LEGISLATIVE COUNCIL

Tuesday 12 October 2004

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

DUNN, Hon. P.

The PRESIDENT: Before we start the proceedings of the day, I note that the Hon. Mr Peter Dunn, past president of the Legislative Council, is present today in the gallery.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 110, 260, 279, 280 and 290.

GOVERNMENT TENDERS

49. (Second Session) and 110 (Third Session) **The Hon. A.J. REDFORD:**

1. What tenders and contracts have been offered in each South Australian government department since the current government took office on 6 march 2002?

2. What tenders and contracts have been awarded in each South Australian government department since the current government took office on 6 march 2002?

3. The value of all tenders and contracts, and the dates thereof as described in parts 1 and 2 above?

The Hon. P. HOLLOWAY: The Premier has been advised of the following information in response to Question on Notice No. 49 asked during the 2nd Session on 15 October 2002, and Question on Notice No. 110 asked during the 3rd Session on 22 October 2003:

As a result of a previous policy document 'Purchasing Strategically' released in May 1998, the former government undertook a reform process of its procurement practices. Under this policy the responsibility for managing the purchasing process was devolved to each agency.

As part of that reform, each agency is responsible for developing its own procurement processes under the umbrella of State Supply Board policies. Thresholds regulating processes required (ie quotes or tenders), documentation requirements, and approvals are all regulated at an agency level within the accredited delegation given to them by the State Supply Board. Delegation levels vary between each agency based on their level of accreditation. Consequently each agency manages its own procurement under a delegation level and, where the agency exceeds that delegation, it is responsible to the State Supply Board for ensuring there is an appropriate procurement process. Accordingly each agency manages its own tender and contract activities with no overall central entity responsible for managing all tender processes across government.

Reporting requirements are set by the State Supply Board. Each financial year agencies provide details of contracts above $100 000 to the State Supply Board. Various sources of information relating to tenders and contracts such as contract registers and tenders websites are established within government and, while some hold information on contracts of a lesser dollar value, none hold all of the information sought. For example, Treasurer's Instructions have been amended and now require chief executives to ensure that contract registers are kept to facilitate contract disclosure. However, the registers do not contain information on all contracts back to March 2002.

While information on larger contracts is available, to supply information relating to all tenders and contracts, some of which are for amounts less than $1 000, would require a significant expenditure of resources.

SPEEDING OFFENCES

260. **The Hon. T.G. CAMERON:**

1. How many motorists were caught speeding between 50-60 km/h in South Australia between 1 July 2003 and 31 September 2003 by:

(a) speed cameras; and

(b) other means?

2. Over the same period, how much revenue was raised from speeding fines in South Australia by:

(a) speed cameras; and

(b) other means?

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

Number of motorist caught speeding (1/7/03-30/9/03)

	Detections		
	Speed Camera	Other means	Total
50 kph	21 660	4 294	25 954
	Revenue		
	Speed Camera	Other means	Total
50 kph	3 702 879	910 536	4 613 415

The revenue includes the VOC Levy.

KENO TICKETS

279. **The Hon. NICK XENOPHON:** For the calendar years:

(a) 2001;

(b) 2002; and

(c) 2003

What percentage and/or number of Keno tickets were sold by the South Australian Lotteries Commission for the total price of:

1. $1-$5;
2. $6-$10;
3. $11-$20;
4. $21-$50;
5. $51-$100;
6. $101-$200;
7. $201-$500;
8. $501-$1 000;
9. $1 001-$2 000;
10. $2 001-$5 000;
11. $5 001-$10 000;
12. $10 001-$50 000?

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

I am advised that SA Lotteries is unable to draw information from its on-line lotteries system in a format suitable to address the question asked by the honourable member in relation to entries placed for SA Lotteries' Keno game over the 2001, 2002 and 2003 calendar years.

Information is not retained by the on-line lotteries system to enable such a report to be drawn. In order to accede to the request, a software program must be developed to extract and collate information from archived daily transaction files through a process of recovery and reprocessing each day of the particular period.

On the basis that approximately four hours will be required to recover and reprocess each day's data, the estimated cost associated with obtaining the information as requested is approximately $120 000.

Allowing four weeks for the development of the extraction program and a total of 4 400 recovery reprocessing hours, the estimated timeframe to provide the information is 46 weeks.

Although the information sought cannot be reasonably provided for past years, SA Lotteries has made the decision to develop a software program to enable such information as requested to be accumulated in the future.

I am advised that this will be operational from October 2004.

PAYROLL TAX

280. **The Hon. NICK XENOPHON:**

1. How much revenue did the State Government receive in payroll tax from sporting and community clubs for the years:

(a) 2000-2001;

(b) 2001-2002; and

(c) 2002-2003?

2. How much does the State Government estimate it will receive in payroll tax from sporting and community clubs for the years:

(a) 2003-2004; and
(b) 2004-2005?

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

I am advised that under South Australian pay-roll tax legislation, when an employer is registered in accordance with the Pay-roll Tax Act 1971 it is requested to provide details of its principal or major business activity. Australian and New Zealand Standard Industrial Classification ("ANZSIC") codes are used to record this data in RevenueSA's pay-roll tax system.

ANZSIC codes have been produced by the Australian Bureau of Statistics and the New Zealand Department of Statistics for use in the collection and publication of statistics in the two countries. The latest edition of the ANZSIC, which was produced in 1993, provided approximately 4 000 industry classifications. Sporting organisations are not classifications listed in the ANZSIC. Hence, the information sought is not identified in the RevenueSA pay-roll tax system.

A pay-roll tax liability arises in South Australia when an employer (or designated group of employers) has a wages bill in excess of a $504 000 per annum threshold. RevenueSA advises me that South Australia currently has approximately 7 500 taxpayers registered for pay-roll tax purposes. To investigate the industry classification of each taxpayer would amount to an enormous administrative exercise with a prohibitive time and cost factor.

LAND MANAGEMENT CORPORATION

290. **The Hon. J.M.A. LENSINK:**

1. How many times has the Charter of the Land Management Corporation been altered since the corporation's inception?
2. What have been the alterations to the Land Management Corporation's Charter?
3. What effect have changes to the Land Management Corporation's Charter been to the Corporation's bottom line?
4. What subdivisions are planned for 2004-2005?
5. How many allotments will be provided for each subdivision?
6. How many subdivisions took place in:
   (a) 2003-2004;
   (b) 2002-2003;
   (c) 2001-2002;
   (d) 2000-2001;
   (e) 1999-2000;
   (f) 1998-1999; and
   (g) 1997-1998?
7. How many allotments were provided in each of these years?
8. What was the total size of land releases in each of the above years?
9. What was the total revenue from the sale of land in each of the above years?

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

1. Three times.
2. The alterations have been to reflect a change in the LMC regulations and to amend the rules regarding the investment activities of LMC.
3. It is not possible to create a direct correlation between the LMC Charter and its financial results. The changes to the Charter have no direct impact on LMC's bottom line.
4. In answering the following questions, "subdivision" has been interpreted as an application to divide land. Subdivisions planned for 2004-05 include:
   Andrews Farm – redefinition of boundaries;
   Lochiel Park – residential subdivision;
   Industrial land at Seaford, Largs North and Edinburgh Parks;
   Mawson Lakes – joint venture; and
   Various adjustments to boundaries that may be required.
5. The additional allotments resulting from those subdivisions are:
   Andrews Farm – no additional allotment, land to be vested as road;
   Lochiel Park – number of additional allotments to be created yet to be determined;
   Industrial land – 41 lots; and
   Mawson Lakes – applications lodged by Joint Venture Project Manager to meet anticipated demand.
6. Land division data is recorded in calendar years. The data provided in response to questions 6 and 7 has been obtained from the Development Assessment Commission by extracting all land division applications lodged with LMC shown as landowner. The number of subdivisions lodged is shown below:

1998	26
1999	46
2000	24
2001	35
2002	43
2003	40
2004 (to date)	20

The subdivisions referred to in response to question 6 created the following additional allotments:

1998	278
1999	360
2000	47
2001	219
2002	373
2003	553
2004 (to date)	102

7. The following numbers of allotments were offered for sale by LMC in the years indicated. Surplus properties offered for sale on behalf of other Government agencies are excluded.

1998	930
1999	993
2000	834
2001	419
2002	757
2003	415
2004 (to date)	133

8. The areas of land offered for sale in each of the above years, excluding the disposal of surplus properties on behalf of other Government agencies, were:

	Hectares
1998	108
1999	81
2000	108
2001	103
2002	66
2003	107
2004 (to date)	71

9. The total revenue from the sale of land for each year is as follows:

	$000's
(a) 2003-2004	$33 751
(b) 2002-2003	$11 923
(c) 2001-2002	$9 885
(d) 2000-2001	$7 015
(e) 1999-2000	$11 186
(f) 1998-1999	$14 064
(g) 1997-1998	$1 025 (1 May 1998-30 June 1998).

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Industry and Trade (Hon. P. Holloway)—

Reports, 2003-2004—
- Auditor-General's Department, Operations of
- Code Registrar for the National Third Party Access for Natural Gas Pipelines Systems
- Commissioner for Public Employment
- Department of Trade and Economic Development
- Land Management Corporation
- Promotion and Grievance Appeals Tribunal—Report of the Presiding Officer
- Technical Regulator—Electricity
- Technical Regulator—Gas

Regulations under the following Acts—
- Development Act 1993—Port Waterfront Committee
- District Court Act 1991—Fee Schedules
- Public Corporations Act 1993—International Film Festival

Rules under Acts—
- Pitjantjatjara Land Rights Act 1982—Court of Disputed Returns—Procedure and Powers

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

Reports , 2003-2004—
Dental Board of South Australia Committee Report
Food Act
Mining and Quarrying Occupational Health and Safety Committee
Nurses Board of South Australia
Pharmacy Board of South Australia
SA Ambulance Service
Supported Residential Facilities Advisory Committee
WorkCover Corporation
Regulations under the following Acts—
Fisheries Act 1982—
King George Whiting—
Prescribed Quantities
Undersize Fish
Transfer of Licences
Lottery and Gaming Act 1936—Bingo
Occupational Health, Safety and Welfare Act 1986—Noise Exposure
South Australian Co-operative and Community Housing Act 1991—SACHA Board
Water Resources Act 1997—Tintinara Coonalpyn Prescribed Wells Area
Workers Rehabilitation and Compensation Act 1986—Sporting Activity
By-laws—
Corporation—Adelaide—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Local Government Land
No. 4—Roads
No. 5—Dogs
No. 6—Cats
District Council—Barunga West—
No. 1—Permit and Penalties
No. 2—Moveable Signs
No. 3—Roads
No. 4—Local Government Land
No. 5—Dogs.

MOUNT GAMBIER HOSPITAL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a copy of a ministerial statement made by the Hon. Lea Stevens MP, Minister for Health, relating to a review of the Mount Gambier Hospital by Professor Bryant Stokes AM.

SOUTHERN CROSS REPLICA AIRCRAFT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a copy of a ministerial statement on the subject of the *Southern Cross* replica aircraft made in another place on 11 October 2004 by the Hon. John Hill, Minister Assisting the Premier in the Arts.

QUESTION TIME

DEPARTMENTAL FUNDS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Leader of the Government a question about accountability for taxpayers' funds.

Leave granted.

The Hon. R.I. LUCAS: Members who have had a chance to have a quick look at the Auditor-General's Report would be aware of a significant number of criticisms by the Auditor-General of illegal or improper financial accounting practices by departments and agencies answerable to ministers of the Rann government. Yesterday, there was reference to $6 million of unspent money being hidden by the Attorney-General's Department from Treasury. Today, there has been a further explanation of the $5 million illegal transfer of funds between minister Weatherill's department in July 2003 and minister Hill's department. In relation to that case, parliament is being asked to believe that a junior public servant in minister Weatherill's department decided to loan $5 million to minister Hill's department, and the junior public servant organised—

The Hon. J.F. Stefani: Interest free?

The Hon. R.I. LUCAS: Well, that is an interesting question. The junior public servant in minister Weatherill's department organised it with the junior public servant in minister Hill's department and we are being asked to believe that minister Hill knew nothing about it, minister Weatherill knew nothing about it, and the chief executive officers of both departments knew nothing about it. A third example in the Human Services Department is that the Auditor-General, without indicating how much money, has said that money has been transferred out of the Department of Human Services into the Crown Solicitor's trust account. There are a number of further examples and, obviously, there will be opportunities on other occasions to pursue all of those. However, commentators are noting that it is an example of a serial lack by the Treasurer and the Rann government ministers to establish any proper and appropriate financial controls for taxpayers' money in the public sector.

Mr President, as you would know, Saturday's election result was significantly determined by concerns that people had about Labor governments and the mismanagement of financial accounts. My questions are:

1. Will the Leader of the Government indicate, in relation to departments and agencies that report to him, what financial and budget monitoring he undertakes with his chief executive officer and senior budget officers through a budget year to determine that his financial accounts are on track?

2. In particular, does he require monthly or quarterly financial account reporting to him, as minister, in terms of expenditure for departments and agencies that report to him?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): First of all, I will address some of the gross misrepresentations for the Leader of the Opposition. If ever there was a government that practised lax financial control, it was the Olsen government.

Members interjecting:

The Hon. P. HOLLOWAY: Yes; look at that. We will look at it all right, because we are fixing it up. The Leader of the Opposition may well shout and, no doubt, the Leader of the Opposition will continue to abuse standing orders. We sat and listened to the garbage that he was alleging in his question but, of course, we know that he will interject throughout my answer because, when we put the facts on the table, it will be extremely embarrassing for him—and it ought to be. Let us take the issue of carryovers. Under the Olsen government, when the Leader of the Opposition was treasurer, there were no controls on carryovers at all. One of the things that this government has done is introduce controls on carryovers.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Let me correct that.

