LEGISLATIVE COUNCIL

Thursday 25 November 2004

The PRESIDENT (Hon. R.R. Roberts) took the chair at 11 a.m. and read prayers.

STANDING ORDERS SUSPENSION

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

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15. p.m.

Motion carried.

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 510.)

The Hon. T.G. ROBERTS (Minister for Correctional Services): In closing the second reading debate of the bill, I have read the comments of both the Hon. Angus Redford and the Hon. Ian Gilfillan. In relation to the comments of the two members, I make the following observations. In relation to interstate leave of absence, the provisions for leave of absence to allow prisoners to travel interstate have been proposed to make it easier for correctional authorities temporarily to move prisoners from state to state. At present, as the Hon. Angus Redford has acknowledged, the cumbersome provisions of the Prisoners Interstate Transfer Act are inadequate for temporary transfers. It is a regular occurrence for the Northern Territory to transfer prisoners temporarily to South Australia for urgent medical attention. In addition, it is not unusual for home detainees to apply to travel temporarily interstate for compassionate and other reasons. Although these transfers are only for several days, the Prisoners Interstate Transfer Act has to be used as the tool to effect these transfers. The amended legislation included in this bill provides a more efficient way of effecting these transfers.

As the Hon. Angus Redford has correctly pointed out, the current amendments require corresponding laws to be declared by proclamation. He has suggested that similar results could be achieved by using the regulations to prescribe the corresponding laws. I do not have any problem with that suggestion and I would be happy to support such an amendment to the bill. In relation to work by prisoners, the government is committed to a structured day that provides prisoners with worthwhile work. It is also of the view that remand prisoners should not be disadvantaged.

What this government does object to (and this is why this clause has been inserted) is the abuse of the work provisions in the existing act by some prisoners who attempt to maintain their outside professions whilst in prison. There have been cases where accountants and lawyers, who have been imprisoned for fraud related matters, have attempted to carry on their practices from prison. They have attempted to sign documents sent to them by their staff, have conference calls with staff and process briefs and financial matters for clients. Indeed, they have indirectly attempted to use correctional staff for their own needs and as an extension of their business. The intention of this amendment is to stop that, and only that, happening.

I assure this council that no remand prisoner who has a genuine need to sign documents, provide advice to family or business acquaintances, or to carry out any reasonable action to maintain his or her business will be prevented from doing so.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I will find that out.

The Hon. A.J. Redford: If there is, I do not think there will be any problem. It is just having a situation where no arbitrary decisions or arbitrary applications of the provision are made that concerns us.

The Hon. T.G. ROBERTS: The honourable member does not want any victimisation of individuals and no uniform—

The Hon. A.J. Redford: Consistency.

The Hon. T.G. ROBERTS: Neither will there be any restriction on prisoners who may wish to complete family tax returns or any other similar transactions. I now turn to release on home detention. Home detention is one of the Department for Correctional Services' most successful non-prison detention programs. Each year, in excess of 250 prisoners take part in this program and, of these, over 90 per cent will be successful. South Australia is regarded as one of the leaders, if not the leading authority, in this field in Australia.

What most people do not understand is that home detention is one of the hardest things a prisoner can be asked to do. For that reason a number of prisoners do not even apply for home detention. Home detention requires prisoners to accept responsibility for their own actions and, in doing so, they cannot freely associate with friends, consume alcohol or use drugs, and they are restricted to their homes. If any one of these conditions is breached, the prisoner concerned will generally be returned into high security prison and most will complete their sentence in that environment.

The success of this program depends on several factors, but perhaps one of the most critical is the length of time that prisoners are released on home detention. Experience has shown that for each month after a 12-month period a prisoner is on home detention the number who breach increases significantly. It matters little if the person is in prison for a white collar crime or a more serious offence, few can complete more than 12 months home detention before breaching the conditions of the program. Contrary to the views expressed in this council, the new amendments to home detention do not delegate the authority of determining which category of prisoner is to be released to the chief executive nor do they remove the right of the minister to determine criteria for those who are to be released.

What they propose is to restrict home detention to the last 12 months of the prisoner's sentence and ensure that those who have been sentenced for less than 12 months serve at least half their sentence before becoming eligible for home detention. Under the present act prisoners who receive a sentence of less than 12 months can be released immediately to home detention. Every prisoner except those who are excluded by criteria determined by the minister can apply for home detention. The new amendments do not change this; they simply give the chief executive the power to consider the seriousness of any offence for which the prisoner was imprisoned when considering an application for home detention. Currently, he does not have the power to do this,

and the inclusion of this point reduces the risk to the community.

The Hon. A.J. Redford: Will you set guidelines that you intend to adopt?

The Hon. T.G. ROBERTS: Currently, he does not have the power so there would be a method to try to—

The Hon. A.J. Redford: Could I look, on a confidential basis, at a draft?

The Hon. T.G. ROBERTS: I point out to members that, although the new amendments remove section 37A(2)(c) of the act, the exact same clause has been reinstated in proposed section 37A(2)(b) at the end of the paragraph. The government still retains the right to set criteria. In regard to the honourable member's stated concern about the restrictions on persons who have been sentenced to death by dangerous driving, I have said before that I will be happy to reconsider this specific exemption once these new amendments to the act are enforced.

With respect to the power of search of prisoners and non-prisoners, the new amendments are more prescriptive in regard to the searching of visitors. This government makes no apologies for the tough stance it has taken to reduce the possibility of visitors introducing contraband into prisons. Concerns raised by the Law Society have been noted. The government has no intention of changing the procedure that currently applies to members of the legal profession when visiting clients in prison. The current policy is that members of the legal profession generally are given professional status and, as such, they are not searched except in exceptional circumstances (that is, where prison authorities may have received solid information that the person concerned may be attempting to bring illegal contraband into the prison).

The problem of drugs is a problem that is shared by prison systems worldwide. The government will do everything in its power to reduce prisoner access to drugs, and if that means more and better drug testing and random searching of prisoners or greater surveillance of visitors, so be it. The honourable member has quite rightly recognised that visitors are the single most likely avenue of contraband into the prison system. Last year alone over 200 visitors were banned from the prison system largely for attempting to or on suspicion of introducing drugs. I am not quite sure whether the honourable member is happy to deal with aspects of the bill in committee now or we adjourn on motion to enable the honourable member to get more information with respect to my explanation.

Bill read a second time.

In committee.

Clause 1.

The Hon. A.J. REDFORD: I have indicated that the opposition will consider moving some amendments, so we are not in a position to finalise this bill today. I have to go back to my party room out of an abundance of caution. I have a couple of queries. First, as I understand it, the government is currently in the process of drafting a set of rules in relation to who might or might not be eligible for home detention. I would be very grateful if the minister could give some indication of the sorts of things that might be different from the current rules that apply.

The Hon. T.G. ROBERTS: The important thing is that we are trying to give the minister the power over certain offences where it can be ruled out categorically. Certain offenders will not be given home detention, more than those ruled in. I think it will be giving a little more power to the minister to say, 'The type of offence you committed does not entitle you to home detention.'

The Hon. A.J. REDFORD: I understand that. I would be grateful if the minister could give some indication about what the changes might be. Secondly, in relation to the process for remand prisoners conducting work, our position is that we support what the government is seeking to achieve. Our only concern is that rules in this area ought to be transparent and ought to be applied fairly across the board. Again, I would be grateful if some time next week, even if the rules have not been drafted, a draft of the rules can be provided to the opposition.

Finally, in relation to the answer on the issue of searching of visitors, in particular the issues raised by the Law Society, I acknowledge that the government has stated that it will respect, by and large, the concept of legal professional privilege and access to legal advice. I am also aware that the government has indicated that, if there were 'solid evidence' that members of the legal profession were abusing that privilege, those members of the legal profession would be searched. Indeed, I am grateful to the Law Society, which drew my attention to the case of the Legal Practitioners Conduct Board against Morel, a decision made in June this year, where a lawyer abused her position and her rights and privileges in visiting a couple of clients in gaol over a period of time. Obviously, in those circumstances the authorities should have the right to say, 'I'm sorry, you might be a lawyer, but we have a reasonable suspicion that you are going to break the rules.' I think that is fair enough.

It is an important principle on which to consult with the Law Society in light of the minister's answer, and its understanding that our fundamental position as an opposition is that we agree with what the government is attempting to do here. We agree and acknowledge that on occasions lawyers who might seek to abuse their privileges should be searched. It is sad but lawyers are not perfect—and that might surprise the Hon. Bob Sneath. With those few words, and subject to anything the Hon. Ian Gilfillan might say, I will be moving to report progress.

The Hon. T.G. ROBERTS: In answer to the two requests in relation to the drafting of rules or guidelines, we can accommodate the honourable member's request for that. It is not only lawyers or professional people who enter the prisons: it is a range of other people. I have raised it in relation to Aboriginal volunteers who have built up a base of respect over a number of years; that they be given a certain base of respect similar to professional people. We are aware that, if we had a blanket exemption to search, then, a bit like diplomats, most diplomats will fulfil the rules and obligations of entry in our countries, but there will always be one or two who cannot be trusted. There must be some evidence that has been picked up. I do not think there has been widespread abuse of the privilege, but, occasionally, as the honourable member says, although the majority of people who are members of the Law Society are perfect, a blemished one gets through.

The Hon. A.J. REDFORD: Thank you, Mr Chairman; I am grateful for your indulgence. This is time well invested, because we will be very quick in committee. Another issue in relation to visiting—and I think I sent a letter about it to the minister—concerns some events on the weekend, where it has been suggested that there might be an overzealous dog who is excluding lots of visitors at the moment. Is the minister looking into that now, and is my constituent likely to get some response before the weekend? If I accept her

word, we have a very keen dog with a very keen sense of smell that is is not all that keen on having visitors at Yatala.

The Hon. T.G. ROBERTS: I thank the honourable member for his letter; his awaited formal response will be coming shortly. I can say that the dog was either tobacco-sensitive or it had a cold.

