends section 36 of the Act, which prohibits a person from lighting or maintaining a fire in the open air during the fire danger season, by making the offence expiable in certain circumstances. The circumstances in which the offence is expiable will be prescribed by regulation. The amount of the proposed expiation fee is $210.

6—Amendment of section 40—Private land

Section 40(2) requires owners of private land in the country to take reasonable steps to protect property on the land from fire and to prevent or inhibit the outbreak of fire on the land, or the spread of fire through the land. Under subsection (4), the responsible authority (a council or the Board) may, if the owner of the land has failed to comply with subsection (2), require the owner to take specified action to remedy the default within a specified time. As a consequence of the amendment proposed to be made by this clause, the responsible authority will also be able to require an owner of private land to take specified action if the authority believes that conditions on the land are such as to cause an unreasonable risk of the outbreak of fire on the land, or the spread of fire through the land.

Under section 40(5), failure to comply with a notice under subsection (4) without reasonable excuse is an offence. This clause amends subsection (5) by removing the words "without reasonable excuse". This clause also inserts a new penalty provision. The new provision retains the existing penalty, a fine of $10 000, for a wilful failure to comply with a notice. The maximum penalty for a failure to comply with a notice in any other case is a fine of $1 250. An expiation fee of $160 is also inserted. Expiation is not available in the case of a person who wilfully fails to comply with a notice.

7—Amendment of section 45—Fire extinguishers to be carried on caravans

Section 45 prohibits a person from using a caravan unless an efficient fire extinguisher that complies with the regulations is carried in the caravan. This clause inserts an expiation fee of $160 for the offence of failing to comply with section 45.

8—Amendment of section 46—Restriction on the use of certain appliances etc

Section 46 prohibits a person from using appliances of a prescribed kind, or carrying out prescribed activity, during the fire danger season, except in accordance with the regulations. As a result of the amendment made by this clause, the offence will be expiable in certain circumstances. The circumstances in which the offence is to be expiable will be prescribed by regulation. The proposed expiation fee is $210.

9—Amendment of section 47—Burning objects and material

Section 47(1) prohibits a person from smoking in the open air within two metres of flammable bush or grass (other than within a municipality or township). This clause inserts an expiation fee of $160 for the offence of failing to comply with section 47(1).

10—Insertion of section 62A

Section 6(3) of the *Expiation of Offences Act 1996* provides that a statutory authority or council responsible for the enforcement of a provision may authorise a person to give expiation notices for alleged offences against the provision. Proposed section 62A limits the power of a council to authorise persons to give expiation notices. A council may authorise a person to give expiation notices only if the person is a fire prevention officer.

Part 3—Amendment of *South Australian Metropolitan Fire Service Act 1936*

11—Amendment of section 60B—Fire prevention on private land

This clause amends section 60B of the *South Australian Metropolitan Fire Service Act 1936*. Under section 60B(2), a council that believes conditions on private land in a fire district are such as to cause an unreasonable risk of the outbreak of fire on the land, or the spread of fire through the land, because of the presence of flammable undergrowth or other flammable or combustible materials or substances may require the owner of the land to take specified action to remedy the situation within a specified time.

Under subsection (4), a person to whom a notice under subsection (2) is addressed must not, without reasonable excuse, fail to comply with the notice. This clause amends subsection (4) by removing the words "without reasonable excuse". A new penalty provision is also inserted. The existing maximum penalty, a fine of $10 000, is retained for the offence of wilfully failing to comply with a notice. A new penalty, a fine of $1 250, is inserted for any other case of failing to comply. An expiation fee of $160 is also inserted. The expiation fee does not apply in the case of a person who wilfully fails to comply with a notice.

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

ADJOURNMENT

At 10.37 p.m. the council adjourned until Thursday 27 November at 11 a.m.