The PRESIDENT: Order! Honourable members will maintain the dignity of the council at all times. The Leader of the Opposition's questions were heard in silence. I cannot account for the answer; I cannot account for whether or not you like it; but I can account for the upholding of the standing orders.

Members interjecting:

The PRESIDENT: Order! After yesterday's proceedings, I would not pursue that line, either.

The Hon. P. HOLLOWAY: In respect of what happened to carryovers, we know that there were very lax controls in relation to the previous government. Under this government, the Treasurer has placed some controls—

Members interjecting:

The Hon. P. HOLLOWAY: Well, yes; it would not have happened under the previous government because it did not care. It did not have any controls on it. That is exactly what happened. Read the report and you will see what happened.

Members interjecting:

The Hon. P. HOLLOWAY: Well, it will not happen under this government and appropriate action will be taken.

Members interjecting:

The PRESIDENT: Order! Standing order 193 applies to both sides of the council.

The Hon. P. HOLLOWAY: What will happen under this government is that, when there are carryovers, the Treasury has to give approval for them. Under the previous government, money would be transferred and it would be washing around in all sorts of funds with no accountability at all. We had the incredible situation in relation to the health department, where the treasurer and the minister for health were not speaking to each other. We had within the health system massive deficits being socked away within the hospitals department. Within individual parts of the health system, deficits were building up.

What was the former treasurer's response to this situation? He had this fantasy view: he said that he would recover them over time into the forward estimates. Somehow or other, these departments would overspend, because they would borrow, and they were all carrying debts on their individual accounts. The former treasurer said, 'Look, sometime in the fictitious future, we'll claw it back from health.' Of course, it was fiction. We know that the Leader of the Opposition, jealous as he might be of his reputation into the future as a totally fiscally lax operator, given that he knows that that is his reputation, was the person who could never deliver a AAA rating. This government has delivered a AAA financial rating because it has put the money in balance. The previous government—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I told honourable members that he would shout, because the facts always hurt. They sold $6 billion worth of assets and only 66¢ of every $1 in assets sales went towards the debt; the rest they blew. The previous Liberal government contributed $2 billion—

Members interjecting:

The PRESIDENT: Order! Honourable members on my right do not need to help the minister answer the question, and honourable members on the left will take their punishment in silence.

The Hon. P. HOLLOWAY: So, that is what happened under the previous government. It sold $6 billion worth of assets but reduced debt by only $4 billion. We then had the Leader of the Opposition trying to take credit for this government's achieving a AAA financial rating, when he could never maintain the finances of this state. There was always overspending, and there were such lax controls over the spending that he could not produce an accrual surplus. This government has done it with every budget and will keep doing it. One of the reasons we have achieved this rating is that things such as carryovers from departments have been rigorously controlled under this government. That is why, when you have people who are doing it—

Members interjecting:

The Hon. P. HOLLOWAY: Exactly. The thing is that this government now has controls on it. It was not the case previously, because you could do what you liked—the CEOs could shove money anywhere they liked. What has happened now is that this government has introduced those controls, and we will insist that they are kept.

Members interjecting:

The Hon. P. HOLLOWAY: Well may the opposition laugh. Throughout the Auditor-General's Report, if one reads it, one will see the recognition by the Auditor-General of the improved financial controls under this government—the tightening of the gross laxity that occurred under Rob Lucas as treasurer. That was a period of great tragedy for this state. The first page of the report I open, at page 37, the Auditor-General says:

> I consider these to be improvements on the information available to the public sector that resolved the reporting matters I previously raised.

There is a whole series of these comments in the Auditor-General's Report. What has happened is that practices that were common and, indeed, legal under treasurer Lucas have now been banned under this government, because they were bad fiscal practice. They were legal under the previous government because of the former treasurer's laxness—because of his approach to financial management. In relation to carryovers, the rules have changed. Under the Rann government, there is now a tightness and fiscal prudence that did not exist under the previous government. That is why this government has achieved a AAA rating. Of course, that is why ex-treasurer Rob Lucas is so worried about his reputation, and that is why he is asking questions like this. In relation to the relevance, I have weekly meetings with my chief executive. In recent times, with the change of the department, I have been having weekly updates on matters in relation to the budget.

The Hon. R.I. LUCAS: I have a supplementary question. I think the last sentence was the answer. Is the minister indicating to the parliament that he receives a weekly financial and budget update from his department, through the Chief Executive Officer, at each weekly meeting he attends with his chief executive?

The Hon. P. HOLLOWAY: I suggest that the Leader of the Opposition rereads my answer.

The Hon. R.I. LUCAS: I have a supplementary question. Is the minister refusing to answer the question in relation to whether or not he receives weekly financial and budget information from his chief executive, as he claims?

The Hon. P. HOLLOWAY: I suggest that the Leader of the Opposition read the answer.

The Hon. R.I. Lucas: You are caught out, because you don't get it.

The Hon. P. HOLLOWAY: As I said, over recent times I have been getting weekly reports because of—

Members interjecting:

The Hon. P. HOLLOWAY: I have been in recent times.

The Hon. R.I. Lucas: No, you haven't.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Let that go on the record, Mr President. We now have a situation where the Leader of the Opposition tells me what I receive from my own department. If he knows that, why does he bother to ask the question? If he knows more than I do about what I do—

Members interjecting:

The Hon. P. HOLLOWAY: If you can tell me what I do when you are not there—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: He tells me what I do, and he is not there. Why does he bother asking the question?

The PRESIDENT: I think the minister has answered the question.

The Hon. P. HOLLOWAY: With such omnipresence and such perception, why does the Leader of the Opposition need to ask any questions at all?

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister confirm that he receives the information in written form?

The Hon. P. HOLLOWAY: I have received a budget summary. As I said, there have been some changes.

Members interjecting:

The Hon. P. HOLLOWAY: Well, there have been.

Members interjecting:

The PRESIDENT: Order! He said he had a meeting.

The Hon. P. HOLLOWAY: As a matter of fact, there has been every week over the recent period. I have been taking that close a control. I also do it with the staff numbers, because this department has been restructured, and a number of issues in relation to financial matters need to be looked at. The Department of Trade and Economic Development has been restructured—restructured, incidentally, to get out some of the culture that existed under the previous minister, who also happens to be the ex treasurer. This was the culture of credit cards. Members will well remember questions asked in this parliament in the past about hundreds of thousands of dollars being run up by staff within the department on credit cards at wine shops and so on.

We all know what was happening within the previous Department of Industry and Trade. That culture has changed, and it is a culture of financial management and prudence under the Rann government. It is a new era, and those practices have gone. As I said, over the past month or two I have been getting regular updates.

An honourable member: You said weekly.

The Hon. P. HOLLOWAY: No—weekly. As I said, over the past couple of months—

Members interjecting:

The Hon. P. HOLLOWAY: Listen! The Leader of the Opposition will not even listen: he interjects. Perhaps I should do it in baby talk, because that is the only way they will understand. I will talk very slowly. Over the past couple of months I have received weekly updates in relation to the budget of my department. Right, get it? As I said, given the restructuring that has taken place, there are a number of issues in relation to ensuring that that department will be appropriately managed into the future. That is the way I operate my department. The way the Rann government operates the management of this government is to provide a much tighter level of control than previously existed.

CONSTITUTIONAL ADVICE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question about constitutional advice.

Leave granted.

The Hon. R.D. LAWSON: Yesterday, in another place, the Speaker tabled an opinion from Sydney Tilmouth QC and Henry Heuzenroeder, two barristers at the independent bar, who were briefed by Van Dissels Solicitors to advise the Speaker on certain constitutional issues. In particular, as the opinion states, counsel were asked to advise whether certain advice given by the Premier and or the Executive Council to the Governor in relation to the Parliamentary Remuneration (Non-Monetary Benefits) Amendment Bill 2004 was proper and lawful in accordance with constitutional conventions. The counsel concluded that the directions given by the Premier were not lawful and had not been appropriately provided. They concluded (paragraph 76 of the opinion tabled yesterday) that the direction given by the Premier and/or the Executive Council to the Governor were contrary to constitutional convention and precedent; and also at paragraph 70 they expressed the view that, as a matter of law, constitutional convention and history, the gubernatorial powers of assenting to legislation are not to be exercised on the advice of the executive.

The Speaker also tabled a letter under the letterhead of the Joint Presiding Officers signed by you, Mr President, and the Speaker dated 9 August to the Auditor-General concerning parliament's constitutional prerogative power to enact law. This letter asked certain questions of the Auditor-General, and the Speaker has stated that no response to that letter has been received. Of course, the subject matter between the legal opinion and the letter to the Auditor-General to which I have just referred was the same. My questions are:

1. Has the Attorney-General examined the opinion of Messrs Tilmouth and Heuzenroeder?

2. Does the Attorney-General agree with its conclusions, in particular the conclusions in paragraphs 70 and 76 to which I have referred?

3. Has the government received advice on this matter? If so, from whom; when was that advice obtained; and does it agree with that provided by Messrs Tilmouth and Heuzenroeder? If not, what is the basis of any contrary opinion?

4. Did the government pay or contribute to the cost of counsel's opinion referred to?

5. Has the Attorney-General seen the letter of 9 August to the Auditor-General?

6. If the Attorney-General has seen that letter, does he consider that the questions asked by the signatories were appropriate and did warrant a response from the Auditor-General?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Attorney-General and bring back a reply.

The Hon. J.F. STEFANI: I have a supplementary question. Will the Attorney establish whether by the Speaker's writing to the Auditor-General the Presiding Officers were acting for the parliament and, if so, when did both houses of parliament make a resolution instructing the Presiding Officers to write in such a manner to the Auditor-General?

The Hon. P. HOLLOWAY: I will also refer that question to the Attorney and bring back a reply.

DEPARTMENTAL FUNDS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about accountability in government.

Leave granted.

The Hon. CAROLINE SCHAEFER: Given the tight fiscal controls about which the minister has just spoken in his answer to my colleague the Leader of the Opposition, why has his department (PIRSA) failed to reconcile cash at bank for the last two years? Why, in spite of promising to do so, was his department unable to provide a satisfactory reconciliation prior to the preparation of the 2003-04 financial statements? What are the further unresolved reconciliation items mentioned by the Auditor-General? Why was the department unable to reconcile to opening balances reflected in the financial statements? Why has a special task force to complete these normal accounting practices had to be set up by the department, and why is it unable to complete any of these reporting necessities prior to February 2005?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): The Minister for Agriculture, Food and Fisheries is, of course, the principal minister to whom the Department of Primary Industries and Resources reports.

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: Yes, I was. As a matter of fact—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: I warn the honourable member that, before she goes too far, she might want to know the date on which these problems began. My advice is that they actually began back in—

An honourable member: 1876.

The Hon. P. HOLLOWAY: No, it wasn't that far back, but I understand that it was in 1999 that these things began.

The Hon. Caroline Schaefer: You've had two years to fix it.

The Hon. P. HOLLOWAY: Since the shadow minister interjects and obviously wants us to discuss this matter further, one of the things I would like to point out—if she wants to go through all of the problems in PIRSA—is that it relates to the various primary industry advisory funds, which of course were set up by the leader of the opposition in the other place (Hon. Rob Kerin), and of course at that time the Hon. Caroline Schaefer was the minister for primary industries. I invite anyone to go back and look at the *Hansard* of 3 December 2002, because one of the things I discovered was that none of the primary industries funds had been audited. They went right back to the year when Rob Kerin as minister originally introduced the act in the late 1990s.

We came to government in I think March 2002, and this was at the end of 2002, so in that time I discovered that none of those accounts had been audited, even though some of them had been around for years during the period in which the person who asked the question was the minister and the Hon. Rob Kerin, the Leader of the Opposition in the other place, was also a minister. As a result of my discovering that, I ensured that all of those accounts were properly audited and transfers were made from the part of the department that dealt with them to PIRSA corporate so that there would be some proper prudence in relation to the management of those accounts. That is just one of the examples, on the record, of the things I had to do to clear up some of the laxity in the financial controls that were inherited. This is another that dated back some years to the time of the previous government.

The Auditor-General's Report to parliament has qualified the financial statements of the Department of Primary Industries in relation to two matters: the reconciliation of the cash at bank and the general ledger. My advice is that the cash at bank qualification relates to reconciliation issues in the PIRSA bank account dating back over the last five years. One of the reasons why it has taken so long—

The Hon. Caroline Schaefer: You've had 2½ years.

The Hon. P. HOLLOWAY: The honourable member asks why it has taken so long. If the honourable member listens to the answer she will understand that, because they go so far back, they will take a long time to correct. In June 2004, after protracted negotiations and validations of figures with the Department of Treasury and Finance, transactions were effected to establish for the first time—this had never been done; this was the first time that this had to be done—an accurate balance in the PIRSA Westpac bank account based on information from history. Consequently, it has been only in the last three months, I am advised, that PIRSA has been able to prepare a year-to-date reconciliation between the bank account and the general ledger containing the financial information of the agency.

In performing these new reconciliations, there are a number of outstanding reconciliation differences which are material in total and which will require substantial work to rectify. Since July 2004 every effort has been made by existing PIRSA staff to rectify the reconciliation issues, but this was unable to be finalised in time for the completion of the 2003-04 financial statements. It should be noted that there has been no suggestion of any misappropriation of funds or fraud. I could supply the reconciliation differences in relation to the cash, but I should point out at this stage that on Tuesday 26 October the government will make available additional time in question time, specifically for the Auditor-General's Report. I will be happy to go into the detail then.

The reconciliation differences fall into two categories. One is the process of preparing financial statements. My advice is that transactions reflected in the financial statement may have been excluded from or double counted in the general ledger. Prior to 2002, certain year-end transactions, for example, accruals, were completed outside the ledger using spreadsheets in order to prepare the financial statements. We know that prior to 2002 that is what happened. These transactions may not have been posted to the general ledger and could impact on cash and equity balances.