The Hon. A.J. Redford: So, it is the Nick Xenophon of dogs, is it?

The Hon. T.G. ROBERTS: The dog was having a bad day. But it is being dealt with and a formal reply will be given to you on behalf of your constituents.

Progress reported; committee to sit again.

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 24 November. Page 678.)

New clauses 46 to 50.

The Hon. NICK XENOPHON: I move:

New clauses—After clause 45 insert:

Part 5—Referendum

46—Referendum on gaming machines

(1) At the first general election of members of the House of Assembly following the commencement of this section the following questions are to be submitted to a referendum of electors:

(a) Are you in favour of the removal of all existing gaming machines (ie pokies) from the casino, hotels and clubs in South Australia within the next 5 years?

(b) Are you in favour of the removal of all existing gaming machines (ie pokies) from hotels and clubs (but not from the casino) in South Australia within the next 5 years?

(c) Are you in favour of the removal of all existing gaming machines (ie pokies) from hotels (but not from the casino or clubs) in South Australia within the next 5 years?

(2) The Electoral Commissioner is responsible for the conduct of the referendum.

(3) The *Electoral Act 1985* applies to the referendum with adaptations, exclusions and modifications prescribed by the regulations as if the referendum were a general election of members of the House of Assembly.

(4) When the result of the referendum is known, the Electoral Commissioner must declare the result by notice in the Gazette.

47—Amendments to law if affirmative results in referendum

(1) If a majority of the electors casting valid votes at the referendum vote in the affirmative on question 1 but not on question 2 or 3, the following amendments will come into operation on the date of publication of the notice declaring the result of the referendum:

Amendment of *Gaming Machines Act 1992*

1—Insertion of section 88

After section 87 insert:

88—Expiry of Act

On the fifth anniversary of the commencement of this section, the *Gaming Machines Act 1992* expires.

Amendment of *Lottery and Gaming Act 1936*

2—Insertion of section 50B

After section 50A insert:

50B—Gaming machines

(1) A person must not—

(a) have possession of a gaming machine on any premises; or

(b) manufacture, sell or supply a gaming machine; or

(c) install, service or repair a gaming machine.

Maximum penalty: $35 000 or imprisonment for 2 years.

(2) For the purposes of this Act, the playing of a gaming machine will be taken to constitute the playing of an unlawful game.

(3) In this section—

gaming machine means a device

(a) that is designed or has been adapted for the purpose of gambling by playing a game of chance or a game combined of chance and skill; and

(b) that is capable of being operated by the insertion of a coin or other token (whether in that device or another device to which it is linked) or by the electronic transfer of credits accrued on some other gaming machine.

(4) This section comes into operation on the expiry of the *Gaming Machines Act 1992*.

Amendment of *Casino Act 1997*

3—Insertion of section 37AB

After section 37A insert:

37AB—Removal of gaming machines from casino on expiry of Gaming Machines Act

(1) Despite any other provision of this Act, it is a condition of the casino licence that the licensee will not, after the expiry of the *Gaming Machines Act 1992*, provide a gaming machine for use on the premises of the casino.

(2) In this section—

gaming machine means a device

(a) that is designed or has been adapted for the purpose of gambling by playing a game of chance or a game combined of chance and skill; and

(b) that is capable of being operated by the insertion of a coin or other token (whether in that device or another device to which it is linked) or by the electronic transfer of credits accrued on some other gaming machine.

(2) If a majority of the electors casting valid votes at the referendum vote in the affirmative on question 2 but not on question 3, the following amendment will come into operation on the date of publication of the notice declaring the result of the referendum:

Amendment of *Gaming Machines Act 1992*

1—Insertion of section 14B

After section 14A insert:

14B—Existing gaming machine licences for hotels and clubs declared void and no further licences to be granted

(1) On the fifth anniversary of the commencement of this section, a gaming machine licence held by the holder of a hotel licence or club licence or the holder of a special circumstances licence that was granted on the surrender of a hotel licence or club licence is void and of no effect.

(2) Despite any other provision of this Act, the Commissioner cannot, after the fifth anniversary of the commencement of this section, grant an application for a gaming machine licence to the holder of a hotel licence or club licence or the holder of a special circumstances licence that was granted on the surrender of a hotel licence or club licence.

(3) If a majority of the electors casting valid votes at the referendum vote in the affirmative on question 3, the following amendment will come into operation on the date of publication of the notice declaring the result of the referendum:

Amendment of *Gaming Machines Act 1992*

1—Insertion of section 14B

After section 14A insert:

14B—Existing gaming machine licences for hotels declared void and no further licences to be granted

(1) On the fifth anniversary of the commencement of this section, a gaming machine licence held by the holder of a hotel licence or the holder of a special circumstances licence that was granted on the surrender of a hotel licence is void and of no effect.

(2) Despite any other provision of this Act, the Commissioner cannot, after the fifth anniversary of the commencement of this section, grant an application for a gaming machine licence to the holder of a hotel licence or the holder of a special circumstances licence that was granted on the surrender of a hotel licence.

48—Funding of affirmative case

The Treasurer must provide funds out of the Consolidated Account (which is appropriated to the necessary extent) to organisations that propose to advocate that electors vote in the affirmative to questions in the referendum of an amount sufficient to ensure that the case is ad-

equately funded taking into account the amount that is likely to be expended on the opposing case.

49—Crown not liable to compensate any person

The Crown is not liable to compensate any person for loss that might arise out of an affirmative vote on any question in the referendum.

50—Regulations

The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Part.

This amendment provides for a referendum on gaming machines in this state at the next state election that seeks to ask three questions of electors. The first is whether they are in favour of the removal of all existing gaming machines (that is, pokies) from the casino, hotels and clubs in South Australia within the next five years; the second alternative is with respect to removing all machines from hotels and clubs within the next five years; and the third alternative is to remove machines from hotels but not the casino or clubs within five years. It provides the mechanisms for a referendum, for the Electoral Commissioner's involvement and for funding of the alternative case, given the enormous economic resources of the industry in this state.

We had a debate on this issue back in 2001, in the previous parliament. I will be very brief in my remarks. We have had referenda in this state on a whole range of issues in the past 156 years. The information I have is that 12 proposals have been submitted since 1856. Three were related to education; one related to increasing parliamentary salaries, in 1911, which was not approved; one related to bar room closing hours, in 1915, where 6 p.m. closing was favoured; one for the establishment of a lottery, in 1965, which was approved; one for extended shopping hours in the metropolitan area, in 1970, which was not approved; and one for daylight saving, in 1982, which was approved. The most recent referendum, in 1991, approved the electoral redistribution amendments to the constitution.

Whatever honourable members' views may be on poker machines, I urge them to support this amendment. This is about giving South Australians a say on what is a contentious issue and which has had an enormous impact in the community. All the arguments that can be put for and against poker machines can be put directly to the people at a referendum. The hotel industry can have its say, as well as those concerned about the impact of poker machines. Ultimately, I believe this is one of those issues where giving South Australians a direct say is one way of resolving the impasse of determining whether we have poker machines at all in this state, or the extent to which we have them, with respect to the alternative questions. This is one way of short circuiting debates such as this, and I do not say that in any way disrespectfully to the process. My view is that, if you want to slash gambling addiction in this state, the best way to do it is to slash the number of poker machines in this state, either entirely or substantially—not just 20 per cent but a much greater percentage—so that you deal with the issues of access and accessibility.

Recently, former Victorian premiers Kerner and Kennett, both pro pokies in their time, came out and said that having poker machines in hotels and clubs was a mistake and that they ought to have been confined to Crown Casino. They also said that, in their view, the expansion was a mistake. That was reported widely in *The Age* newspaper a number of weeks ago.

I could talk about community attitudes to poker machines in South Australia. In relation to the Productivity Commission, I acknowledge Mr Lucas's remarks last night that it has been a few years since the commission published its report. However, I suggest that the figures probably have not changed that much. It states that a significant proportion of South Australians' attitude to poker machines overall, in terms of all venues, are as follows: 61.3 per cent want a large decrease; 14.3 per cent, a small decrease; 20.7 per cent, to remain the same; and, a small increase, 0.6 per cent. I think that the Hon. Mr Lucas is in that 0.6 per cent in relation to his very consistent position on poker machines over the years. This is about giving the people of South Australia a say on an issue that has caused so much harm to so many, and it is one way of cutting the Gordian knot of this problem and giving South Australians a direct say on this issue.

The Hon. P. HOLLOWAY: I indicate that the government will (or at least I will, anyway) be opposing this provision. It is not a new provision. The Hon. Nick Xenophon has put this up by way of private members' business in the past. I opposed it when I was in opposition, as did the then treasurer, and I will oppose it now. This matter has been debated and defeated on a number of occasions. Earlier in this debate, the committee considered the very issues the honourable member now wishes to put to a referendum. He could not get the chamber to agree, and now he is seeking to get them through with community support. A referendum would create a bidding war in advertising and misinformation. With such vested interests, it would be difficult for electors to make a fully informed decision.

The Hon. Nick Xenophon interjecting:

The Hon. P. HOLLOWAY: We have had poker machines for many years, and the parliament has conferred various rights upon those who have them. If one were to have a referendum, the public would have to consider the consequences of what might be involved in terms of compensation and the like in relation to that whole process. One has only to look at what has happened in the United States with citizen initiated referenda and proposition 41. People will vote, 'Yes, we're in favour of fewer taxes, and yes, we're in favour of more spending,' and, of course, the two are mutually exclusive for the most part. That is why this system has come under such increasing disrepute in the US; that is, because of what has happened in that situation. It would be quite different from having a referendum at the start of such a decision, where it would be a greenfield issue. However, when significant investment is being made, I suggest that there would simply be a bidding war. Parliamentarians would not be in control of the debate; it would be those with particular interests.

The argument I made when this was debated some three or four years ago (or whenever it was), when I was in opposition, was that members of parliament are elected to take these matters into account in making judgment on these issues—that is why we are here. The purpose of having a parliament is to make decisions. Sometimes decisions are tough and sometimes they are easy, but it is our responsibility on behalf of those who vote for us to weigh up the pros and cons and make these decisions.

Another point I make in relation to this matter is a problem with the wording of these provisions (a problem I also identified in previous similar amendments), namely, depending on the outcome of the referendum, the gaming venue formerly operated at the Renaissance Tower would remain able to operate after all other gaming machine venues had been shut, and the community hotels would be shut while clubs remained open. That is one complication. In addition,

there is no justification to require the government to appropriate funds to help any particular case.

We have had this debate often enough before, and even in this bill we have debated the substantive issue of whether or not poker machines should be removed. The whole purpose of this measure is to reduce the number of machines by 3 000. If it is passed in accordance with that basic proposition, namely, that the number of poker machines be cut by 3 000, that is what will happen. However, the honourable member seeks to go way beyond that. I urge the committee to reject the amendment.

The Hon. IAN GILFILLAN: On behalf of the Democrats, I indicate that we do not support the proposal for a referendum. The Hon. Nick Xenophon's motive is clearly parallel to ours, that is, to diminish substantially, if not entirely, the number of poker machines in South Australia, so we are certainly not hostile to the intention, but we believe that it is misguided. As partly explained by the Leader of the Government, it is most unlikely that it would be a level playing field, or an impartial assessment of the issue. For those of us who are very concerned about poker machines, the down side is that, if it were a referendum that expressed strong support for poker machines, for whatever reason, the potential for substantial reform from then on would be virtually shot. I think it is a misguided but well-intentioned proposal that we will oppose.

The Hon. R.I. LUCAS: I have spoken before on this issue, so I will not repeat my views in any detail. I do not support the notion of a referendum. I have indicated the argument before that we in this council, rightly or wrongly, are in the position of having to make difficult judgments on complex issues such as this. I am sure that, if a referendum were held on other social issues of importance to an overwhelming majority of the community, such as capital punishment, 70 per cent of the community—

The Hon. Ian Gilfillan: And the abolition of the upper house.

The Hon. R.I. LUCAS: Well, I am not sure about 70 per cent but, as the Hon. Mr Gilfillan indicates, a majority may well support that. There are issues where there are majority views in the community, and we have had this debate before. As an individual member, people often say to me that I am here to represent the majority view. My respectful response is: no; I am not here to represent the majority view; I am here to listen to the views of the majority and the minority, and I am here to make a judgment. Ultimately, in this place we are judged every eight years, and in the lower house they are judged every four years, as to the rightness of wrongness of our views. I do not subscribe to the view that we are required to support the majority view of the community, even though many strongly believe that and are offended by the view, as are some in the media, that an individual member should have the temerity—

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: I have said before that the film *The Rise and Rise of Michael Rimmer* is a wonderful satire on exactly that issue, and I recommend it to those who believe in citizen-initiated referenda, or other referenda. As I said, I will not repeat all my arguments. I do not support this amendment, and there does not seem to be support for it anyway, so I will not delay the debate.

The Hon. NICK XENOPHON: I will not unduly delay the debate, either. It looks as though I do not have any support for this proposal, but I still believe that it is worth raising and voting on, because the level of harm in the community is unacceptably high because of poker machines. If you accept the figures of independent researchers and the SA Centre for Economic Studies that 23 000 South Australians are affected by poker machines and each have a gambling problem that also affects the lives of seven others, according to the Productivity Commission, then, from our calculations, something like 180 000 South Australians are in some way worse off because of poker machines. If we can have referenda on daylight saving, on lotteries and on shopping hours, I would have thought that this issue is a prime candidate for a referendum in this state.

New clauses negatived.

The CHAIRMAN: Is the Hon. Mr Xenophon's package now complete?

The Hon. NICK XENOPHON: At the risk of distressing honourable members, that basically does it for me in relation to my amendments, apart from some issues on recommittal that I will raise.

The Hon. Ian Gilfillan: Have we heard the last from you?

The Hon. NICK XENOPHON: No; you have not heard the last from me. My other amendments relate to the Casino Act and are consequential on amendments to the Gaming Machines Act. Perhaps the minister will assist. There was an amendment that I got through in relation to the process of complaints in terms of former licensees. It was a technical issue that the government conceded yesterday. Should there be a consequential amendment to the Casino Act?

The Hon. P. HOLLOWAY: We have not changed the penalty arrangements in relation to the casino. That amendment was purely to make it the same as for the casino. They both can be fined. There is no need to change the Casino Act.

New schedule.

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

After clause 45 insert:

Schedule 1—Related amendment of Independent Gambling Authority Act 1995

1—Amendment of section 17—Confidentiality

Section 17(3)—delete subsection (3)

Basically, I am seeking to delete section 17, subsection (3), from the Independent Gambling Authority 1995. That clause is a general exemption that currently applies to the Independent Gambling Authority. Let me remind members what the government said to the people of South Australia shortly before the last state election. Back then, it issued a statement headed 'Labor's plan for honesty in government; lifting standards of honesty and accountability in government'. In that document it said:

> Labor will set new and higher standards. These standards will not be vague statements of intent, but will be enforced, and key elements will be made law. A good government does not fear scrutiny or openness. Secrecy can provide the cover behind which waste, wrong priorities, dishonesty and serious abuse of public office may occur.

It goes on to make various statements, not the least of which include improving the freedom of information legislation. On 10 November, some two weeks ago, I asked a question of the government—

Members interjecting:

The CHAIRMAN: Order! There is too much audible conversation in the chamber and in the surrounds of the chamber. I am having difficulty hearing the person who is in control of the floor.

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

An honourable member interjecting:

The CHAIRMAN: Order! There is too much audible conversation in the precincts of the chamber, including the President's gallery.

The Hon. A.J. REDFORD: Mr Chairman, I will keep going; I will raise my voice. Members might recall that on 10 November I raised an issue relating to gambling probity. Members might recall that, when we dealt with the Statutes Amendment (Investigation and Regulation of Gambling Licensees) Bill, the legislation was amended in the Legislative Council with the support of every single member of this chamber, apart from the six members who comprised the government, so that the Independent Gambling Authority would have its exemption from the Freedom of Information Act removed. That was tacked onto a bill which was supposed to provide a degree of transparency in relation to investigations and renewal of licences in relation to the TAB and the casino. The amended bill went to the lower house and it sat there for the best part of eight months. I must say that I was a bit surprised, because it was not a lengthy bill or a hard bill, but it sat on the *Notice Paper* in the other place for some time.

At the end of the last session of the last parliament, obviously, that particular piece of legislation fell off the *Notice Paper*. I then watched the House of Assembly *Notice Paper* with a great deal of interest to see whether that particular bill would be reinstated so that we could deal with it and the Independent Gambling Authority would be subject to appropriate scrutiny through freedom of information. To my utter and complete surprise, I discovered that it had not been brought back and put on the *Notice Paper*. Consequently, I made a number of discreet inquiries, thinking how stupid this government would be giving up the $1 million or $2 million per annum that it was seeking to claim in relation to recovery of costs associated with probity in so far as the casino and the TAB are concerned.

I discovered that the government, in order to avoid the Independent Gambling Authority being subject to freedom of information, had decided not to bring the bill back but to enter into arrangements with the TAB and the casino informally about the recovery of costs of probity and investigation. That is in the context of a party that went to the people at the last election saying that it would set 'new and higher standards'; that it would not be vague; and that 'a good government does not fear scrutiny or openness'.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: Sorry?

The Hon. P. Holloway: We don't.

The Hon. A.J. REDFORD: Why didn't you bring the bill back?

The Hon. P. Holloway: Well, I will explain it.

The Hon. A.J. REDFORD: Good, because you were asked a question about this two weeks ago and I am still waiting for an answer—I might get one. That is just one example of how this government says one thing and does another. I will not go through all the arguments. One issue was raised by the Hon. Nick Xenophon on the last occasion (and properly raised by him); that is, he was concerned that information held by the IGA relating to people's gambling problems might be disclosed to third parties—

The Hon. Nick Xenophon: And their families.

The Hon. A.J. REDFORD: And their families. On that occasion I addressed that point of view and pointed out the particular provisions in the Freedom of Information Act that prevent the disclosure of personal or private information to third parties; and, in that case, that would prevail. In that context, I urge members to support this measure so that we can get a greater degree of openness and scrutiny despite government objection to the Independent Gambling Authority.

The Hon. P. HOLLOWAY: The Hon. Angus Redford seeks to insert an amendment into the bill to remove the existing FOI exemption for the Independent Gambling Authority. Let me reinforce the point that the exemption has been there for a very long time; and, shortly, I will argue that it is there for very good reasons. The points that have been made by the government in previous debate on this issue remain valid. The authority has been exempted from FOI from its inception, and that is a reflection of its role and functions.

A range of similar agencies are exempt from FOI in South Australia, including the Parole Board, the Ombudsman, the Auditor-General, the Police Complaints Authority, particular functions and information of the Motor Accident Commission, the Public Trustee, the Essential Services Commission and South Australia Police. The authority is a quasi judicial body and performs a range of sensitive and commercially confidential functions. It also conducts private and personally sensitive processes with individuals who are problem gamblers. As a result of this amendment there would be no assurance that sensitive, personal information (for example, on problem gamblers) held by the authority would not be disclosed under FOI.

This problem has been exacerbated since we last debated the issue as the authority is now also responsible for the problem gambling family protection order scheme, which is another area of very sensitive family information. Family members could use this FOI process for vexatious purposes. Some have suggested that the provisions of the FOI act provide the necessary protections. The prevention of the release of information under the FOI act includes a requirement that it be considered unreasonable disclosure. This is not an absolute protection for a problem gambler.

In addition, the provision is that the release of any personal documents (sensitive or not) is 30 years from the date the document came into existence. The amendment would thus provide that sensitive problem gambler information could be publicly released. A problem gambler who, say, sought voluntary barring from the authority when they were 20 years old could thus be identified as such when they turn 50, if not before. The government does not believe that this information should be publicly available.