The second factor is the reconciliation of the bank account. There are a number of reconciling items in the bank reconciliation that require further investigation. Of the $2.294 million difference between the general ledger and the bank account at Westpac, $0.935 million has been identified, leaving unidentified reconciling items totalling $1.358 million. It should be noted that part of the reconciling items may relate to the historic information used by PIRSA and the Department of Treasury and Finance to establish the balance in the Westpac bank account. The balance was based on the estimated value of the bank account as at 1 March 1999 and will require further work to verify its accuracy.

Again, it underlines what has been happening. As this government has come in and tightened up fiscal controls, a

series of these issues are coming up, and the government is going through a process of correcting them; just as I discovered that none of the primary industries funding scheme accounts had been audited. I fixed that up in 2002, but there are still issues coming from that. In March 1999 there were estimates of accounts and, in fact, some of these issues were unattended. Undoubtedly, these issues will come up as a new era of fiscal prudence is imposed upon government authorities.

I should point out what action is being taken by Primary Industries and Resources SA. In order to resolve these matters, a project team has been formed, consisting of four PIRSA staff and an additional two specialist contract staff, with a target completion date of 28 February 2005. This involves reconstructing bank reconciliations and financial statements in order to identify and resolve all outstanding differences. As I said, these go back many years—long before this government came into office.

The chief executive has expressed particular concern at the assertion in the report that some of these issues have remained unattended for at least 12 months since they were first identified. Given the nature of the audit issues, the Deputy Chief Executive of PIRSA has commissioned an independent review of all PIRSA finance functions. An external accounting firm has commenced the review and will report to the deputy chief executive by the end of October 2004.

Again, I sum up by saying that a series of lax practices have been around governments for many years, and these have been progressively discovered and corrected under this government. As I said, it is easy for the opposition to highlight and try to pretend some of these issues that began in its era are new creations. In fact, the reality is that what they indicate is—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Well, they were there before, but the point is that this government has set a much higher standard. That is why the sort of information being reported in Auditor-General's reports is to do with some technicalities in relation to reporting. In the Auditor-General's reports under the Olsen government we had reports about dishonesty in relation to members of that government. We all know what happened in relation to that; we all know what happened to the report about practices in relation to certain members of parliament and their behaviour. What is happening here is a tidying up of some very lax financial practices that existed under the previous government.

TRADE FORUMS

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about trade forums.

Leave granted.

The Hon. CARMEL ZOLLO: The state government has previously held regional trade forums in the South-East, Port Lincoln and the Riverland. My question is: what plans does the minister have with regard to future trade forums?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the honourable member for her question. I certainly believe that the regional trade forums have been well received and have provided panel members with a better understanding of localised trade issues. These forums have proven themselves to be an excellent way of giving local companies the opportunity to voice their concerns on trade related issues directly to the government as well as other key state and commonwealth bodies related to trade who attend them. I am, of course, particularly referring to Austrade, which is involved with these forums.

Shortly, however, we will be having a trade forum in Adelaide. The situation for metropolitan exporting companies is very different to their regional equivalents. These companies have the opportunity to contact the Department of Trade and Economic Development and my office on trade concerns where ever necessary, and they are not impeded by distance in terms of holding direct discussions with senior trade officials. In order to increase the enthusiasm of Adelaide companies to participate in these events, and to better inform them about our trade policies, I have decided to make the metropolitan forums more strategic, focusing on specific industries or markets such as China, or trade issues such as a free trade agreement. As a result, the next Adelaide Forum, which is proposed for 19 November, will focus on the creative industries.

There are a number of activities related to creative industries and trade currently underway in the state. A creative industries mapping definition exercise led by DTED is expected to finish in mid-November, and it will feed into the creative industries export strategy. In addition, South Australian film related companies, including directors, post-production and set designers, have also recently formed an umbrella group called the United Film Group to better attract international investment, and to coordinate their international marketing efforts. The Office of Trade has had initial conversations with key players in this industry, and there is definite interest in engaging in discussion into how the sector fits into the state trade agenda. We particularly appreciate the support of the Chief Executive of the South Australian Film Corporation, Helen Leek, who has volunteered to coordinate participation from the film industry. That is the plan for the Adelaide meeting in November.

Next year it is our intention to hold the first trade forum of 2005 on Yorke Peninsula. This region has a unique geography affecting its trade activities and significant infrastructure related to bulk grain transport, an emerging aquaculture industry and a healthy tourism sector as, I am sure, many members in this council can attest. After that we hope to hold another forum in Adelaide with the focus on the services sector. According to the Department of Foreign Affairs and Trade, the services sector is the largest and fastest growing sector in the global economy, providing more than 60 per cent of global output and, in many countries, an even larger share in employment terms.

Australia's economic experience over the past two decades shows that services liberalisation can be a major catalyst for higher productivity and economic growth nationally. Australia's services exports in the past 10 years to calendar year 2003 have increased at an annual average rate of 6.4 per cent from $17.6 billion to $32.6 billion. To date, although the services sector has been identified as an area of huge growth potential and, therefore, a major contributor to reaching the state export target of $25 million, there has been no concise method of reviewing services exports at the state level.

In the lead-up to the release of the export strategy, companies which specialise in providing services—that is, tourism, education, legal and so forth—have individually provided figures that they believe represent their export dollars. However, these figures do not represent the industry writ large. Over the next six months the Export Council, supported by DTED, will begin to define and scope the services sector's actual parameters. The trade forum that we

intend to hold in the latter half of the 2004-05 financial year on services will support this activity and help the companies have a better understanding of their role in the international trade agenda. I thank the honourable member for her interest in this important issue of the state's exports.

CHILD ABUSE

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Families and Communities, questions about child abuse.

Leave granted.

The Hon. KATE REYNOLDS: For some months now my office has been in contact with a grandmother who is extremely concerned for the welfare of her two grandchildren whose parents have a history of substance abuse and criminal convictions. The children resided solely in the care of the grandmother for four years but have recently been returned by the Family Court to their mother. Some months ago I met with the minister's staff and CYFS senior staff to raise my concerns over the matter and was assured by them that the best interests of the children would be taken into consideration. Last week I was contacted again by people involved in this matter and an independent witness, who both informed me that it appeared that CYFS workers are now turning a blind eye to the continued abuse of these two children who are aged just nine years and five years old.

According to witnesses, CYFS staff, because of the extent of physical evidence, are aware that these children are once again suffering physical abuse whilst in the care of their mother. On an access visit with their grandmother at the beach last Wednesday, widespread bruising of various colours—and, therefore, various ages—was visible across the body of one of the children. The younger child also appeared malnourished and has lost a substantial amount of weight since August this year. This physical evidence of abuse was clearly visible and was witnessed by five adults including a lawyer who were all sitting nearby.

In relation to the five year old girl, there is photographic evidence of bruising to her right hip, left buttock, extensive bruising on both legs, bruising on her left shoulder, which appeared to be a bite mark, and extensive bruising to the right upper arm. With the exception of moving a little further away to smoke, the two social workers remained within two metres of the grandmother and her grandchildren for the whole visit. The children, according to an independent witness, clearly enjoyed being in the company of their grandmother but the visit was terminated 15 minutes early by the social workers, causing the children obvious distress. At one stage, one of the social workers threatened to stop all contact between the children and their grandmother if the grandmother 'brought any friends along', which was said as the worker pointed to the independent witnesses. One of the adults who witnessed all of this was so concerned about the situation that she contacted the minister's office last Friday to notify him of her concerns; however, his staff refused to take her call. My questions are:

1. Was a child protection notification made by either of the two social workers about the two children last Wednesday? If so, what classification was it given?

2. What action was taken by CYFS on Wednesday, and since, to ensure the immediate protection of these two children?

3. Is it acceptable practice for social workers to remain within two metres of children on an access visit and to smoke within a few metres?

4. Has the minister's office received any complaints regarding the behaviour of the CYFS staff who oversaw the access visit? If so, what action will be taken?

5. What action will the minister take to ensure the long-term protection of these children?

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.

GAMBLING, PROBLEM

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, questions about intervention programs for problem gamblers.

Leave granted.

The Hon. NICK XENOPHON: The budget papers make reference to the allocation of $350 000 for 'gambling intervention, implementation of intervention strategies and gambling venues'. The budget papers state that this additional funding is 'subject to matched funding from hotels, clubs and gaming venues to support early intervention strategies for problem gamblers.' This would provide for counsellors to periodically attend large gaming machine venues to help identify and assist problem gamblers at the earliest opportunity.

I am aware that a number of gambling counsellors have concerns about the proposal, including issues of liability, risk assessment for counselling such vulnerable people at the site of addiction, and the qualifications and training a person would need in order to make an assessment of the problem gambler and the appropriate intervention. Other issues have been raised as to what arrangements are proposed to ensure the independence of counsellors and the support that will be given by the venue in relation to the judgment of the counsellors. My questions are:

1. What consultation has taken place with the Breakeven Gambling Rehabilitation Services network, the hotels and clubs representatives, the Office of the Liquor and Gambling Commissioner and the Independent Gambling Authority in relation to the proposal referred to in the budget papers, and what information was provided by those organisations?

2. What level of independence and authority will counsellors in venues have to act to intervene?

3. What type and level of training would there be for counsellors if the plan were to be implemented, and what would be the criteria and triggers for intervention?

4. What information has the minister received in relation to the effectiveness of such a venue intervention program compared with assistance provided away from venues?

5. What consideration has been given to liability risk management issues raised by some counsellors who are concerned about counselling vulnerable people at the site of addiction?

6. What is the timetable for implementation of the program, what work has been carried out on it since the budget announcement, and how will concerns of gambling counsellors be appropriately dealt with?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to

the Minister for Gambling in another place and bring back a reply.

ADELAIDE, MAKE THE MOVE CAMPAIGN

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about the Adelaide, Make the Move campaign developed by the Department of Trade and Economic Development.

Leave granted.

The Hon. D.W. RIDGWAY: In *The Advertiser* of Friday 8 October 2004, the Premier was quoted as saying:

> There was increasing evidence to suggest younger people were not only being priced out of the housing markets, they were [also sick and] tired of spending half their lives snarled in traffic.

The Premier went on to say:

> We will be promoting SA's affordable housing, a world class education system and an accessible, clean, green cosmopolitan 20 minute city.

Recent data from Austroads on Adelaide's travel times and speeds reveals that travel speeds on our roads are now on a par with those of Sydney and Melbourne and have fallen well behind Perth and Brisbane. The average speeds on Adelaide's major arterial roads have decreased from 40 km/h in 1998-99 to 37.8 km/h in 2001-02. At the same time, the time taken to travel from Darlington to the city on Goodwood Road is now just under 40 minutes, and the same journey using South Road takes just under 30 minutes, travelling at an average speed of approximately 25 to 26 km/h. That is hardly a 20 minute city. My questions are:

1. How is the Department of Trade and Economic Development working with the Department of Transport to ensure that travel times remain at 20 minutes or less?

2. Given that the government plans to cut the state's population loss to other states to zero by 2008 and increase interstate migration, what plans does the government have for vital infrastructure, including doctors, schools, etc. to make services available to these people?

3. Will the government set a date for the release of the State Infrastructure Plan, given its targets to increase the state's population and therefore the demand on state infrastructure?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer the latter questions to the Minister for Infrastructure and bring back a reply. However, I would hope that, now the Howard government has been re-elected, it will give South Australia its fair share of road funds. We have been receiving only about 3 per cent of the nation's road funding. One would hope—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: One can only say that that is the level of funding that this state has been receiving. The RAA, other bodies and the freight industry have commented on the appalling deal—not just under the Howard government but under many federal governments for many years. However, until this state gets a fair share of those funds (and one would think that, on a population basis, it should be closer to 8 per cent, and that, from memory, given the road kilometres, it should be 11 per cent), it will be very difficult to improve the road infrastructure within the state. One can hope that, under the re-elected federal government, the state will receive its proper share of road funding. Sadly, I will not hold my breath on that score, but we can always hope. Perhaps the honourable member will do his best to lobby his colleagues in Canberra to ensure that we get a better share of road funding.

ABORIGINAL APPRENTICESHIP PROGRAM

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Aboriginal apprenticeship program.

Leave granted.

The Hon. J. GAZZOLA: I understand that the Hon. Steph Key, Minister for Employment, Training and Further Education, recently presented a number of apprentices with their qualifications. Will the minister provide details of how this government is building employment opportunities and trade skills in the Aboriginal community?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and his interest in Aboriginal affairs. My colleague the Minister for Employment, Training and Further Education has announced that this government is to expand its Aboriginal apprenticeship program significantly, increasing over the next year the number of apprenticeship opportunities it makes available to Aboriginal South Australians from 30 places to 50 places annually. Half those opportunities will be offered in regional areas (which will make you happy, Mr President).

I am informed that this program delivers real benefits for the whole of the South Australian community. These apprentices have earned their qualifications in areas of skill shortage and demand, such as plumbing, carpentry, aquaculture, child care, hairdressing and light mechanics. These included some traineeships as opposed to apprenticeships. While this program provides important long-term employment opportunities for Aboriginal people, it also supports small business and the wider community across South Australia by addressing some of these skill shortages, which appear to have been slow to be addressed by the commonwealth and by the time delays in some of the long training apprenticeships and traineeships, particularly in relation to nurses, and this was a challenge for incoming governments.

The profile of recent graduates is a testament to the value of this program and the broad range of trades represented. The graduates are from regions across South Australia, and it is particularly pleasing to note that their ages range from 18 to 55, thereby cutting into the issue of mature age apprentices. That is important, not only in Aboriginal communities but also across the board, particularly in regional areas, where opportunities for certificated traineeships and apprenticeships do not occur very often. Certainly, the challenge is to build up the skill levels, particularly in those regions suffering from a lack of skilled trades, which is holding back regional development.