It is all very well to hear this rhetoric the Hon. Angus Redford pulls out about the government's fearing this information. It is not about the government. First, it is about those institutions, such as the casino and hotels, which must provide sensitive information to the IGA; and, secondly (and, perhaps, more importantly), it is about those individuals, particularly problem gamblers, for whom the IGA collects this information. Essentially, they are the people who need protection rather than the government. We argued this during the amendments to the FOI act when we talked about how many years information should be kept secret, but I believe there is a very good case for saying that personal information should not be disclosed even after 30 years.

Without repeating the whole debate we had during the FOI act, here is a classic case of someone who sought voluntary barring from the authority when they were 20 years old. That information would be on the record and would be automatically released when that person turns 50, when they may well have overcome that problem. The information may not be

relevant but it could be used in a highly damaging way for that individual. How does that use of freedom of information benefit the community?

Certainly, it does not benefit the government and neither does it impact upon government. That information would not be of concern to the government 30 years later, but it could be extremely damaging to the individual, and that was specifically why an organisation such as this was given exemption in the original legislation and why it has retained it to this day. It is not about releasing information in relation to government policy or operations because, after all, the codes and so on under which the IGA operates have a high level of public disclosure anyway.

This amendment will deter people from seeking barring orders for fear of subsequent public identification. That is the message we will be sending out: seek an order, seek anything to do with the IGA and, sooner or later, that information will get out. The government wants to help problem gamblers. The opposition apparently wants to reduce the opportunities for assistance. The requirements to assess FOI applications would also create a resource issue for a small organisation, which should continue to be focused on the very important function of addressing problem gambling issues. In recent days we have seen just how expensive—and just what a diversion of resources—some of those claims might be. It is for those very sound reasons that the government opposes the amendment.

The Hon. A.J. REDFORD: I want to make a couple of comments in response. First, I point out to the minister that a couple of agencies do not get this blanket immunity, and I will give a couple of examples. The Health Commission does not have a blanket exemption from the Freedom of Information Act, nor does family and community services. I can assure the minister that the Health Commission has some pretty sensitive information about private individuals. To use a contemporary issue, it might have details of women who have had an abortion, which is terribly sensitive information and, I am sure the minister would agree with me, should not be released publicly.

Family and community services has some terribly sensitive information about families, family structures and family breakdown—the sort of stuff which, I am sure the minister would agree with me, should not be released publicly. Neither of those two agencies has the general exemption that the Independent Gambling Authority has. That is because, despite what the minister is trying to do, which is create some sort of fear factor, section 26 of the Freedom of Information Act (which deals with documents affecting personal affairs) and section 6 of part 2 of Schedule 1 of the Freedom of Information Act (which talks about documents affecting personal affairs) have been effective in the prevention of the release of sensitive material relating to those two issues to the community at large.

I have not seen a case made out by the government or by the minister that would make the Independent Gambling Authority and the information it has from personal information any more sensitive than information held by a range of other government institutions. They are not specifically exempt in Schedule 2 of the Freedom of Information Act, nor are they specifically exempt within the legislation itself. That is for good reason: because we can have confidence that the sort of sensitive information that the minister is worried about being released is well protected under the provisions of the Freedom of Information Act.

The Hon. P. HOLLOWAY: I remember arguing very strongly for the government's proposition, I think 80 years should be the time for the personal information. But, in its wisdom, the parliament decided it should be 30 years. Information about abortions can now be released. I do not think that is right. At least that is my understanding of the act. Certainly, my understanding of the changes is that that is what the outcome would be. I cannot be 100 per cent certain about the ultimate arrangements, but that is my understanding of the debate. If that is the case, just because that could happen in one area of government does not make it a good thing or mean it should happen here. The other point is that, apart from that personal information, there is also the fact that the Independent Gambling Authority does have that supervisory role, for which it must receive sensitive and commercially confidential information from the bodies it regulates. In that sense it is no different from the Ombudsman, the Parole Board, the Police Complaints Authority and those other agencies I mentioned.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: But the point is that here you have a small agency of government. It is one thing to have the Health Commission which, has a huge—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The Health Commission can have specialised FOI officers to do this sort of thing. Here we are talking about a small unit of government which, no doubt, would have to expand and have a big increase in staff and resources, just to be able to assess the volume of information that it has. We know these things can be incredibly difficult. I assume that is the very reason other bodies, such as the Parole Board and the Ombudsman's office, and the like, are specifically exempt.

The Hon. A.J. REDFORD: Also, we have student counsellors in schools who are taking information from students during their teenage years—which is sensitive stuff. We do not have a blanket exemption for them, either. The honourable member says that this is a small agency and that is another reason why it should be exempt. I remind the minister that there are dozens of small agencies within government that are not exempt from the provisions of the Freedom of Information Act. Like his previous argument, that is an absolute furphy. We have dozens of small agencies. If the government is so concerned about the 30 year rule—and can I say they have about 29 years to fix it, if this goes through—

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: You could fix it tomorrow if you had a real problem with it, but you have 29 years, because we know this mob is a bit slow.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: No changes were made. You sought to make changes. No changes were made. The minister's memory is wrong. We made no changes to the provisions regarding personal affairs in the Freedom of Information Act when the legislation went through last year.

The Hon. P. Holloway interjecting:

The CHAIRMAN: It should not develop into a conversation. The Hon. Mr Redford has the call. The minister will get the opportunity to respond.

The Hon. A.J. REDFORD: The law has been the same for some time. I point out to the minister that, if he is really so concerned about the release of personal information after 30 years, then section 6(4) provides that the government can prescribe a longer period if it sees fit. If the government is so

worried about problem gamblers' information getting out and the minister is so sensitive about it—and I do not think the government is genuine about this; I think they are a bit sensitive about a couple of issues with the Independent Gambling Authority, but I will not go into that now—then the government, in relation to problem gamblers, can prescribe a period and put in 100 years for all I care. The government would not get that information anyway, because section 26(4) of the act provides that there is no requirement to release a document if disclosure may have an adverse effect on the physical or mental health or the emotional state of the applicant. Again, the government is putting up a smokescreen so it can protect its Victorian barrister mate and the Independent Gambling Authority from the same degree and same level of scrutiny to which just about every government agency is subjected.

The Hon. P. HOLLOWAY: I make the comment that those rather pejorative comments of the Hon. Angus Redford about the Victorian barrister and the government really explain the reason for this motion. It is nothing to do with trying to improve the governance. If freedom of information has a purpose, it should be to try to improve governance.

The Hon. A.J. Redford interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! The minister is on his feet and has the call.

The Hon. P. HOLLOWAY: The purpose of the FOI act is purportedly to improve the quality of governance in the state by making information paid for by taxpayers available to the public.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Exactly. That is the purported purpose of the Freedom of Information Act but, as the Hon. Angus Redford has indicated, it is also possible that if this gets through there will be hundreds of applications gumming up this organisation.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Well, we will see. As I said, it is highly unlikely that there will be anything of public interest in relation to problem gamblers and the confidential information this organisation gets. An enormous amount of information will have to be gone through, and I think most sane members of this parliament would not expect that to be released because there is no public interest purpose in having that out there—it can only be damaging to individuals. It would be a huge resource burden, and the decision was made right from day one that this organisation should be exempt.

I would like the Hon. Angus Redford to tell us what sort of information might be available from the Independent Gambling Authority which, in the absence of this law, would in any way act against the public interest. I would love to hear an example.

The Hon. NICK XENOPHON: I still support this amendment. We dealt with this a number of months ago. I acknowledge what the Hon. Mr Holloway has said about his concerns with respect to problem gamblers, and I do not think anyone in this chamber can accuse me of not being concerned about problem gamblers and their families, but my reading of the Freedom of Information Act is that they would be protected.

I believe it is important to keep this amendment alive, and that if there is a need for some further safeguards (and I am not so sure that there is) that can be dealt with. I do not believe the Hon. Mr Redford would stand in the way of those additional safeguards to ensure that the privacy of families and individuals is not affected or impinged upon in any way. If my reading of the legislation is wrong, then I think these are matters that can be addressed.

I think it is an important issue. I also agree with the Hon. Mr Holloway that being pejorative about anyone is not going to help very much. There is a broader general principle here about accountability and access to information. If the argument is that a smaller agency should somehow be exempt, then if there are issues that governments (and I am not talking about this government in particular) do not want the public to know about they have only to whack it into smaller agencies with not as much funding and the freedom of information regime is rendered meaningless. So, with respect to Mr Holloway, I do not think that argument washes. With regard to the remarks made by the Hon. Mr Lucas about student counsellors in his time as education minister, my understanding is that that was not the subject of an FOI request. If you had a been a troubled teenager or had a drug problem or anti-social behaviour—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: Abortions, yes. My understanding is that—

The ACTING CHAIRMAN: Order! Once again I counsel against a conversation developing.

The Hon. NICK XENOPHON: My apologies; I was responding to what I took as a helpful, invited interjection, Mr Acting Chairman. I still support it. I think that, if there is an issue there about privacy and there is a convincing case that the existing legislation is not adequate, I think that could certainly be looked at. I also want to say that, having attended virtually all the hearings of the Independent Gambling Authority, I know that it does an enormous amount of work and has a number of responsibilities now with the family protection orders and the barring of problem gamblers. So, in terms of what it does with its resources, I think it is fair to say that there is an enormous amount of activity, and during hearings an enormous number of documents is generated by those making submissions, which are circulated to all the interested parties. So, in terms of that level of activity and what we are getting for our taxpayer dollars, I would not have thought that the authority has any concerns in justifying what it does on its budget.

The Hon. R.I. LUCAS: I will not repeat the arguments a number of members have made, but the Leader of the Government issued a sort of challenge to say where the public interest was in relation to these things. Clearly, I am not talking about the personal affairs of problem gamblers, but there is a public interest in relation to the accountability of expenditure of any agency or individual and there are certainly more than enough rumours, true or not, in relation to the proper expenditure of funds by the presiding member and the authority in relation to its budget.

The only way of establishing the truth or otherwise of some of these issues is to access the information—in particular, a number of people would be interested in looking at the travel records of the presiding member, as well as a variety of other expenditures. If that information is available, some of the rumours may be able to be disproved, and those people busily running around Adelaide at the moment spreading those rumours could be corrected. Certainly, the rumours in the community have steadily increased over the past few months, but they could easily be put to rest through the release of certain information. Can the minister indicate if he is aware whether or not the presiding member has threatened to resign from his position should this amendment pass into law?

The Hon. P. HOLLOWAY: I have absolutely no knowledge of that. I would not even know what the chair of the IGA looked like; I do not think I have ever met him. I have no idea. What I do know is that, during the estimates committees, the opposition asked questions in relation to those very matters the leader has raised, that is, the travel of the chair of the IGA. It is my understanding that the opposition was provided with that information. So, there is the accountability.

The Hon. KATE REYNOLDS: The Democrats will be supporting the amendment. We supported the amendment in an earlier debate, and the principle has not changed. We think the arguments have been made, and I indicate the Democrats support.

The committee divided on the new schedule:

AYES (12)

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

NOES (6)

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

PAIR

Stephens, T. J.	Evans, A. L.

Majority of 6 for the ayes.

New schedule thus inserted.

Long title.

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

After 'Gaming Machines Act 1992' insert:
and to make a related amendment to the Independent Gambling Authority Act 1995.

This amendment is consequential on the previous amendment.

Amendment carried; long title as amended passed.

Bill recommitted.

Clause 4.

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

Page 4, lines 10 and 11—Delete all words on these lines after 'delete subsection (6)'

This is a technical amendment. Section 14A of the act will no longer be superseded, as envisaged by this amendment, as the five-year licence renewal provision was unsuccessful. Section 14A will now simply be deleted by proclamation for the commencement of clause 7 of the bill. This amends the bill to reflect the process that will now occur.

The Hon. R.I. LUCAS: I am advised that this amendment has nothing to do with Club One. It was an oversight in relation to drafting, and we are tidying up the legislation. So, unless someone can imply a more sinister motive on behalf of the government, I am prepared to accept its position and support the amendment.

Amendment carried; clause as amended passed.

Clause 11.

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

Page 7, lines 1 and 2—
New section 24A(4)—delete subsection (4) and substitute:

(4) A special club licence is subject to the following further conditions:
(a) a condition requiring the holder of the licence to submit for the Commissioner's approval contracts or arrangements under which management services are to be provided, officers or employees engaged in senior management positions are to be remunerated or profits are to be shared with other licensees;
(b) a condition requiring the holder of the licence to provide a report to the Minister, no later than 30 September in each year, on the conduct of its financial affairs during the financial year ending on the previous 30 June, including reference to distribution of funds among community, sporting and recreational groups;
(c) other conditions determined by the Commissioner and specified in the licence.
(5) the Minister must, within 12 sitting days of receiving the report referred to above, cause a copy of the report to be laid before each House of Parliament.

This amendment relates to club accountability. As indicated to the committee yesterday, the government has today clarified with the Liquor and Gambling Commissioner his powers and role in approving the proposed holder of the special club licence. The Commissioner has advised that there is no specific power for him to approve the costs of management consultants, etc., in approving Club One's licence. To do so, he would have to rely on other more general provisions of approval of persons and the general provision enabling him to apply conditions on a licensee, as provided in proposed section 24A(b).

There is a clear desire to ensure that Club One operates as it is intended—that is, to provide funds to the club and community sector—and that it is appropriately accountable through approval and reporting processes. The government has previously indicated the desire for strong regulatory and approval controls. To ensure this occurs, and to clarify any uncertainty over the relevant powers and requirements of the Commissioner in this regard, the government has tabled amendments which, first, provide that the Commissioner must approve contracts or arrangements under which management services are to be provided and that senior management are to be remunerated, or profits are to be shared with other licensees in relation to the businesses conducted under the special club licence; and, secondly, require the holder of the special club licence—that is, Club One—to provide an annual report on its annual revenue and distribution of funds to community, sport and recreational groups. This report would be provided to the minister and would be required to be tabled in parliament.

The Hon. R.I. LUCAS: I indicate my support for the amendment. It answers the concerns I raised in my second reading contribution and through the committee stage. Whilst I did not oppose the concept to ensure that the maximum amount of dollars generated went for the purposes claimed or specified, and that the minimum amount of dollars were expended on director's fees, salaries for senior management and the size of the management services contract, as has been explained in the earlier committee stage it also meets the concerns I raised, namely, to ensure that appropriate probity processes are conducted in the letting of the key management services contract.

It also meets, as has been explained in an earlier committee stage, the concerns that I raised to ensure that appropriate probity processes are conducted in the letting of the key management services contract. Whilst the Commissioner has given no commitment, I understand that he clearly has the capacity, should he so choose, to appoint an independent probity auditor or someone else to provide oversight of the letting of the contract.

As I indicated, based on the advice provided to me by the proponents of Club One, potentially we are talking of four or

five sites with up to 40 machines generating an NGR of possibly $2 million or more per site, which means that the management services contract can be a very lucrative and important one, potentially one company or individual managing a contract over four or five sites with net gaming revenue of $8 million to $10 million, or so. It is a significant issue and I accept the responses that the minister gave on behalf of the Commissioner, that, whilst he obviously has to make his own determinations in relation to this, he has the capacity to go down that path if he deems it is required. I am happy to leave that to the judgment of the Commissioner. I am comforted, however, by the fact that, if he believes that or something similar is required, he will now have the capacity to do that. I had another amendment drafted. However, this is a more comprehensive and better amendment and I am happy to support the amendment moved by the minister.

The Hon. NICK XENOPHON: These amendments, following the line of questioning by the Hon. Mr Lucas and others, have improved the measure, allowing for a greater degree of scrutiny and accountability. However, I put on the record again that the Club One concept to me will mean that smaller venues that are not doing much NGR will become bigger venues, quasi hotels, and it will mean more losses per machine, if you look at the figures provided by the Liquor and Gambling Commissioner's office. Therefore I do not support it but I understand that I am in a small minority in that respect. I would rather have a few machines not doing much NGR than those machines doing much bigger NGR and the consequences I fear arising from that.

The Hon. R.I. Lucas: You support the amendment, though?

The Hon. NICK XENOPHON: If you are going to have Club One, I support this amendment, because it is a clear improvement, following the line of questioning of the Hon. Mr Lucas and others.

The Hon. CAROLINE SCHAEFER: I will support this amendment because it goes some way towards alleviating some of the concerns I expressed with regard to Club One. I will not be opposing Club One and, even though I said it is unnecessary, I was never going to oppose it because I have not been approached by any constituency—the hotels association, the clubs association or the anti-gambling lobby—lobbying against the formation of Club One.

Having said that, I put on the record that, some time in the future, 10 or 15 years down the track, whenever it might be, I believe the whole Club One concept will backfire. It will backfire on the hotels and it will backfire on the small clubs. My understanding of this is that the Club One concept will allow small and unprofitable sporting clubs to, if you like, donate their licence, their machines, to a larger facility for a share of the profit. That is fine in theory but in point of fact it could mean that someone at the Blackwood Bowling Club who used to enjoy a game of bowls and tea on a Saturday night and a bit of a flutter on the pokies may well have to go to Paralowie to enjoy the facilities of its Club One machines. What will happen then is that those people will not stay at the local bowling club for tea: they will go down the road to the hotels. This will see the demise of many of those smaller sporting bodies. They may make more profit, but I think that they will struggle to retain their membership.

Similarly, where the Club One facilities are set up, they will become very commercial, 40-machine venues; they will become pseudo hotels. Let us remember that they have not had to pay, they will never go to 32 machines and have to pay $400 000 to get back to 40, they will be 40 and then they will compete in their turn with the smaller hotels in those regions. As I said to the Hon. Terry Stephens, I do not expect that I will still be in this place by the time it happens, but you can bet that I will pick up the phone and remind a few people in this place that that is what I said.

The Hon. KATE REYNOLDS: Early in the debate we also expressed some concerns about the Club One concept. I think that there is still some opportunity for Club One to allow some of the smaller organisations, as people in the clubs sector put it to me, to clean up their act, and that is probably a good move, but I have no doubt that we will be returning to this issue very shortly. I think that concerns will be raised. I am not committed to the Club One concept. I am not a rusted-on supporter of it but I do think that, if we proceed with it, there needs to be some greater level of scrutiny. I will support the amendment but put on the record that we will certainly want some further scrutiny down the track, and I will be happy to participate in such debates about the usefulness of the Club One concept.

Amendment carried; clause as amended passed.

Clause 12.

The Hon. R.I. LUCAS: I move:

Page 9, after line 29—
Insert new subsection as follows:
(3a) Any commission on the sale of a gaming machine entitlement is to be paid into the Gamblers Rehabilitation Fund.

I understand that there will be support for this, so I will not speak at any great length. This issue was discussed at an earlier stage. The government has indicated publicly and in this chamber that it had already made a decision that any commission that would be paid would go into the GRF, anyway. All this amendment does is confirm it in the legislation. I do not think it is an argument about hypothecation. The government has already indicated—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It may well be, yes. I think there is some dispute about how much commission might ever be payable because the commission becomes payable only after the 3 000 machine reduction has been achieved. Some of us in the chamber have a view that that will be some time in the coming, if ever. This issue is really dependent upon achieving that particular target. As I said, it is not really an argument about whether or not it should go in there. The government has already said publicly that it will go in there, and all this is doing is confirming the government's public announcement.

Amendment carried; clause as amended passed.

New clause 13A.

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

After clause 13 insert:
13A—Amendment of section 68—Certain profit sharing etc is prohibited
Section 68(2) to (5)—delete subsections (2) to (5) and substitute:
(2) Subsection (1) does not apply to—
(a) an agreement or arrangement providing for the disbursement of proceeds or profits to a person in a position of authority in a trust or corporate entity that holds the gaming machine licence; or
(b) an agreement or arrangement on terms approved by the Commissioner.