MENTAL HEALTH

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about mental health funding.

Leave granted.

The Hon. SANDRA KANCK: Members would be aware that this week is Mental Health Week. Last week in *The*

Advertiser, the national mental health charity, SANE Australia, stated that South Australia has the worst mental health system in the country. Its annual report, Dare to Care, states:

> The Rann government's inaction on community mental health services can only be described as contempt for South Australians affected by mental illness.

Later that same day, on Radio National I heard its spokesperson, Barbara Hocking, say that, Australia-wide, mental health makes up 25 per cent of the health task but receives only 8 per cent of the funding. South Australia continues to focus expenditure on Glenside and mental health beds in general hospitals while community mental health care continues to be under-funded, understaffed and under-resourced. My questions are:

1. What are the South Australian figures for the task load of mental health compared to the funding allocation?

2. What percentage of the mental health budget is used to support Glenside Hospital?

3. Is the minister aware of the lack of community support services for people living with mental health issues, their carers and families?

4. Is it correct that the proportion of the mental health budget allocated to NGOs providing community support has reduced to just 1.9 per cent?

5. Is it correct that supported accommodation receives just 0.4 per cent of the mental health budget compared to one state where it is 17.9 per cent?

6. What action is the government taking to address the inadequacies as detailed in the scathing report SANE Australia has given of South Australia's mental health services?

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

POLICE, NEW GUINEA CONTINGENT

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Police, a question about a SAPOL contingent to Papua New Guinea.

Leave granted.

The Hon. T.J. STEPHENS: It has recently been brought to my attention that the South Australia Police contingent to the Australian Federal Police delegation to assist Papua New Guinea in its efforts to manage its law and order issues is being stopped from going to that country because this government is squeezing the Australian Federal Police for more money—not for the officers themselves but for the coffers of the government. My questions are:

1. Will the minister confirm that the government is demanding triple the amount which the Australian Federal Police has offered and which has also been accepted by every other state?

2. Does the government's position in this situation possibly threaten the chances of South Australian police officers gaining valuable experience by being part of this very important delegation?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Minister for Police in another place and bring back a reply.

RIVERLAND HEALTH AUTHORITY

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

Leave granted.

The Hon. A.L. EVANS: In a recent report conducted by the Riverland Health Authority it was recommended that hospitals at Waikerie, Renmark and Loxton cease the provision of emergency surgery by the end of 2005. If these recommendations are carried out, it will require people in the Waikerie, Renmark and Loxton area to receive emergency surgery in other major centres such as Berri. Constituents have contacted my office and expressed dissatisfaction with such a move, saying that it may require them to travel over an hour just to receive emergency surgery. My questions are:

1. Does the minister plan to accept the recommendations of the Riverland Health Authority and thus implement the strategy that will cease to provide emergency surgery by the end of 2005?

2. Has the minister created a forum whereby the residents of the Riverland area are able to express their concerns over the strategy?

3. What guarantees will the minister give that will ensure that the standards in emergency surgery in the Riverland are not compromised?

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

ROUND TABLE ON SUSTAINABILITY

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, a question regarding the Premier's round table on sustainability.

Leave granted.

The Hon. Caroline Schaefer interjecting:

The Hon. J.M.A. LENSINK: Round and round and round, indeed! During the course of the round table's first meeting on 6 November 2003, a number of suggestions for the future of the round table were made. Included among them was mention of a possible link with the Thinkers in Residence program. It was thought that one thinker every year could be dedicated to the round table. The members believed that this would help the table to fulfil its terms of reference which call on the table to engage successfully with stakeholders in the community. My questions are:

1.Given the pride which the Premier has in the Thinkers in Residence program (initiated under the previous government) and the importance placed on the round table on sustainability—

The Hon. Caroline Schaefer: It will be good when he gets some doers in residence.

The Hon. J.M.A. LENSINK: —doers in residence, indeed—why has he ignored the suggestion made at the first meeting to link the two by having at least one thinker per year dedicated to the round table?

2. When Peter Cullen was given the position of Thinker in Residence, why was the round table not mentioned in the media release that was so promptly put out by the Premier? Given this absence, does the Premier consider the round table

to be anything more than a waste of the $200 000 that was budgeted for the year 2003-04; and, finally, is the Premier at all concerned about sustainability of the environment?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): What a patronising question. I will answer for the Premier. Of course, the Premier is very interested in sustainability—I think one would only have to look at the many initiatives—but perhaps I should take this question on notice, because I am sure the Premier would be absolutely delighted to put on the record all the things he has done. So I take back my answer to the question. I will invite the Premier to provide an answer and give a full list of the many initiatives that he has taken in relation to this subject. I am sure he would enjoy doing so immensely.

PRISONS, DRUGS

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Correctional Services a question about drugs in gaols.

Leave granted.

The Hon. A.J. REDFORD: I assume that I will not get an answer to this question based on yesterday's performance, but I will try. The minister and his department have facilitated—

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: Well, you didn't. Read the *Hansard*. The minister and his department have facilitated visits by me—

The Hon. R.K. SNEATH: On a point of order, Mr President, that is entirely opinion.

The PRESIDENT: Order! There is probably a point of order there, but I think if we get on with the explanation and forget the opinion we will get to the question before—

The Hon. A.J. REDFORD: Poor old Bob, the only thing he can judge is a football team.

The Hon. G.E. GAGO: I rise on a point of order. Under standing order 193, that is an offensive statement.

The PRESIDENT: Order! I uphold the point of order.

The Hon. G.E. GAGO: I ask the honourable member to withdraw. It is offensive.

The Hon. A.J. REDFORD: I, like the Hon. Bob Sneath, am a very strong supporter of the Port Power football team. I will die before I withdraw my support for the Port Power football team, and I will not pretend to withdraw the Hon. Bob Sneath's support for that team.

The Hon. G.E. GAGO: I rise on a further point of order, Mr President. The honourable member's statement was offensive under standing order 193 and it should be withdrawn.

The PRESIDENT: Order! The Hon. Mr Redford actually started this yesterday about offensive language.

The Hon. A.J. Redford: What did I say that breached standing orders? Identify it!

The PRESIDENT: The honourable member is saying that the statement, which I did not quite hear, was offensive to her. Standing order 193 states that offensive or objectionable language is highly disorderly.

Members interjecting:

The Hon. J.M.A. LENSINK: I rise on a further point of order, Mr President. The Hon. Bob Sneath called me dumb. I ask him to withdraw that, too.

The PRESIDENT: We will deal with one point of order at a time.

The Hon. R.K. Sneath interjecting:

The PRESIDENT: Truth is no defence in these matters, Mr Sneath. The Hon. Ms Gago has pointed out that in her opinion offensive language has been used in breach of standing order 193. I do not know whether anyone else has taken offence.

The Hon. A.J. Redford: What was offensive?

The PRESIDENT: What was the offence?

The Hon. G.E. GAGO: The analogy of the Hon. Bob Sneath to a dog.

Members interjecting:

The Hon. A.J. REDFORD: With the greatest respect to the Hon. Gail Gago—and there are some question marks over her intellectual capacity on this side—I never said any such thing.

The Hon. G.E. GAGO: I rise on a point of order, Mr President.

The PRESIDENT: Order! The honourable member does not need to tell me. That remark is objectionable and offensive.

The Hon. A.J. Redford: Well, Mr President, can you stop her from verballing me? That would be a good start.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: I want that remark withdrawn, Mr President.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! I think the Hon. Mr Redford—

Members interjecting:

The PRESIDENT: Order! I will close off question time if I do not get order. We have passed the time for questions. The Hon. Ms Gago has called a point of order. She believes that you referred to the Hon. Mr Sneath as a 'dog'. Is that correct?

The Hon. A.J. REDFORD: No, sir.

The PRESIDENT: There is no point of order.

The Hon. A.J. REDFORD: Thank you, Mr President.

The Hon. G.E. GAGO: What about my second point of order in reference to my intelligence?

The PRESIDENT: That is a clearly a breach.

The Hon. A.J. REDFORD: I apologise for making any reference to the honourable member's intelligence.

The PRESIDENT: You have five seconds available to you.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That standing orders be suspended to enable the honourable member to complete his question.

Motion carried.

The Hon. A.J. REDFORD: The minister and his department facilitated visits by me to both the Adelaide Women's Prison and Yatala Labour Prison over the past couple of months; and I thank the minister, his staff, the CEO of his department (Mr Peter Severin) and the many other staff for their respective assistance in that regard. Following those visits, on Tuesday 21 September 2004 I saw an article in *The Advertiser* entitled 'Tougher stand on drugs in gaol'. In the article I was surprised to see the following quote attributed to the minister:

The government has a zero tolerance policy towards drugs in prison.

It goes on to talk about other matters. I know, unlike the member for Mount Gambier, this minister will not claim that he has been misquoted. I was surprised because during the course of my visit to the Adelaide Women's Prison I was shown the room or clinic staffed by officers or staff from the Department of Health who, I was told, are responsible for the conduct and administration of the methadone program. Members will be aware that methadone is a drug that is used as a replacement for heroin. The aim of a methadone program is to replace heroin with methadone and slowly reduce the methadone dosage until the patient or drug user is free of their addiction. I asked the officers concerned whether or not prisoners caused any problems when their dosages of methadone were reduced. My question was met with an incredulous look—a look that paled into insignificance with my look when I received the answer. I was told that there is no reduction in the methadone dosage while they are in prison. In some cases there is an actual increase in methadone dosages to prisoners in gaol. In the light of this, my questions are:

1. Is the minister aware that methadone dosages are not reduced in every case for prisoners under his care?

2. Does he agree with that policy?

3. How can the minister claim that the government has a zero tolerance policy towards drugs in prison having regard to this information?

The Hon. T.G. ROBERTS (Minister for Correctional Services): I have explained often in this council what happens when prisoners who are affected by either prescription drugs or drug habits enter prison. A drug substitution program is run; it is a managed prescription program for methadone, which is administered under supervision within the prison system.

The Hon. A.J. Redford: That is not zero tolerance.

The Hon. T.G. ROBERTS: It is zero tolerance in relation to illicit drugs. There are other drugs in prisons. Analgesics are prescribed as drugs. Other prisoners have drugs prescribed for mental health issues or their physical health, so there are various categories of drugs. I understand the question the honourable member asks. The point about methadone, as a substitution drug, is still being debated. Buprenorphine is another drug that is being used as a substitution drug and some practitioners lean towards prescribing that drug. If a prisoner comes in with a serious heroin or morphine problem then they certainly will not be prescribed heroin or morphine. They are prescribed drugs administered as substitution drugs out in the broader communities, so that when prisoners are released they will be able to drop on to methadone management programs being administered—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Well, it is very difficult. Some prisoners might decide to go cold turkey if they do not have a serious problem. If they have a serious problem, the prescription substitution program is the one that is recommended by the health department and administered through the doctors and those who administer the substitution program. Pharmacies run it in the community, and pharmacists run the methadone substitution program in the community. I thank all those pharmacies and pharmacists who do that, because it is not a very profitable part of a pharmacist's yearly salary or take, and there are a lot of people on the programs who have problems with their drug habit. It is a serious problem within our community.

With substitution drugs, you have to treat the drug problems faced by prisoners. There are issues associated with the amounts that some prisoners have. We can only hope that they are followed up in the community when on release to try to relieve the pain associated with the methadone drug. It is a drug of addiction; it is not a drug that can be easily got off.

The Hon. A.J. Redford: It is not a very good drug.

The Hon. T.G. ROBERTS: As the member says, it is not a very good drug. I do not think that there are any good drugs; that is my view, but other people have a different view. They get hooked on prescription drugs, non-prescription drugs or illicit drugs, and the prison system has to manage those habits as best it can. The substitution program is the one that has been decided upon and administered inside our prisons by the Department of Health.

The Hon. NICK XENOPHON: I seek leave to ask a supplementary question.

Leave granted.

The Hon. NICK XENOPHON: Is the lack of reduction or, in some cases, the increase of methadone dosages for prisoners in breach of widely accepted medical protocols?

The Hon. T.G. ROBERTS: I would have to refer that question to the health department; I am not qualified to answer that. I do know that the level of drug addiction and the way in which each case is managed would depend a lot on the level of drugs that are administered inside prisons. I will refer that question to the minister in another place and bring back a reply.

PETROLEUM (SUBMERGED LANDS) (MISCELLANEOUS) AMENDMENT BILL

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development) obtained leave to introduce a bill for an act to amend the Petroleum (Submerged Lands) Act 1982 and to make related amendments to the Off-shore Waters (Application of Laws) Act 1976. Read a first time.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

The purpose of this bill is threefold. Primarily it will amend the Petroleum (Submerged Lands) Act 1982 to bring about a nationally uniform offshore scheme for the occupational health and safety of persons engaged in offshore petroleum operations across all states, territories and commonwealth waters of Australia. The offshore petroleum industry is an important contributor to the Australian economy. The industry supports thousands of jobs, supplies a large proportion of our domestic liquid fuel and natural gas requirements and is a major export industry. It also attracts billions of dollars in foreign investment for exploration, development of new oil and gas fields, and construction of gas pipelines and downstream gas processing plants.

Offshore petroleum activities are regulated according to whether the facility is operating in commonwealth or state waters. The states and territories have jurisdiction in their adjacent waters out to the three nautical mile limit. The area beyond that, to the outer limit of the continental shelf, comes under commonwealth jurisdiction. This arrangement arises from a 1979 agreement between the commonwealth and the states on the division of offshore powers and responsibilities,

known collectively as the Offshore Constitutional Settlement (OCS). In addition, under the OCS, the states agreed that they would endeavour to maintain, as far as practicable, common principles, rules and practices for regulation in waters landward of the three nautical mile limit. In August 2001, with the support of the industry and the work force, the commonwealth Department of Industry, Tourism and Resources delivered a report on offshore safety entitled 'Future Arrangements for the Regulation of Offshore Petroleum Safety'. The report found that the current system of regulation was inadequate with unclear limitations, overlapping acts and inconsistent application between commonwealth and state jurisdictions.

An independent review formed part of this report. The executive summary, under the heading 'Findings of the Independent Review Team', states:

> The primary conclusion reached by the independent review team was:
>
> The review team is of the opinion that the Australian legal and administrative framework, and the day-to-day application of this framework for regulation of health, safety and environment in the offshore petroleum industry is complicated and insufficient to ensure appropriate, effective and cost-efficient regulation of the offshore petroleum industry.
>
> Much would require improvement for the regime to deliver world-class safety practice.

Australia had already responded to the Piper Alpha disaster by adopting a 'safety case' response for offshore petroleum facilities through a series of legislative amendments in the early 1990s. Under the safety case approach, operators of offshore facilities assess all the risks to the facility, which includes undertaking formal hazard and risk studies and describing the management systems for safe running of the facility. Once accepted and approved, the safety case is enforced and provides the basis for safe facility operations. The responsibility for safety on individual facilities then rests with the operator, not the regulator, whose function it is to provide guidance as to the safety objectives to be achieved and an assessment of performance against those objectives.

Despite the introduction of the safety case regime, there were still inconsistencies in the regulatory framework between the states and the commonwealth. This made it complicated for those companies operating in more than one jurisdiction. This was due to a rollback provision in the commonwealth act which provided that the occupational health and safety requirements contained in schedule 7 of the act did not apply where a state or territory had its own OHS law that was capable of applying in the territorial sea. In this case, the respective state OHS law would prevail. In South Australia this was the Occupational Health and Safety Act 1986 by virtue of the Off-shore Waters (Application of Laws) Act 1976.

The only state to rely on schedule 7 of the commonwealth act is Western Australia. Consequently, companies with offshore facilities in more than one state, or in the Northern Territory adjacent area, have had to meet the requirements of these different laws. Further, those companies operating mobile facilities, such as drilling rigs, have had to comply with different requirements as their rigs move from location to location around Australia.

The review team recommended that a national petroleum regulatory authority should be developed to oversee the regulation of safety in commonwealth offshore waters. The commonwealth view, supported by industry and employees, was that it would be more efficient and effective, as well as reducing the regulatory burden, to have a single national agency covering both commonwealth waters and state and territory coastal waters.

The states and the Northern Territory, through the Ministerial Council on Mineral and Petroleum Resources, shared this view. The MCMPR subsequently endorsed a set of principles for regulation of safety of petroleum activities in commonwealth waters and state and Northern Territory coastal waters in Australia. It agreed that the council's Standing Committee of Officials would examine how best to improve offshore safety outcomes, primarily through a single joint national safety agency. This work involved industry participants and work force representatives, through the Australian Council of Trade Unions. It led to an agreement upon which this bill is based.

In December 2003, the commonwealth passed amendments to its Petroleum (Submerged Lands) Act 1967 to set up the National Offshore Petroleum Safety Authority (NOPSA) to commence operation on 1 January 2005. NOPSA's key function is to regulate safety on offshore petroleum facilities Australia wide on behalf of the commonwealth, the states and the Northern Territory. It will not change the 'safety case' regulatory regime. Provision was also made for NOPSA to have jurisdiction over onshore petroleum industry sites, should the relevant state or territory agree.

In acting under state onshore legislation, the safety authority would be entirely subject to the governance arrangements established by that legislation. All states and the Northern Territory are party to the offshore constitutional settlement with the commonwealth, which supports consistent offshore regulation. This obligation requires the states and the Northern Territory to enact legislation to mirror the legislative changes made by the commonwealth to enable the safety authority to carry out its occupational health and safety role in state waters. It will mean that state laws which currently regulate OHS matters on offshore facilities will be dis-applied (by regulation) and a new schedule 7 inserted into the act which provides the OHS regime to apply in state waters. This will have the effect of applying the same OHS regime in commonwealth and all state and Northern Territory waters. The Victorian parliament has already enacted its mirror amendments, and other states and the Northern Territory are working towards this.

The new schedule 7 outlines the duties that are to be carried out by various people with responsibilities on an offshore facility, including the operator of a facility and employers of workers. It also extends to the manufacturers and suppliers of plant and substances to be used on the offshore facility to ensure that, when properly used, it is safe and without risk to the health and safety of the workers.

NOPSA has been established as a commonwealth statutory authority. Whilst the commonwealth minister will be responsible for issuing policy principles or directions, the commonwealth legislation gives the state ministers some say in policy principles to be applied by NOPSA in their respective state coastal waters (section 150XF). An important aspect of the governance arrangements for the authority is that it will have an advisory board which has the functions of giving advice and making recommendations to the CEO of the safety authority. The CEO, Mr John Clegg, has already commenced duties. Mr Clegg, who was recruited from the United Kingdom, has had a distinguished career as a UK public servant and has wide experience in the regulation of health and safety in the offshore petroleum industry. He is expected to provide the right combination of strong leadership and vast

experience in this very important area of offshore petroleum safety.

The United Kingdom's offshore petroleum industry is considerably bigger than Australia's, and it has pioneered the development of the safety case approach to regulation. The members of the board have also been selected. They have been chosen for their independence and expertise and will be an invaluable resource for the CEO. Furthermore, the safety authority is to be staffed by people with a unique mix of technical competence, judgment and skills, which should benefit the petroleum industry by providing consistent OHS regulation on offshore petroleum facilities nationwide.

NOPSA will be self funding and will operate as a full cost recovery agency. Concurrently with enacting the legislation to create NOPSA, the commonwealth enacted the Offshore Petroleum (Safety Levies) Act 2003. This act provides for a safety investigation levy, safety case levy and pipeline safety management plan levy in relation to offshore petroleum facilities to be paid by operators. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

To compensate industry for this levy, the MCMPR agreed to reduce the annual fees applicable to offshore petroleum titles, to take effect from 1 January 2005. This will result in a reduction of income for South Australia of approximately $20 000 per annum in petroleum fees for existing permits in Commonwealth waters. This reduction in revenue is a fraction of the cost savings to be achieved by the State in the long term, in the regulation of safety in the offshore petroleum industry.

There will be no implications for staffing in South Australia as a result of this new safety regime. This is because currently South Australia has no petroleum production in either Commonwealth or State waters and therefore the safety regulatory workload has been relatively small, with no public sector workers dedicated solely to this task. The next offshore petroleum operation in the South Australian adjacent area, which is in Commonwealth waters, is expected to be the drilling of an exploration well in the Otway Basin in 2005.

Secondly, the Bill makes some "pre-emptive" changes to the provisions of the *Petroleum (Submerged Lands) Act 1982*.

These pre-emptive amendments are required in preparation for a re-write of the Commonwealth *Petroleum (Submerged Lands) Act 1967* which has been in progress for several years. Current indications are that the Bill may be ready to be introduced into the Commonwealth Parliament during 2005.

The re-write is in line with a commitment by the Commonwealth to simplify the legislation, with a view to reducing compliance costs for the benefit of industry and administrators. The new act will be re-named the 'Offshore Petroleum Act'. The draft Bill contains some changes in terminology which has implications for the State *Petroleum Submerged Lands Act 1982*.

The pre-emptive amendments are worded so as to take effect if and when the new Offshore Petroleum Act comes into force. There is no consequence if the Commonwealth Bill is not passed, however there may be consequences if the re-write Act, with its revised terminology, comes into effect without these pre-emptive amendments being in place.

This is due to the fact that it is the State Act that authorises the Minister for Mineral Resources Development to exercise powers and functions under the Commonwealth Act as the SA member of the Commonwealth-South Australia Offshore Petroleum Joint Authority and as the Designated Authority for the SA adjacent area.

As a result, the State Act has significance for the whole area of Commonwealth marine jurisdiction adjacent to South Australia, to the outer limit of the continental shelf. Whilst South Australia currently has no petroleum titles in State waters (that is in the 3 nautical mile zone), it does have permits in Commonwealth waters, granted under the Commonwealth Act.

The third set of amendments proposed in the Bill relate to competition policy principles.

The proposed amendments will implement recommendations from a review of the Act against competition policy principles. The review was conducted as part of a national review of legislation (Commonwealth, State and Northern Territory) governing exploration and development of offshore petroleum resources.

The review accorded with commitments given in the Competition Principles Agreement, which was signed at the Council of Australian Governments meeting in April 1995. Under that agreement all governments agreed to remove restrictions on competition on an ongoing basis, unless those restrictions could be shown to be in the public interest and of benefit to the overall community. The terms of reference for the review of the offshore petroleum legislation also required that due regard be given to reducing compliance costs on business, where feasible.

The review concluded that the nation's offshore petroleum legislation is free of significant anti-competitive elements which would impose net costs on the community. The restrictions on competition embodied in the legislation (for example in relation to safety, the environment or the manner in which resources are managed) were considered appropriate given the net benefits they provide to the community as a whole.

There was, however, one element of the current legislation where the review concluded that scope existed to enhance competition. This related to the period for which the holder of an exploration permit could retain the permit.

The current provision is that the holder of an exploration permit awarded at this time can hold the permit for anywhere between 6 years (if there is no renewal) to a theoretical maximum of 46 years (or slightly longer if extension provisions are applied), assuming the permit area is the maximum size and every available renewal is applied for and granted.

The review concluded that, in the interests of making exploration acreage available to subsequent explorers more quickly, a limit should be placed on the number of times an exploration permittee can renew the title. This Bill proposes that, in the future, exploration permits will be able to be renewed no more than twice. The change will be prospective and will not apply to permits awarded before 1 January 2005.

On one other element of the current legislation, the review concluded that scope existed to reduce potential compliance costs for industry. This related to the number of times the holder of a retention lease could be asked to review the commerciality of a discovery held under that retention lease.

Currently the holder of a retention lease can be asked to review the commerciality of a discovery twice within the lease's 5 year term. This was considered excessive given that a review every 2½ years on average (each lease renewal and once in between) was considered adequate to enable the titleholder to assess factors material to whether a discovery remains, for the time being, uncommercial, and to demonstrate this to the regulator.

Both these matters are the subject of amendments contained within this Bill.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation. However, in order to coincide with the statutory scheme established in relation to occupational health and safety under the Commonwealth Act, those provisions of this measure that relate to occupational health or safety will come into operation on (or after) 1 January 2005 (see especially section 150XI of the Commonwealth Act).

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Petroleum (Submerged Lands) Act 1982*

4—Repeal of section 3

This amendment removes a provision that is out-of-date.

5—Variation of section 4—Interpretation

These amendments are consequential on the substantive provisions to be inserted into the Act by this measure. Provision is also to be made for dealing with the situation where the Commonwealth Act is repealed and re-enacted in some other form.

6—Substitution of section 8

These amendments will deal with the situation where the Commonwealth Act (and other related Acts) are repealed and re-enacted in some other form.

7—Insertion of section 14A

This clause inserts a new section 14A in the Act. The new section will allow provision to be made, by regulation, for the disapplication of current State occupational health and safety laws in the adjacent area under the Act. In their place, the occupational health and safety provisions to be contained in Schedule 7 of the Act will apply.

8—Amendment of section 29—Application for renewal of permit

9—Insertion of section 30A

10—Amendment of section 37H—Conditions of lease

These amendments will ensure greater consistency between the Act and the corresponding provisions of the Commonwealth Act.

11—Amendment of section 58—Unit development

This is a consequential amendment.

12—Amendment of section 63—Application for pipeline licence

13—Amendment of section 64—Grant or refusal of pipeline licence

These amendments will ensure greater consistency between the Act and corresponding provisions of the Commonwealth Act.

14—Insertion of Part 3A

This clause inserts a new Part 3A relating to occupational health and safety into the Act.

Part 3A—Occupational health and safety

150A—Definitions

Section 150A defines terms used in the Part that are relevant to the functions of the Safety Authority.

150B—Occupational health and safety

Section 150B provides that Schedule 7 has effect. Schedule 7 sets out requirements regarding occupational health and safety on offshore petroleum facilities.

150C—Listed OHS laws

Section 150C lists the OHS laws as defined for the purposes of the Act

150D—Regulations relating to occupational health and safety

Section 150D provides for the making of regulations for the purposes of occupational health and safety of persons at or near a facility.

150E—Safety Authority's functions

Section 150E confers general functions on the Safety Authority that are concerned with the occupational health and safety of persons engaged in offshore petroleum operations. Offshore petroleum operations include offshore petroleum-related diving activities and other offshore petroleum activities that take place at an offshore petroleum facility, but do not include seismic survey vessels and operations carried out on those vessels, except for diving activities.

The functions include promoting occupational health and safety of persons, development and implementation of effective monitoring and enforcement strategies, investigations of accidents and occurrences affecting occupational health and safety, and reporting.

Under section 150XF of the Commonwealth Act, the Commonwealth Minister can give written policy principles to the Safety Authority, and the Safety Authority must comply with them. The Commonwealth Minister must consult the State Minister before giving a policy principle to the Safety Authority in relation to its operations in State waters.

150F—Safety Authority's ordinary powers

Section 150F provides that the Safety Authority has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions. These include power to acquire, hold and dispose of real property, enter contracts, lease and occupy real property, conduct research, hold and apply for patents and to do anything incidental to its functions.

150G—Judicial notice of seal

Section 150G provides for the standard provisions with respect to the seal of the Safety Authority.

150H—Functions of the Board

Section 150H confers functions on the National Offshore Petroleum Safety Authority Board in respect of advising and making recommendations to various persons and bodies. These include the CEO of the Safety Authority, and the State and Commonwealth Ministers with regards to policy or strategic matters relating to occupational health and safety and performance of the Safety Authority.