This amends the profit sharing offence provisions in the act by clarifying that the Commissioner can approve these arrangements and to enable the distribution of funds to Club One ought to be shared between parties when the entitlements in the gaming venue are held by more than one party. In

practical terms, it is necessary to allow the Commissioner to approve that Club One can receive a share of revenues when Club One entitlements are operated in the venue of another licensee, and also that non-profit organisations can share proceeds where they amalgamate their gaming operations in the premises of one of the parties. With the potential complexity of various arrangements, it is appropriate to leave these approvals to the Commissioner.

The Hon. R.I. LUCAS: I understood that this amendment was related to the earlier amendment in relation to Club One. If there are aspects of it that are not, could the minister clarify for the committee which aspects of this are not related to the Club One amendment which we have already approved?

The Hon. T.G. ROBERTS: I am informed there was an oversight in the original drafting.

The Hon. R.I. Lucas: So, is it related to Club One?

The Hon. T.G. ROBERTS: To enable the distribution of funds to Club One ought to be shared between parties when the entitlement in a gaming venue is held by more than one party is the piece that has been included.

The Hon. R.I. LUCAS: As I understand it then, it is related to Club One but it is not related to the issue that we have just amended in clause 11. It was an oversight in the legislation, which the government is now seeking to clarify to give the commission discretion in this area.

The Hon. T.G. ROBERTS: Yes.

The Hon. KATE REYNOLDS: Will the minister clarify what this means in relation to the discussion we had previously about clubs locating machines in hotels? Is that still allowable under this amendment?

The Hon. T.G. ROBERTS: Yes.

The Hon. NICK XENOPHON: Further to the Hon. Kate Reynolds' question and the answer from the minister, that is another reason why I am opposing this whole concept of clubs being able to relocate in hotels. I think it goes against the grain of that distinction between clubs and hotels, which is something which has already been alluded to by the Hon. Caroline Schaefer.

The Hon. KATE REYNOLDS: I put on the record that I am most uncomfortable about clubs locating poker machines in hotels. The conversations which I have had with people from the club sector and the hotel sector have led me to believe that it is in fact highly unlikely that clubs would seek to have machines placed in hotels, or that hotels would agree to that—because of the administrative challenges posed, the differential tax rates and so on, it would simply become too hard. However, should it be attempted then, frankly, I hope it does not work and people do not try it again because it makes me most uncomfortable. However, I am willing to support this amendment because I think it is appropriate that clubs ought to be able to consolidate machines in venues owned by one of the parties, if that is what they choose to do and if they want to persist in participating in the electronic gaming industry.

New clause inserted.

Clause 16.

The Hon. R.I. LUCAS: I move:

Page 12, after line 27—
Insert new subsection as follows:
(3) Any guidelines issued by the authority before the commencement of this section are to be laid before parliament and are subject to disallowance under the Subordinate Legislation Act 1978 as if they had been made on the commencement of this section.

This issue was discussed at length, I think it was last evening. I understand there will be majority support, if not unanimous support or non-opposition (I hope) to this amendment. Put simply, this amendment is important, because it closes what I believe to be an anomaly in the act, that is, that a part of it was going to have the power to disallow all future guidelines issued by the authority to the Commissioner, but there is a most important existing guideline. I understand that only one package of guidelines has been issued to the Commissioner; there is not a series of them. Also, my advice is that there has not been the constant updating or changing that might have been the view of the government; however, I put that to one side.

There is one set of guidelines. This amendment will give the authority for this parliament to make those guidelines subject to a disallowance motion in the same way as any future guideline might be. As I said, I understand that there is likely to be support, so I will not argue it at length. If that is unlikely, I will come back and debate the issue further.

The Hon. P. HOLLOWAY: It is my understanding that these guidelines have been around for about 12 months. They have been changed at least once in that period, so that explains the answer I gave last night. The government believes that this amendment is unnecessary. We will oppose it but we will not divide on it. It is not that significant. After all, there is only one of these guidelines anyway. We believe that it is unnecessary. We record our opposition but we will not divide on it.

Amendment carried; clause as amended passed.

Clause 22.

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

Delete the clause.

This is a technical amendment. The amendment to section 14A is no longer required, as section 14A will be deleted in full by the commencement of clause 7 of the bill. Previously, clause 22 was required to enable the devolution of rights provision in clause 23 to have commenced before five year licence renewal provisions. This is no longer necessary, as five year renewal provisions no longer exist in the bill.

Amendment carried.

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

That this bill with the suggested amendments be now read a third time and passed.

The Hon. R.I. LUCAS (Leader of the Opposition): I indicate, as I have indicated on a number of occasions, that I and, I suspect, a number of my colleagues still strongly oppose the legislation. When I say 'a number', I mean not all but some of my colleagues. We strongly oppose the legislation for the reasons that we outlined both in the second reading and during various stages of the committee. It is my intention and, I suspect, the intention of at least some other members of the chamber, to oppose the third reading strongly. We are voting against it.

The Hon. J.M.A. LENSINK: With some reluctance, I indicate that I will be voting against this bill. I have been concerned all along about the issue of problem gambling, but I believe that very little in this bill does anything about that matter. Possibly the most significant amendments are those which were moved last night by the Hon. Angus Redford and the Hon. Nick Xenophon, which will give us some reality check on measures that will assist problem gamblers. I do not want to let the government off the hook. I think that the measures the government has brought to this parliament are

convoluted nonsense, which might make members of the public feel warm and fuzzy that something is being done. However, I do not believe that doing something which has not been tested and which we cannot guarantee will make any significant difference is the right and proper way to proceed with this. It is a cop-out. I wish to put on the record my rationale for not supporting the bill.

The Hon. CAROLINE SCHAEFER: I have indicated since my second reading contribution that I will be voting against the third reading of this bill, and I intend to do so.

The Hon. D.W. RIDGWAY: I will also be voting against this bill. I said on a number of occasions throughout the debate that I believe this is merely about a popular headline for the Premier and his government with no real commitment to doing anything for problem gamblers. I will not be supporting it.

The Hon. J.S.L. DAWKINS: I will be opposing the bill.

The council divided on the third reading:

AYES (11)

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

NOES (8)

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

PAIR

Evans, A. L.	Stephens, T. J.

Majority of 3 for the ayes.

Third reading thus carried.

Bill passed.

[Sitting suspended from 1 to 2.15 p.m.]

RECONCILIATION FERRY

A petition signed by 80 residents of South Australia, concerning a proposal to establish a 'Reconciliation Ferry' and praying that the council will provide its full support to the ferry relocation proposal and prioritise the ferry service on its merits as a transport, tourism, reconciliation, regional development and employment project and call for the urgent support of the Premier, requesting that he engage, as soon as possible, in discussions with the Ngarrindjeri community to see this exciting and creative initiative become a reality, was presented by the Hon. Sandra Kanck.

Petition received.

RADIOACTIVE WASTE

A petition signed by nine residents of South Australia, concerning the transport and storage of radioactive waste in South Australia and praying that the council will do all in its power to ensure that South Australia does not become a dumping ground for Australia's or the world's nuclear waste, was presented by the Hon. Sandra Kanck.

Petition received.

OMBUDSMAN'S REPORT

The PRESIDENT: I lay on the table the report of the Ombudsman, 2003-04.

AUDITOR-GENERAL'S REPORT

The PRESIDENT: I lay on the table the report of the Auditor-General on the Basketball Association of South Australia Inc., 2003-004.

LOCAL GOVERNMENT REPORT

The PRESIDENT: I lay on the table the report 2003-004, City of Port Lincoln and the District Council of Le Hunte, pursuant to section 131(6) of the Local Government Act 1999.

PAPERS TABLED

The following papers were laid on the table:

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

Venture Capital Board and Office of the Venture Capital Board—Report, 2003-04

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

Reports, 2003-04—
Construction Industry Long Service Leave Board
Actuarial Investigation of the State and Sufficiency of the Construction Industry Fund Report (Report prepared for the Construction Industry long Service Leave Board)

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

Department for Correctional Services—Report, 2003-04.

QUESTION TIME

STATE ECONOMY

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Premier a question about the state economy.

Leave granted.

The Hon. R.I. LUCAS: Two weeks ago on 15 November, the Premier made a series of statements about the performance of the state economy. In summary, media transcripts of 15 November state, 'Mr Rann says it's the first time he can remember South Australia's growth outstripping the national rate.' In one example on 5DN he stated, 'That means we're outstripping the nation for about the first time in terms of economic growth.' There is a series of other similar quotes made by the Premier on that day, indicating that this was the first time South Australia had outperformed the national economic growth rate.

I refer to the *Australian National Accounts State Accounts* bulletin from the Australian Bureau of Statistics, which summarises the performance of South Australia's state economy as compared with the national rate and also as compared with the other states. I refer in particular to the last full year of the last Liberal government, when South Australia's economic performance, or growth rate, in terms of GSP was 4.8 per cent compared with the Australian rate of 2.1 per cent, and that was more than double the rate. I refer

also to 1997-98, when South Australia's economic growth rate was 6.1 per cent compared with 4.5 per cent for Australia. I also refer to 1995-96, when South Australia's economic growth rate was 6.3 per cent compared with Australia's rate of 4.3 per cent. Does the Premier now admit that the statements he made on 15 November and subsequently that this was the first time South Australia's economic growth had outstripped the national rate was, in fact, an incorrect, or untrue, statement? At the very least, in financial years 2000-01, 1997-98, 1995-96, together with others, South Australia's economic growth rate strongly outperformed the national growth rate in the economy at that time.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Premier and bring back a reply. I can say unequivocally that the latest figures show that, in real terms, South Australia's gross state product grew in 2003-04 by 4.3 per cent, which was significantly higher than the national GDP growth of 3.8 per cent.

The Hon. R.I. Lucas: In the last years of the Liberal government it was double.

The Hon. P. HOLLOWAY: I am sure that, had we experienced a season similar to that one, when we had a record grain crop because of the very high rainfall at the right time, it would have added a couple of billion dollars.