150I—Powers of the Board

Section 150I confers powers on the Board by reference to its functions as set out in section 150H. The Board has power to do all things necessary or convenient for, or in connection with, the performance of its functions.

150J—Validity of decisions

Section 150J provides that the functions and powers set out in sections 150H and 150I respectively are not affected where there is a vacancy or vacancies in the membership of the Board.

150K—CEO acts for Safety Authority

Subsection 150K provides that anything done by the CEO in the name of the Safety Authority or on the Safety Authority's behalf is taken to have been done by the Safety Authority.

150L—Working with the Board

Section 150L establishes the working relationship between the CEO and the Board.

150M—Delegation

Section 150M permits South Australian public service and public authority employees and officers to accept delegations from the CEO under the Commonwealth Act. Persons exercising powers under a delegation must do so in accordance with any directions of the CEO.

150N—Secondments to the Safety Authority

Section 150N permits South Australian public service and public authority employees and officers to assist the Safety Authority in connection with the performance of any of its functions or the exercise of any of its powers.

150O—Minister may require the Safety Authority to prepare reports or give information

Section 150O sets out the powers of the Minister to require the Safety Authority to prepare reports or documents on specified matters relating to the performance of the Safety Authority's function or exercise of its powers. Copies of the report of documents are to be given to the Minister, the Commonwealth Minister and each interstate Minister.

150P—Directions to the Safety Authority

Section 150P provides that the Minister may request that the Commonwealth Minister give a direction to the Safety Authority. The Commonwealth Minister must make a decision regarding the request within 30 days of receipt. If the Commonwealth Minister refuses to grant the request then the Commonwealth Minister must provide the Minister with reasons. A direction given by the Commonwealth Minister must be complied with by the Safety Authority.

150Q—Reviews of operations of Safety Authority

Section 150Q(1) to (5) provides that the Minister is to cause to be conducted reviews of the operations of the Safety Authority relating to each 3-year period after the commencement of operations of the Authority on 1 January 2005. This review relates to the Safety Authority's functions in South Australian coastal waters (called the ***adjacent area*** in the Act). The review can be conducted in conjunction with similar reviews under corresponding laws.

Section 150Q(6) provides that, without limiting the matters to be covered by a review, the review must include an assessment of the effectiveness of the Authority in improving the occupational health and safety of persons engaged in offshore petroleum operations.

Section 150Q(7) requires the tabling of a report of a review in each House of Parliament within 15 sitting days of the report being made available to the Minister.

150R—Liability for acts and omissions

Section 150R applies to the Safety Authority, the CEO, an OHS inspector and a person acting under direction of the Safety Authority or CEO. It provides that they are not personally liable for acts or omissions done in good faith for the performance of a function under a listed OHS law.

15—Amendment of section 151—Regulations

These amendments relate to the regulation-making powers under the Act and will ensure that South Australia may, if appropriate, apply any relevant Commonwealth regulations to any area covered by the State Act.

16—Repeal of Schedule 1

This clause removes a redundant schedule.

17—Variation of Schedule 4

These amendments are consequential.

18—Repeal of Schedule 5

This clause removes a redundant schedule.

19—Insertion of Schedule 7

This clause inserts a new Schedule 7 relating to occupational health and safety on offshore petroleum facilities.

Schedule 7—Occupational health and safety

Part 1—Introduction

Clause 1 sets out the objects of Schedule 7.

The objects relate to the securing of the occupational health and safety of all members of the workforce at a facility, whether they work at the facility under a contract of employment with any person or under some other contractual arrangement and regardless of whether they have any contract at all with a person who owes a duty of care.

Clause 2 sets out a simplified outline that is a summary of Schedule 7.

Clause 3 provides definitions for the purposes of Schedule 7.

Clause 4 defines the vessels and structures located in State waters that are considered to be ***facilities*** for the purpose of Schedule 7.

Clause 5 provides that an operator must ensure at all times the presence of a representative of the operator, who has the day-to-day management and control of the operations at the facility, and display their name prominently at the facility.

Clause 6 provides that the provisions of Schedule 7 apply to persons who are at a facility solely for purposes of accommodation, even though all their work activities may be at another facility.

Clause 7 defines ***contractor*** for the purposes of Schedule 7.

Part 2—Occupational health and safety

Division 1—Duties relating to occupational health and safety

Clause 8 establishes the duties of care that are owed by the operator of a facility to the members of the workforce.

The primary duty of the operator is to take all reasonably practicable steps to ensure that the facility and all work and other activities at the facility are safe and without risk to health.

Clause 9 establishes duties of persons who may be in management or control of a part of a facility, or of certain activities at a facility. Examples of such persons may be those supervising a drilling crew, maintenance crew or dive team.

The duties established for these persons are similar to those established for the operator, but are limited to the areas or activities under the control of the person. They do not include requirements to provide medical and first aid facilities, or develop or monitor health and safety policy.

Clause 10 establishes duties of employers to employees and to contractors.

The employer duties are to take all reasonable practicable steps to protect the health and safety of employees.

There is overlap in the duties of care imposed on operators, on persons in control of parts of the facility or particular work, and on employers. There is further overlap with the duties of care imposed on manufacturers, suppliers, etc, which are defined by later clauses, and ensures that there are no gaps in the coverage of the duties of care, so that, when enforcement action is required, it can be taken against the most appropriate person in the circumstances.

Clause 11 provides for the duties of care of manufacturers (including importers and overseas manufacturers with no place of business in Australia) in relation to plant and substances reasonably expected to be used by members of the workforce at a facility. This provision does not affect other State laws relating to goods.

Clause 12 provides for the duties of care of suppliers of plant and substances, to all persons at all times they are at an offshore petroleum facility. This provision also extends to an ostensible supplier in the business of financing the acquisition or use of goods by others.

Clause 13 provides for the duties of care of persons erecting or installing plant, to all persons at all times they are at an offshore petroleum facility.

Clause 14 provides the duties of care of any person at an offshore petroleum facility in relation to occupational health and safety.

Clause 15 provides that a person, in complying with their duties, may rely on information provided by others, or on the results of testing and research conducted by others.

Division 2—Regulations relating to occupational health and safety

Clause 16 provides that regulations may be made that relate to any matter affecting or likely to affect OHS of any class of person at a facility and lists those matters.

Part 3—Workplace arrangements

Division 1—Introduction

Clause 17 sets out a simplified outline that is a summary of this Part.

Division 2—Designated work groups

The purpose of designated work groups is to provide a formal and structured organisation for consultation between management and the workforce on occupational health and safety issues.

Subdivision A—Establishment of designated work groups

Clause 18 provides that the operator of a facility has the responsibility to organise a designated work group if a request is made by a member of the workforce or workforce representative.

The operator on receiving such a request must within 14 days enter into consultation with members of the workforce, workforce representatives, or each employer (if any) of members of the workforce.

Clause 19 provides that the operator of a facility may initiate the establishment of a designated work group.

Subdivision B—Variation of designated work groups

Clause 20 provides that the operator of a facility has the responsibility to vary an established designated work group if a request for variation is made.

Clause 21 provides that the operator of a facility may initiate the variation of an established designated work group.

Subdivision C—General

Clause 22 provides that, if a disagreement arises between the parties in the course of consultation under clause 18, 19, 20 or 21, either party made refer the disagreement to the reviewing authority for resolution. The reviewing authority is the Australian Industrial Relations Commission.

Clause 23 provides for the manner in which members of the workforce may be grouped and the issues that the parties to the consultation must have regard.

Division 3—Health and safety representatives

Subdivision A—Selection of health and safety representatives

Clause 24 provides for the selection of Health and Safety Representatives (***HSRs***). HSRs are the persons selected to represent the members of each designated work group during consultations with management on OHS issues.

Clause 25 relates to the election of HSRs if there is a vacancy for an HSR, and no person has within a reasonable time been unanimously selected by the group. The operator is required to invite nominations from all group members. If the operator fails to invite such nominations in a reasonable time, the Safety Authority may direct the operator to do so. No person can be nominated if disqualified under clause 31.

If there is only one candidate, that person is taken to be elected. If more than one candidate is nominated, the operator must conduct or arrange for the conduct of an election. All members of the workforce in the designated work group are entitled to vote. The operator must comply with any directions of the Safety Authority when conducting the election.

Clause 26 requires the operator to prepare and keep up to date a list of all HSRs, and to make that list available to the members of the workforce and to Safety Authority inspectors (who are called ***OHS inspectors*** in the Act).

Clause 27 requires the operator to notify members of the workforce of a vacancy for an HSR within a reasonable time of that vacancy arising, and to notify those members of the name of the person selected within a reasonable time of the selection being made.

Clause 28 provides that an HSR holds office for a term agreed to by the parties or for 2 years if there is no agreement.

Clause 29 provides that an HSR must undertake a Safety Authority-accredited OHS training course. The operator and employer are required to grant the HSR leave to attend an accredited course.

Clause 30 provides the processes to be followed for the formal resignation of HSRs. It also sets out the requirements for notifying relevant persons of such resignations.

Clause 31 provides the process for disqualification of an HSR

Clause 32 allows for the selection of a deputy HSR by the designated work group who exercises the powers of the HSR if the HSR ceases to be the HSR or is unable.

Subdivision B—Powers of health and safety representatives

Clause 33 sets out the powers of an HSR. These powers include: to inspect the workplace, to request an inspection by an OHS inspector, to accompany that inspector during such an inspection, to represent the group members in consultations with management, to investigate complaints by group members about OHS, to be present at any interview of a group member by an inspector or management about OHS issues, to obtain access to relevant information, and to issue provisional improvement notices under clause 37.

Clause 34 provides that in exercising these powers, HSRs may be assisted by consultants, if that is agreed by either the Safety Authority or management.

Clause 35 provides that neither the HSR or consultant is entitled to have access to information that is subject to legal professional privilege, or that is of a confidential medical nature unless they have the person's consent or the person cannot be identified by that information.

Clause 36 provides that HSRs are not obliged to exercise their powers and protects them from liability.

Clause 37 provides that HSRs have power to issue provisional improvement notices (PINs), to the persons responsible for relevant work activities if the HSR believes that there is a contravention of the OHS laws. The PIN may also indicate an action the HSR believes the responsible person must take to rectify the apparent contravention. HSRs may only issue PINs after having consulted with the responsible person about the apparent contravention, and if there is a failure to reach agreement within a reasonable time.

Clause 38 provides that if an HSR issues a PIN to any person, that person may request an inspection by an OHS inspector. Upon that request being made the PIN is suspended, but the inspector may subsequently confirm, vary or cancel the PIN, and make any other decision or exercise any other powers considered necessary. The responsible person is required to ensure that the notice (as confirmed or varied by the inspector) is complied with, to the extent that the responsible person has control.

Subdivision C—Duties of the operator and other employers in relation to health and safety representatives

Clause 39 provides that the operator is required to consult with an HSR (if requested) about any workplace changes that may affect the health and safety of the workforce and (if there is no health and safety committee) about the implementation and review of measures to control health and safety. It also requires the operator to allow the HSR to make inspections under clause 33.

Division 4—Health and safety committees

Clause 40 establishes when a health and safety committee must be established, such as if the workforce exceeds 50 in total, there are designated work groups, and a request is made. The clause also states that the composition and procedures of the committee are to be agreed by appropriate consultation, that the committee must meet at least every 3 months, and that minutes of meetings must be retained for 3 years.

Clause 41 defines the functions of health and safety committees which include providing assistance to the operator of a facility to review, develop and implement health and safety measures for the workforce.

Clause 42 makes provisions to ensure that the health and safety committee functions effectively, for example by requiring that relevant information be provided to the committee, and by requiring that persons are given time off work activities to attend committee meetings.

Division 5—Emergency procedures

Clause 43 deals with the emergency powers of an HSR.

It provides that if an HSR has reasonable cause to believe that there is an imminent and serious danger to the health or safety of any person at or near a facility unless a group member ceases to perform particular work, the HSR must either inform a supervisor or, if no supervisor can be contacted immediately, direct that the work cease and inform a supervisor as soon as practicable. The supervisor must then take such action as he or she thinks appropriate to remove the danger.

It also provides that if the HSR has reasonable cause to believe that there continues to be an imminent and serious danger to health or safety unless the work ceases, despite any action taken by the supervisor, the HSR must direct that the work cease and, as soon as practicable, inform the supervisor that the direction has been given.

Clause 44 provides that if an employee has ceased to perform work in accordance with a direction of an HSR or OHS inspector under clause 43, the employer may direct the employee to do suitable alternative work.

Division 6—Exemptions

Clause 45 confers on the Safety Authority the power, in accordance with the regulations, to make a written order exempting a specified person from any or all of the provisions of Part 3 of Schedule 7 (the workplace arrangements). The Safety Authority must not make an exemption order unless it is satisfied on reasonable grounds that it is impracticable for the person to comply with the provision or provisions.

Part 4—Inspections

Division 1—Introduction

Clause 46 provides a simplified outline that is a summary of this Part.

Clause 47 establishes that OHS inspectors have the powers, functions and duties conferred or imposed by a listed OHS law. The Safety Authority may issue direction and restrictions on the exercise of the OHS inspectors' powers.

Division 2—Inspections

Clause 48 provides that an OHS inspector may conduct an inspection at any time or as directed by the Safety Authority, to determine that a listed OHS law is being complied with, a listed OHS law has been contravened or concerning an accident or dangerous occurrence at a facility.

Division 3—Powers of OHS inspectors in relation to the conduct of inspections

Subdivision A—General powers of entry and search

Clause 49 provides for powers of entry and search at facilities by an OHS inspector.

The inspector is given power to inspect, take extracts from, or make copies from, any documents at the facility that he or she has reasonable grounds to believe are related to the subject of the inspection. This power is needed in order to conduct effective inspections at the facility, and may also be needed in response to incidents that have occurred. The inspector is given power to inspect the seabed and subsoil in the vicinity of the facility. This power may be needed for accident investigation.