Members interjecting:

The Hon. P. HOLLOWAY: This state is very dependent on the rural economy and, as the Hon. John Dawkins comes from a farming background, I am sure he knows just how important the farming sector is to our economy: it is about 50 per cent of merchandise exports, and it is extremely significant. Notwithstanding that, I would have thought that all members of the council would welcome the fact that the GSP growth in this state is significantly outperforming national growth. However, given the Leader of the Opposition's obsession with pedantry, I will refer those questions on so that we can deal with those matters of history.

VICTIMS OF CRIME ADVISORY COMMITTEE

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 the Victims of Crime Advisory Committee.

Leave granted.

The Hon. R.D. LAWSON: Section 15 of the Victims of Crime Act provides:

> (1) The Attorney-General may establish an advisory committee to advise on—
> (a) practical initiatives that the Government might take—
> (i) to ensure that victims of crime are treated with proper consideration and respect in the criminal justice system; and
> (ii) to help victims of crime to recover from harm suffered by them; and
> (iii) to advance the interests of victims of crime in other ways; and
> (iv) any other matter referred to the advisory committee by the Attorney-General for advice.

This committee, or its predecessors, has been in existence for some years. The former chair of the committee was the Hon. Bruce Eastick, and it comprised representatives from South Australia Police, the Victim Support Service, the Department of Human Services, the Department of the Premier and Cabinet and others. According to those who served on the committee, it was very effective and did a great deal of good work. I certainly know that the previous attorney-general (Hon. Trevor Griffin) valued its work.

The opposition has been informed that this committee has not met at all since the election in February 2002 and that this Attorney-General has not sought to re-form the committee or take advantage of it. My questions are:

1. Will he confirm that it is the case that no appointments have been made by him to the advisory committee under the Victims of Crime Act and that the committee has not met since the election of the Rann Labor government?

2. Is this another example of the government's paying lip service to victims of crime but doing nothing to actually assist them?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer the specifics of those questions to the Attorney-General in another place and bring back a reply. However, on behalf of the government I certainly reject the assertion made in the member's second question that this government is not concerned about victims of crime.

OVINE JOHNE'S DISEASE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries a question on the ovine Johne's disease plan.

Leave granted.

The Hon. CAROLINE SCHAEFER: Today's *Stock Journal* is headlined 'Fatal flaw: How the OJD system could fail'. Page 5 has a detailed article announcing:

> The Primary Industries and Resources animal health director Dr Robin Vandegraaff says the Government does not have the power to change property OJD ratings (which automatically start at level five) of farmers when interstate stock are introduced.

Many of us would have dealt with farmers whose properties were quarantined under the old OJD system. The system meant that trading of sheep and even some decent animal husbandry was threatened by a very draconian method of keeping animals that had ovine Johne's disease or were even suspected of being exposed to animals that had ovine Johne's disease. Trading of that stock was prevented.

After extensive consultation with the industry, a new scheme was introduced into South Australia on 1 July this year, and it has been approved across Australia, based on points. A property in an OJD-free area automatically has a five-point rating, and a property where there is known to be OJD in the area has a three-point rating. It is possible to upgrade to as high as nine points, I understand, with vaccination and with a self-replacing flock.

The PRESIDENT: Order! There is too much audible conversation in the council. The lobbies have been built at great expense for members who want to converse with one another. The chamber is not the place.

The Hon. CAROLINE SCHAEFER: The scheme that has devolved over time with extensive consultation with industry, veterinarians, livestock handlers and markets is a points-based system. It was introduced into South Australia in July and, as far as I know, it has proceeded very successfully and has met with the approval of sheep producers across the state. In particular, areas such as Kangaroo Island now have the ability to upgrade their flocks from point score three to point score five with vaccination. That allows them to sell some of their stock onto the mainland, as I understand it. I use that as an example. However, in *The Stock Journal*, Dr Vandegraaff has announced that he believes that the scheme is flawed. The article states that the scheme:

. . . was designed to break down trading barriers and give more choice to South Australian sheep buyers. One stipulation considered crucial to the scheme was producers' scores being lowered if they purchased more than 5 per cent of their flock from a property with a lower OJD risk score.

Now Dr Vandegraaff, in isolation, has announced that it will not be possible to downgrade properties to a three score system and that they will be able to retain their five points, which would make the system unworkable. South Australian Farmers Federation livestock committee chairman, Mr Ben Mumford, has said:

We are concerned that PIRSA's statements, if adopted, will water down the scheme, which is only five months old and has barely had time to work.

The article continues:

He said PIRSA had been at the table at every meeting concerned with the development and implementation of the state OJD plan.

My questions are:

1. Did the minister know Dr Vandegraaff was going to publicly denounce the government approved scheme?

2. Who was consulted before this announcement of a reversal of policy, and what discussions took place?

3. Does the minister agree with his chief veterinarian; and what steps does he intend to take to ensure sheep producers' faith in the new scheme?

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I probably could. There is OJD in the South-East; it is managed rather than eliminated, as I am told. I will refer those important questions to the minister in another place and bring back a reply.

DEFENCE INDUSTRY

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

Leave granted.

The Hon. CARMEL ZOLLO: The defence industry in South Australia has played a pivotal role in the state's economic development. Today the defence industry accounts for 2.1 per cent of the gross state product and employs directly and indirectly some 16 000 people. What is the state government doing to assist this valuable industry?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The defence industry is indeed one of the state's priority economic sectors and, as such, the Rann government is committed to a coordinated approach to growing defence businesses through the linking of infrastructure with key defence precincts and developing industry identified skills, particularly in the area of electronics, which underpins many future projects. The government is intent on having a vibrant defence industry and, on that basis, has and will continue to invest in a defence enablement framework. This framework comprises three key elements: the defence industry advisory board, the defence unit and the defence teaming centre. The defence industry advisory board is responsible for providing advice on the state's defence strategies and liaises with high level defence and government personnel to ensure that South Australia becomes the dominant location for defence industries.

To drive and implement the defence strategy, we have an eight person team that makes up the state defence unit. One of the first priorities for this team is the development of four state sector plans that articulate how state support will be provided to aid in the growth of defence businesses. These four plans cover the naval, land, electronics and aerospace sectors. Whilst the government is interested in the breadth of opportunities across all sectors, our initial focus will be in the maritime area. In the naval sector plan, South Australia is vigorously pursuing a goal to establish a national leadership position in shipbuilding consolidation. The key initiative of the plan is the development of the Osborne maritime precinct—the premier location for the consolidation of the Royal Australian Navy's future warships. The state government is looking to transform Osborne into a truly formidable shipbuilding capability that will include up to 90 hectares of land dedicated to naval shipbuilding, a new ship-lift, transfer system and wharf operated as a multi-user facility.

The government would also be looking to provide a comprehensive suite of the trade and technical skills necessary to establish a vibrant, innovative shipbuilding industry. Clearly, there is a lot more to modern shipbuilding than steel consolidation. Significant opportunities also exist in relation to the land and air sectors. South Australia is home to General Dynamics and Tenix Defence land operations. With this and the extensive automotive skill base in the state, we have both the capacity and skill base to compete for the $2 billion army vehicle and trailer replacement program. Of course, the availability of the Lonsdale factory in the future provides additional capacity to attract even more defence vehicle fabrication contractors and work.

With regard to the aerospace sector, the state government will look to consolidate and retain the maritime patrol aviation activities at Edinburgh. We will also be leveraging off our current maritime patrol mission and electronic systems knowledge to position the state to become a centre for Australia's future unmanned maritime surveillance capability. Notwithstanding these opportunities, the real strength of our state industrial base lies in its ability to develop and integrate the electronic systems that form the backbone of all modern war fighting platforms. These systems will only grow in complexity as concepts such as network centric warfare systems are overlaid on individual platforms and joint force groups.

The electronics sector plan will concentrate on building on the innovative systems integration skill base. Electronics and ICT innovation is a cornerstone of our plan to grow defence opportunities and in so doing garner a much greater share of defence through life expenditure opportunities. The goal of our sector plans over the next decade is to double the defence industry contribution to gross state product and grow the employment base from 16 000 to 28 000. Recently I was delighted to attend the Systems Engineering and Test Evaluation Conference, and it is quite clear that military systems integration and test evaluation facilities are important considerations in our plans to develop the defence sector. For example:

- The establishment of core capabilities of a Naval Combat Systems Integration Centre and Naval Hardware Integration Test Site in close proximity with each other, DSTO and the state's proposed naval industrial hub will form a significant world-class capability in naval combat systems.
- Creating an environment for growth in the electronic sector will be achieved through establishing centres of excellence in collaboration with DSTO, the research community and industry in areas such as network centric warfare, military system integration and photonics. These

centres will provide a focus for specialised training, advice and collaboration.

- The state is collaborating with the commonwealth to establish SABRENet, a high capacity broadband connection of Adelaide's numerous innovation institutions. SABRENet will deliver research-grade high capacity broadband for transmission of vast amounts of research and development data throughout greater Adelaide. Optical fibre will give local researchers and organisations 10 Gbits per second connectivity to the world.

The state government is committed to the goal of growing South Australia's exports and in turn its economy, and the defence industry will play a key role in that growth.

WOMEN'S SAFETY STRATEGY

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Attorney-General, a question about the government's women's safety strategy.

Leave granted.

The Hon. SANDRA KANCK: Today is the International Day for the Prevention of Violence against Women, and the beginning of the 16 days of activism against gender violence, which gives cause to reflect on the safety of women in our society. I do note that, Mr President, you are wearing a white ribbon in support of this day, as are many other members. About 18 months ago ministers Key and Weatherill began a series of community and specialist consultations to develop a women's safety strategy for South Australia. The strategy was expected to deliver a whole of government approach to reducing the incidence of violence against women; and, although it was a document lacking in real detail, many people participated in the consultation in expectation of the emergence of a substantial document at the end of the process. I believe a final report is currently sitting with the cabinet. My questions to the minister are:

1. Why has cabinet not released the final report?
2. When does it plan to do so?
3. Does the state government intend to implement the recommendations of the final report and, if not, why not?