Clause 49(3) requires the OHS inspector to afford relevant elected HSRs a reasonable opportunity to consult about the subject of the inspection.

Clause 50 provides OHS inspectors with powers of entry and search at ***regulated business premises*** that are not facilities. The search powers under this clause relate only to documents that relate to a facility or facility operations that are the subject of an inspection. The powers therefore relate only to the responsibilities of the Safety Authority in relation to health and safety of the workforce at a facility.

Regulated business premises are defined in clause 3 to mean premises that are occupied by a person who is the operator of a facility and that are used, or proposed to be used, wholly or principally in connection with offshore petroleum operations. The intent is to enable inspectors to enter and search operators' premises used in relation to offshore operations. These may be, for example, premises used for remote operation of facilities, or offices used for management of operations, supply bases, heliports, etc, where there are documents related to an inspection.

Clause 51(1) provides OHS inspectors with powers of entry and search at premises that are not ***regulated business premises***. ***Premises*** are defined in clause 3 as including a structure or building, a place (whether or not enclosed or built upon) or a part thereof. The intent is to enable inspectors to enter and search other relevant premises, such as the offices or workshops of a company that designs modifications to a facility, or manufactures or maintains equipment used on a facility, where there are relevant documents.

These powers under clause 51 may only be exercised with the consent of the occupier of the premises to be entered and searched, or in accordance with a search warrant.

Clause 52 establishes how warrants to enter premises (other than regulated business premises) may be obtained.

Clause 52(1) provides that an OHS inspector may apply to a Magistrate for a warrant that would authorise the inspector, with such assistance as the inspector thinks necessary, to exercise the specified powers at particular premises.

Clause 52(2) states that the application must be supported by information, on oath or affirmation that sets out the grounds for applying for the warrant. Clause 52(3) provides that, if the Magistrate is satisfied that there are reasonable grounds, a warrant may be issued.

Clause 52(4) establishes that such a warrant must specify the name of the OHS inspector, whether the inspection can be made at any time or at specified times, the day on which the warrant ceases to have effect and the purpose for which the warrant is issued. Clause 52(5) establishes that a warrant must have a date of expiry no later than 7 days from the date of issue. Clause 52(6) establishes that the warrant must identify the premises to which the warrant applies.

Clause 53 provides that it is an it is an offence to obstruct or hinder an OHS inspector.

Subdivision B—Other powers

Clause 54 provides that an OHS inspector has the power to require reasonable assistance and information in the conduct of an inspection.

Clause 55 provides that an OHS inspector has the power to require a person being questioned in relation to the conduct of an inspection to answer questions and produce documents or articles, if the inspector believes it is reasonably necessary to do so in connection with the conduct of the inspection.

Clause 56 provides for the privilege against self-incrimination in answering questions or producing documents, etc, during the conduct of an investigation.

Clause 57 gives OHS inspectors the power to take possession of plant, to take samples of substances, etc, for example as part of an investigation into an accident. The affected persons are to be notified when powers under clause 57(1) are exercised.

Clause 58 provides that OHS inspectors have the power to issue notices that direct that workplaces not be disturbed, in order to remove immediate threats to health and safety, or to allow inspections or other examinations to take place. The direction must be displayed in a prominent place in the workplace and must specify the time required to remove the threat or carry out an inspection, etc. The direction may be renewed.

Clause 59 provides that OHS inspectors have the power to issue notices that prohibit specified activities.

The operator's representative at the facility must give a copy of the notice to the HSR of each designated work group that is affected by the notice, and display a copy of the notice in a prominent place.

The OHS inspector is also required to give a copy of the notice to any person (who is not the operator) who owns plant, substances, etc, affected by the notice.

Clause 60 provides that operators must ensure that the prohibition notice issued is complied with. The OHS inspector is to inform the operator if the action taken by the operator to remove the threat to health and safety is not adequate. The notice ceases to have effect once the inspector has informed the operator that the inspector is satisfied with the action taken to remove the threat.

Clause 61 provides an OHS inspector with the power to issue a improvement notice if s/he believes on reasonable grounds that a listed OHS law is being or has been contravened.

Clause 62 provides that a person issued with an improvement notice must comply with it.

Clause 63 provides that a displayed PIN, prohibition notice or improvement notice must not be tampered with or removed without reasonable excuse.

Division 4—Reports on inspections

Clause 64 requires an OHS inspector to prepare a written report for the Safety Authority (including the inspector's conclusion, recommendation and any other prescribed matters) as soon as practicable after conducting an inspection. Clause 64(3) requires the Safety Authority to give a copy of the report to the operator of the facility, to employees who carry out activities to which the report relates, and to the owners of plant, etc, to which the report relates. Clause 64(5) requires a copy of the report, and any related Safety Authority comments, to be given to each health and safety committee and (where there is no such committee) to the HSR of each designated work group.

Division 5—Appeals

Clause 65 provides for an appeal against a decision of an OHS inspector to the reviewing authority, by an operator of a facility or any employer (other than the operator) affected by the decision, a person to who a notice has been issued under clause 37(2) or 61(1), an HSR, a workplace representative, a member of the workforce or a person who owns any workplace, plant, substance or thing to which a decision under clause 38, 57, 58 or 61 relates.

Clause 66 sets out the powers of the reviewing authority on an appeal.

Part 5—General

Clause 67 requires notification and reporting of accidents and dangerous occurrences in relation to a facility as opposed to a workplace, and requires the notification and report to be sent to the Safety Authority.

Clause 68 requires records of the accidents and dangerous occurrences notified under clause 67(1) to be kept by the operator of the facility.

Clause 69 provides for prescribed codes of practice to have the purpose of providing practical guidance to operators and employers of members of the workforce.

Clause 70 provides that codes of practice can be used in proceedings for an offence against a listed OHS law, if they were in effect at the time of the alleged contravention.

Clause 71 makes it an offence to interfere with equipment or devices provided for the health and safety or welfare of the workforce at a facility.

Clause 72 makes it an offence for either the operator or an employer to levy a member of the workforce in relation to health and safety matters.

Clause 73 relates to unfair dismissal or other prejudicial acts against an employee as a result of (for example) a health and safety complaint by that employee.

Clause 74 provides that proceedings for an offence against a listed OHS law may be instituted by the Safety Authority or an OHS inspector. An HSR or a workplace representative may request the Safety Authority to institute proceedings if a period of 6 months has elapsed since the relevant act or omission occurred and the Safety Authority has not yet instituted proceedings.

Clause 75 allows the Commonwealth DPP to prosecute offences under the listed OHS laws.

Clause 76 imputes the conduct of company officers and agents to the company in relation to OHS matters.

Clause 77 provides that Schedule 7 does not confer rights or defences to actions in any civil proceedings.

Clause 78 provides that circumstances preventing compliance with a listed OHS law may be a defence to prosecution.

Clause 79 provides further regulation-making powers regarding OHS.

Schedule 1—Related amendments and transitional provision

1—Amendment provisions

2—Amendment of section 3—Application of law of State to off-shore waters

3—Amendment of section 4—Application of law of State to persons connected with the State, etc, in off-shore waters

These amendments relate to consequential amendments that need to be made to the *Off-shore Waters (Application of Laws) Act 1976*.

4—Transitional provision

This is a transitional provision associated with the operation of section 37H(3)(b) of the Act.

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

ADDRESS IN REPLY

The PRESIDENT: I remind honourable members that Her Excellency the Governor will receive the President and

members of the council at 4 p.m. for the presentation of the Address in Reply. I ask all honourable members to accompany me to Government House.

[Sitting suspended from 3.47 to 4.49 p.m.]

The PRESIDENT: I have to inform the council that, accompanied by the mover, the seconder and honourable members, I proceeded to Government House and there presented to Her Excellency the Governor the Address in Reply to the opening speech of His Excellency the Lieutenant-Governor adopted by this council today, to which Her Excellency was pleased to make the following reply:

To the honourable President and members of the Legislative Council: I thank you for the Address in Reply to the speech with which the Governor's Deputy opened the Fourth Session of the Fiftieth Parliament. I am confident that you will give your best consideration to all matters placed before you. I pray for God's blessing upon your deliberations.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 September. Page 137.)

The Hon. SANDRA KANCK: When a bill that is introduced takes actions that the Democrats think are important, I will often be heard to begin my speech with 'the Democrats are delighted to support this bill'. I have to say on this occasion that that is not the case. The Democrats support this bill on the basis that it is making some progress, but we indicate our disappointment that substantial amendments recommended by the government's own task force are not being implemented.

The minister's report on the bill claims that 'this package puts South Australia's reforms ahead of every other jurisdiction in the country.' That might have been the case when the government first introduced the legislation in November 2003, but since then the government has backed away from its undertakings, so much so that groups such as the Cancer Council, the Heart Foundation and the Asthma Foundation have now withdrawn their support for the bill. They do not oppose it, but the bill is such a letdown that they feel that, as leaders of the anti-smoking lobby, they can no longer be seen to strongly advocate for it.

Unfortunately, the government has fallen victim to very heavy and clever lobbying from the industry and, of its own volition—not because of an opposition amendment, I understand—it has removed the provisions relating to advertising of tobacco products (particularly the point of sale advertising provisions) and has watered down the alfresco dining provisions.

Last year, in the April 2003 edition of *The Medical Journal of Australia*, there was an editorial with the title 'Tobacco control in Australia: what aren't you doing and why aren't you doing it?' It was written by three researchers from California. They had come to Australia to look at the situation in New South Wales, but the comments they make apply equally to South Australia. The editorial states:

Tobacco use remains the single largest underlying preventable cause of death in Australia. The tragic irony is that these deaths are so very preventable.

Well, so far these researchers and the South Australian government are on track. It continues:

Yet tobacco control measures in Australia have stalled, primarily due to a monumental paucity of funds and a political will . . . Needless to say, tobacco companies are constantly and very effectively working behind the scenes to diminish the gains that have been made to date.

That is clearly what has happened. The tobacco industry does not do its lobbying upfront: it gets groups such as the Small Retailers Association or the Australian Hotels Association to do all the work for it. I do not believe that there is any justification for government to be backing down on these measures, because the tobacco industry has surely seen these measures coming for a long time.

I remind members that two decades ago my honourable colleague Ian Gilfillan met with groups that were opposed to tobacco usage and advertising here in South Australia, and the consequence was that the Democrats introduced legislation to ban tobacco advertising in South Australia. That was two decades ago. That bill passed this chamber, but, unfortunately, it was not picked up in the other chamber. It was two decades ago, so the measures that were proposed by the government's task force were hardly something that came out of left or right field for the tobacco industry.

Since this bill was introduced to the Legislative Council in July, the Mosman council in Sydney has introduced a smoking ban for alfresco dining areas. The Queensland government announced a range of anti-smoking measures in July this year that put South Australia to shame. I have a print-out of an article from *The Age* which states:

From next year it will be illegal to smoke between the flags on the Sunshine state's beaches, anywhere near children's playgrounds, inside sportsgrounds, or within four metres of the entrance of an office building. Point-of-sale advertising will be outlawed from the end of 2005 and retailers will face three-year bans for selling cigarettes to children.

South Australia is very much the poor relation in comparison to that. As a result of what is being proposed by the South Australian government, only 50 per cent of gaming machine areas will be smoke free by 31 October 2005—and it will take two years to get to that point. The bottom line is that, with the bill that we are dealing with here, South Australia will be taking longer to achieve less. It is not something of which we can be proud.

Last year I introduced the Tobacco Products Regulation (Clean Air Zones) Amendment Bill, which lapsed at the end of the session and which, sadly, was not addressed by the other parties in this chamber. That bill would have given protection to children from side-stream tobacco smoke in playgrounds and at nominated public events, which would have been determined by regulation. My suggestion at the time was that we look at things such as the Credit Union Christmas Pageant, for example. I indicate that I will be moving to amend this bill to include those provisions and also to restore the point-of-sale advertising bans, as they were in the government's original bill. I indicate Democrats' support for the second reading of the bill, because it is better than a kick in the head.

The Hon. G.E. GAGO: I am very pleased to rise today in support of the government's Tobacco Products Regulation (Further Restrictions) Amendment Bill, introduced in another place by the Minister for Health, the Hon. Lea Stevens. This bill seeks to impose restrictions on smoking in pubs, clubs and the casino from 31 October this year, with the total ban coming into effect from October 2007. A total ban on smoking will also apply to workplaces and public areas, including shopping centres, from 31 October this year.

The aim of this bill is to reduce the harm that smoking causes and, hopefully, to reduce the incidence of smoking. This bill also aims to counteract the influence of dominant media imagery that promotes smoking as glamorous and desirable by banning the advertising of tobacco products. I am particularly pleased to speak in support of this bill because of my background working as a nurse in the health sector, obviously in a former life. It gave me the opportunity to witness first hand the extremely debilitating impact that smoking and passive smoking has on the health of smokers and those around them.

Unfortunately, typical of many nurses from my generation, I also had first-hand experience of what it is like to be a smoker, and I understand how powerful an addiction to nicotine can be. I gave up smoking 21 years ago, and it continues to be, in my assessment, one of the hardest things that I have ever done in my life. Because of this, I continue to have a great deal of empathy for smokers, unlike the evangelic, anti-smoking zeal that many people I know tend to develop once they have become reformed smokers. It is from these experiences that I have developed a strong interest and concern for this public health issue which wreaks havoc on the health of our communities, and involves behaviour which is, as we know, extremely difficult to change.

The bill before us has undergone an extensive consultation process with all major stakeholders: the AHA, unions, health professionals, SA Health Alliance and the hospitality smoke-free task force, to name just a few. From this consultation process it became apparent that this legislation would have to be gradually phased in to ensure that the concerns of all stakeholders would be addressed adequately. We have learned from the Victorian experience, where the introduction of a smoking ban in gaming machine areas resulted in a downturn in revenue, which we know can result in job losses. I believe that phasing in the legislation gradually will help avoid the effect of job losses. We do not want to see a downturn in business and job losses as a result of a smoking ban if we can avoid it.

The advantage of gradual implementation will mean that industry has time to make the necessary adjustments incrementally, and the government will assist business to adapt to the new measures by providing funding for a business consultancy service for licensed country hotels and clubs. Another reason for an incremental approach will be to provide an opportunity to educate the general public about the importance of the need for change, and also to allow for the attitudinal shift needed if changes are to occur successfully. This cultural shift of highlighted awareness of the need for a healthier entertainment and leisure environment will also be enhanced through a public education program which will also accompany the smoking ban.

I turn now to the introduction of the one metre rule—a provision of this bill which has attracted a fair amount of debate and ridicule from the opposition in another place and, no doubt, in this place as well, I believe, by those who do not have a full understanding of this particular issue. The one metre rule will see smoking banned within one metre of all service areas, including casino gaming tables. The one metre role is aimed to, first, increase the comfort of hospitality employees in the short term.

Secondly, it educates the general public about the damaging impact smoking has on staff and other patrons. Thirdly, it shifts the public away from the culture of smoking indoors. Evidence from New South Wales and the ACT, where this rule has been applied, has shown that the three aims I mentioned have been achieved and are, in fact, achievable. Under this legislation, the one-metre rule is replaced eventually by a complete ban on smoking; it is simply a first step.

I support strongly the ban on the advertising of tobacco products. I am very pleased to see that the minister has just announced that she will be attempting to resolve cigarette display issues through a nationally consistent approach. This is a sensible way to proceed, especially considering that many cigarette retailers are part of national chains. I understand that most other states are also looking at this issue and are finding it quite difficult. I think that the climate is right for legislation which is consistent across the nation. I do not support the holding up of the whole bill whilst this particular point is being finalised.

The bill before us also seeks to further restrict the use of cigarette vending machines making it even more difficult for children to access. It seeks to ban the use of mobile displays such as cigarette trays in nightclubs and, for the first time, makes employers liable if their employees sell cigarettes to children. The central rationale behind this bill is to reduce the harm caused to the general public and employees by smoking and passive smoking in pubs, clubs, the casino, enclosed workplaces and public areas including shopping centres.

Medical research into the harm caused to both smokers and non-smokers by smoking and passive smoking is irrefutable. For example, figures I obtained from the Heart Foundation indicate that over 19 000 Australians die each year from diseases caused by smoking. In addition, tobacco smoking is a major cause of heart attack, stroke and peripheral vascular disease. It is the single largest preventable cause of premature death and disease. As public policy makers, it is also crucial to note that the social costs of smoking to the community have blown out to over $21 billion. This bill is designed to prevent this figure from blowing out any further and, eventually, to reduce the enormous social cost of smoking.

Evidence regarding the effects of passive smoking on non-smokers is also compelling and particularly relevant, because one of the aims of this bill is to eradicate the incidence of passive smoking in public areas. Information supplied by the Heart Foundation suggests that passive smoking can cause stroke, lung cancer, nasal sinus cancer, respiratory tract irritation, increased risk of pneumonia, onset asthma in children, sudden infant death syndrome, and increases the severity and frequency of asthma symptoms. Communities and governments worldwide are starting to introduce effective tobacco control legislation to reduce the massive health problems caused by smoking.

South Australians lead the way in improving health and well-being through the introduction of smoking bans. This type of change is no easy feat. There are many different competing interests involved, each with a great deal at stake. Each state must develop and introduce legislation concerning smoking bans in a way that is feasible for that state, in its own context and with respect to its own history. Paramount to this is the need for extensive consultation to take place with all relevant stakeholders and that, where possible, agreement be reached. Of course, this has occurred here in South Australia under the guidance of our very competent minister, the Hon. Lea Stevens.

By introducing this bill into parliament, which will have the effect of reducing the harm that smoking causes, the Rann government is demonstrating its steadfast commitment to helping improve the health and well-being of South Aus-

tralians. This bill signals a positive step forward to achieve a worthy outcome for public health—a move that will be implemented gradually to properly address the needs of all stakeholders.

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

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. IAN GILFILLAN: Will the minister advise why the definition of 'injury' includes pregnancy?

The Hon. T.G. ROBERTS: It is based on the definition in the Victims of Crime Act, which includes pregnancy.

The Hon. IAN GILFILLAN: Will the minister explain the context in which pregnancy can be an injury?

The Hon. T.G. ROBERTS: 'Injury' means physical or mental injury and includes pregnancy, mental shock and nervous shock, which is ascribed in the victims of crime legislation.

The Hon. A.J. REDFORD: What is its relevance in the victims of crime legislation?

The Hon. T.G. ROBERTS: If there is a rape in prison.

The Hon. A.J. REDFORD: We are defining 'injury' as including pregnancy. Where is the work that it does?

The Hon. T.G. ROBERTS: The definition of 'victim' in section 4(1) provides:

> victim of an offence means a person who suffers injury [or harm] as a result of the offence

Clause passed.

Clauses 5 to 9 passed.

New clause 9A.

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

> Page 6, after line 15—After clause 9 insert:
> 9A—Amendment of section 64—Reports by board
> (1) Section 64(1)—after paragraph (a) insert:
> (b) the number of applications for parole during the previous financial year that were refused by the board; and
> (2) Section 64—after subsection (1) insert:
> (1a) The minister must, within 12 sitting days after receiving a report prepared under subsection (1), cause a copy of the report to be tabled in each house of parliament.

The debate was fairly clearly outlined during the second reading stage. I understand from that, and also from the vote on the last occasion, that the government accepts this amendment. Therefore, I will not take up the time of the committee, other than to draw members' attention to it.

New clause inserted.

Clause 10.

The Hon. IAN GILFILLAN: I move:

> Page 6—Delete the clause and substitute:
> 10—Repeal of section 66
> Section 66—delete the section.

I do not recall how far we got previously.

The Hon. A.J. Redford: We discussed it at length, and then we adjourned.

The Hon. IAN GILFILLAN: That is right. We would have discussed it at length. I cannot recall how much is in *Hansard*, but I indicate that this amendment is a test clause for several of my succeeding amendments. Principally, it deletes section 66 of the principal act, which deals with the automatic release of prisoners serving less than five years. As I said in my second reading contribution, and possibly at the committee stage, based on the principle that I had had discussions and sought and received advice, the attitude of the Parole Board was that it believed that there was scope for effective work in reducing recidivism and assessing prisoners serving sentences under five years if they were empowered to assess the prisoners' suitability for release on a parole date previously given in the sentence. I think that the committee has had time previously to consider this matter at some length, so I will be guided by the way it votes on this amendment.

The Hon. T.G. ROBERTS: The government opposes this amendment, and I will take this opportunity to provide some answers to questions posed by the Hon. Mr Redford, at the same time as debunking the honourable member's argument. The amendment will repeal section 66, which deals with the automatic release of prisoners serving less than five years. When this bill was last debated, I indicated that the government opposed the amendment. At the time, the Hon. Angus Redford sought information on a number of matters to assist him to make a decision on the amendment.

I have now taken advice from the Department for Correctional Services and provide the following information. I am advised that the Parole Board currently holds 55 to 60 meetings per year. In addition to making determinations in relation to parole releases, the board conducts annual interviews with prisoners sentenced to life imprisonment; interviews with parolees who have been returned to custody for breach of parole; and interviews with parolees who are summoned to appear in relation to minor breaches and to progress matters. The board also makes decisions in relation to varying parole conditions and authorises the issue of arrest warrants and summonses for breaches of parole.

Board members routinely spend six to 10 hours per week studying Parole Board files at home prior to a meeting. The Presiding Member regularly receives three to four briefcases of files each week for consideration and decision. Each member of the committee knows how onerous it is dealing with that number of files, regardless of how detailed they are. So, considerable work is done by the Presiding Member and the members generally. Currently, the Parole Board considers all prisoners who have received a non-parole period of five years or more. As part of that consideration, the board is required to take account of a number of criteria, which include the behaviour of the prisoner whilst in prison and the progress the prisoner has made in his or her rehabilitation.

The administrative requirements of this process require prison authorities to prepare extensive reports on the prisoners concerned and the Parole Board secretariat to coordinate extensive documentation on each prisoner and to disseminate that information to board members for consideration and an informed decision. Over the past 12 months, the board has considered the applications of 130 prisoners, the majority of whom would have been interviewed by the board as part of the process. This is considered an average year.

The bill proposes changes to the Parole Board that will extend the role of the Parole Board to include sex offenders who have a non-parole period of less than five years. From the records of the Department for Correctional Services, it is expected that this proposal is likely to increase the number of parole applications the board has to consider from approximately 130 to 180. In determining the possible

administrative costs of this amendment, officers believe that it will have limited impact on the department. They believe that the additional reports the department will have to provide will be prepared as part of the new sex offender treatment program which the government recently announced.

However, the additional work that will be imposed on the Parole Board secretary and the Parole Board will be significant. In the past financial year, the Parole Board was allocated $457 000 to provide for the additional expected workload that will result from the effects of the government's proposal. A further $269 000 was provided in the state budget 2004-05. This amount includes increased membership and payments to members and two additional staff. If the amendment moved by the Hon. Mr Gilfillan is successful, the board will be required to consider all prisoners who want to be released on parole. This will have a significant impact on the department and the board. Based on the most recent statistics, the board will also have to consider between 500 and 600 further prisoners, of whom 60 per cent (300 or 360) would have to be interviewed by the board; and all 500 to 600 would require detailed reports to be prepared by the Department for Correctional Services.

At present, the existing Parole Board is working to capacity. It handles approximately 130 applications a year in addition to its other work. The cost of the present board is around $457 000 per annum. To consider another 300 to 360 applications would require increased capacity of approximately three to four times the size of the current board or a full-time board. Expected estimated cost to the government would therefore be around $1.5 million per year. Given the specialised nature of the work, there is limited opportunity for economies of scale and the department would require further report writing and case management staff and necessary accommodation and operating costs. The prisoner movement contract would also have to be restructured to incorporate the greater number of prisoner movements. Estimated cost to the department would be around $500 000.

In summary, the cost to the government on an initiative that would see all prisoners considered by the Parole Board would depend on the model chosen and the extent to which the Parole Board was required to assess each applicant. However, an annual cost of around $2 million would be a reasonable guesstimate.

The Hon. Mr Redford also asked for information on the process adopted for prisoners automatically released on parole. I understand that one Parole Board meeting each month is allocated to enable parole conditions to be set for the automatic releases. The board sits as a division of three members for this meeting. A community corrections parole report is prepared in respect of each prisoner eligible for release approximately three months prior to the release date.

Five days before the board meeting, Parole Board members receive a complete file from the secretary for each prisoner eligible for parole consideration. The file comprises antecedent history, sentencing remarks, psychological/psychiatric reports (where available), prisoner assessment reports, victim submissions and a current parole report. Each case is considered individually by the board members having regard to the criteria for release provided in section 68 of the Correctional Services Act.

The Hon. IAN GILFILLAN: I listened with interest as one would to the minister's response, in part to my amendment and in part to questions asked by the Hon. Angus Redford, which I am sure he may want to pursue. I find the logic of the government hard to grasp, other than its penchant for following the sensational and catching the quick grab on being tough on sexual offenders, which really points out that, if we take it at face value, it does believe that a Parole Board investigation of an offender under a five-year sentence who has committed a sexual offence will be of benefit to the community by checking the suitability or otherwise of that intended parolee for release at that stage; in other words, to make an assessment on behalf of the community as to whether it is appropriate for the person to be released on the parole date.

If that logic stands for sexual offenders, why does it not stand for those who are guilty of violence, some form of addiction or some other propensity for petty crime which could just as effectively be dealt with by an assessment by the Parole Board? Although the minister makes great play about the increase of expenditure, is that the criterion upon which the government will determine how serious it is in relation to reducing the recidivism of offenders? I find it hard to believe that this measure has not been brought in other than as a sop to this sort of hysteria that has been built up with some justifiable concern about sexual offences, but why be so exclusive that that is the only form of offence in which either the Parole Board can do any good or the offender can benefit from having their circumstances assessed by the Parole Board?

The Hon. T.G. ROBERTS: It has been explained to me that it is possible to extend the classes of prisoners that may be assessed at a later date. We have classes described now and there may be changes to those classes. It is a resource question, as explained.

The Hon. A.J. Redford: It would have to come back to parliament.

The Hon. T.G. ROBERTS: To change the act?

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I refer to the amendment to section 66(2)(b) which is in the bill; that is, a prisoner of a class excluded by regulations from the application, or a prisoner if any part of the imprisonment for which the prisoner was sentenced is in respect of a sexual offence. It can be regulated without changing the act.

The Hon. IAN GILFILLAN: I understand from the minister's answer that he sees merit in the intention of my amendment. In the light of the constructive attitude of the committee, I think it is fair for me to postulate that, if the resources, the skills and the ability were available to the Parole Board, the minister would accept that it would be welcome and, if I have interpreted what he said accurately, that he may well be prepared to continue to work within government to get that extension for other offenders when he is able to either persuade his colleagues and/or get hands-on resources to do the job.

The Hon. T.G. ROBERTS: All sections of the act are under consideration. If it appears that the act as it is applied is not working to the extent necessary to satisfy the community or the government, and balancing that with available resources—

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. ROBERTS: If the government was going to be Father Christmas in relation to this, I suspect the answer would be yes.

Progress reported; committee to sit again.

ADJOURNMENT

At 5.31 p.m. the council adjourned until Wednesday 13 October at 2.15 p.m.