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

The Hon. Sandra Kanck: How many months do I have to wait for a reply?

The Hon. P. HOLLOWAY: I will ask the Attorney-General to give his best endeavours to providing a response to the honourable member as soon as possible.

YOUNG OFFENDERS, GAOLING

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Attorney-General, questions about the gaoling of young men for graffiti offences?

Leave granted.

The Hon. T.G. CAMERON: My office was recently contacted by a father extremely distressed about his young son who was under threat of being sent to prison for a first time graffiti offence. The young man in question was advised by the Legal Services Commission that he should seek the services of a lawyer—and they are not cheap these days—before appearing before the—

An honourable member interjecting:

The Hon. T.G. CAMERON: I will come to that—Adelaide Magistrates Court on an alleged graffiti offence. When my constituent asked why that was necessary for a crime that he thought would not have carried a prison term, he was informed that magistrates were known to gaol young men convicted of graffiti offences, even in cases where there were no prior convictions; in other words, he was told by the Legal Services Commission that young men were being gaoled for first-time graffiti offences. He was told that it was up to individual magistrates; that some magistrates were seeing graffiti offences in a very poor light and were attempting to deter young people through the use of prison terms. I have been informed that the gaol sentences being given out were in the order of weeks.

Based on this advice, my constituent decided to seek the services of a lawyer—at considerable expense—to try to ensure that his son was able to receive a basic legal defence. Graffiti is certainly a concern. The damage done and the cost of repainting does run into millions of dollars every year for councils, businesses and individuals, but one really has to question whether sending young people to prison is appropriate, particularly for first-time offences. One does have to consider whether the lottery system, 'Go to gaol if you get a certain judge,' and 'Get a fine if you get another judge,' is an effective way of dealing with this issue. One has to question whether the punishment is out of proportion to the crime. My questions are:

1. How many people have been gaoled for graffiti offences in South Australia between 2002-03 and 2003-04?
2. How many of these were for a first-time graffiti offence?
3. What was the average length of time served for these offences?
4. How many people have been convicted and received fines?
5. How much revenue was raised as a result of the fines for the same period?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will seek that information from the Attorney-General, but I remind the honourable member that, although there is the discretion of the magistrates or judges concerned, the maximum penalties are determined by this parliament. I know we have had debates in the past on graffiti measures. I recall that it was certainly the view of the majority of members when it was debated that there be tougher penalties for that particular offence to reflect—

The Hon. T.G. Cameron: You would not support a wide disparity by the same judiciary, would you?

The Hon. P. HOLLOWAY: One of the Attorney-General's first measures was to try to get some uniformity in sentencing provisions. I am sure that it would be dear to the Attorney-General's heart to ensure there is some measure of consistency across the judicial system. For that reason, I will refer the honourable member's important question to the Attorney-General and bring back a reply.

The Hon. T.G. CAMERON: I have a supplementary question. Will the Attorney-General indicate his support, or otherwise, for the wide variation in penalties for these offences?

The Hon. P. HOLLOWAY: I will refer the question to the Attorney-General.

UNNAMED CONSERVATION PARK

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Unnamed Conservation Park.

Leave granted.

The Hon. J.S.L. DAWKINS: Members will be aware that the Unnamed Conservation Park in the Far West of South Australia was recently handed over to the Maralinga Tjarutja and Pila Nguru peoples. I understand that the park will eventually be renamed or, more correctly, named for the first time. My questions are:

1. Will the minister indicate the process by which the naming of the park will occur?

2. When does the minister expect a name to be decided?

3. What role will the Department for Aboriginal Affairs and Reconciliation play in the determination of the name?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): The work done to hand over the park was performed not by officers of the Department for Aboriginal Affairs and Reconciliation but, rather, through the Department for Environment and Heritage and the Premier's office. In terms of naming the park, I expect that the Department of Aboriginal Affairs would be included in putting forward suggested names but, ultimately, the choice will rest with cabinet.

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

The Hon.T.G. ROBERTS: I would not think so. My own preference is that it would be an Aboriginal reference to land or heritage protection, and that it would be done in consultation with local Aboriginal people. I expect that would be the process, but as no formal process has been indicated to me I will refer the question to the relevant minister and, if it is the Premier, I will bring back a reply.

GOVERNMENT, PREQUALIFICATION CONDITIONS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, a question in relation to prequalification conditions.

Leave granted.

The Hon. J.F. STEFANI: The state government initiated a registration and prequalification system for companies that wished to tender and undertake work for the government. Many companies in the building industry were required to give detailed information about their activities and performance in their specific area of construction expertise. I refer to an article which was published in *The Advertiser* of 5 November 2004 which dealt with fines issued for price fixing. The article reported that three companies had colluded to fix a price for a $2.4 million demolition project at Salisbury and, as a consequence, were fined more than $500 000. McMahon Services were fined $300 000, SA Demolition and Salvage $65 625, and D&V Services $52 000. In addition, representatives of all the three companies were also fined. In view of this improper and illegal conduct involving these three companies and their representatives, my questions are:

1. Can the minister advise whether the companies that I mentioned were registered with the South Australian government as prequalified contractors to perform demolition and asbestos removal work?

2. Will the minister advise whether there is any procedure which can be implemented under the prequalification conditions which would automatically disqualify any registered company from undertaking work for the government if it is found to be involved in such corrupt conduct?

3. If no such procedure has been incorporated in the government's prequalification system, will the minister ensure that immediate steps are taken to address this important issue?

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.

GRAHAM, Mrs D.

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about Mrs Doris Graham.

Leave granted.

The Hon. G.E. GAGO: I am aware that the late Mrs Doris Graham passed away at the Aboriginal Elders' Village recently. My question is: will the minister inform the council of the contribution Mrs Graham made on behalf of Aboriginal people and reconciliation?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for this question and for her interest in Aboriginal affairs in the state. I was very saddened to learn of the passing of Mrs Doris Graham, as I hope all the chamber was. I think she was 92 years of age when she passed away, which is quite high for Aboriginal longevity. This question is important because Aboriginal people's contribution is often over an entire lifetime, as hers was, and is generally voluntary (not paid positions) on behalf of the community and, therefore, on behalf of the state.

It is not often that public acknowledgment is made of the work that many of the elders do within the community, and I wish to place on record my appreciation for the contribution that Aunty Doris Graham made to the lives of Aboriginal people in South Australia, and for her work for the state government in the field of Aboriginal affairs.

Aunty Doris was born at Point Pearce Mission Station on Yorke Peninsula in 1912, which makes her four years younger than my mother, who is still living in Sheoak Lodge in Millicent. She left school after grade 6 and worked as a maid in the local hospital. Doris and her late husband, Cecil Graham, set up a food cooperative at the Point Pearce mission, and it later turned into a store. They left the store to be run by others and went to live in Penola in about 1957. In 1971, the family moved from Penola to Adelaide. It was at that point that I became acquainted as a young person with the Graham family living in Penola. They were a family of athletes. It was a large family, with I think 15 children in the family. I can name five of the 15, they being of a similar age to me. There was Bradley Graham (who is no longer with us), who was a tremendous footballer for Penola and a tremendous athlete. There was Eddie and Freddie Graham, who also played for Penola in those years, and Michael—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I think that was a nephew or a grandson.

The Hon. T.G. ROBERTS: I think Michael was the youngest in the family. He played his last game for Penola at Millicent when I was playing for Millicent.

The Hon. A.J. Redford: He was quicker than you, even running through the mud.

The Hon. T.G. ROBERTS: That's about right.

The Hon. A.J. Redford: He'd have been a bit quick for you.

The Hon. T.G. ROBERTS: The honourable member's interjection should be put on the record, because it is very accurate. The only thing that did slow Michael down on that day was that, from memory, 75 millimetres of rain fell on the day and night before, which brought Michael back to my pace.

An honourable member interjecting:

The Hon. T.G. ROBERTS: There are some doubts being expressed by some members, and they are probably right to have those doubts. As I was a slow halfback flanker, Michael was able to swim past me quite regularly. I am not quite sure how many goals he kicked that day but, whenever he or his brothers played, Penola rarely lost: they had a formidable side. So, the Graham family can be proud of the role they played in the Penola community when they were there. They were model citizens. When they did move back, I think Michael went straight into the Sturt side at a very young age—no older than 15 or 16, from memory. So, Mrs Graham provided an important service for the Penola Football Club, as a recruiter for that side during those years in which they won many premierships. The late Wally Dittmar was coaching at about the same time, and he was taken back to the Port Adelaide Football Club for the finals and kicked his bagful of goals in the SANFL. So, you can imagine how many he was kicking down in the then South-Eastern Border League.

I am pleased to be able to pass on to her remaining family my acknowledgment of Aunty Doris's tireless efforts in promoting and progressing reconciliation in both South Australia and Australia generally. Indeed, one of Aunty Doris's main contributions to reconciliation, as well as to Aboriginal heritage, was the book she and her husband Cecil wrote about their lives, entitled *As We've Known It: 1911 to the Present*. The book provides a vivid insight into the lives of Aboriginal people during the greater part of the last century. Her wealth of life experience gained at Point Pearce, Penola and Adelaide gave Aunty Doris a unique perspective on the challenges facing Aboriginal people in this state. Aunty Doris was actively involved in a variety of government advisory committees and community forums. These included the Aboriginal Women's Council, established in the late 1960s as the first Aboriginal advisory committee in this state—a committee Don Dunstan worked closely with when he was Premier.

In whatever field she worked, she was a vocal advocate for the Aboriginal community. She was a well-respected and distinguished guest at many key events on the Aboriginal Affairs calendar, including NAIDOC Week, Reconciliation Week and National Sorry Day. She was always intimately involved in the negotiation and endorsement of several reconciliation statements with various local governments and enjoyed the participation of engaging Aboriginal with non-Aboriginal communities. She was a Narungga/Kaurna elder and a role model for Aboriginal and non-Aboriginal people alike.

She leaves a legacy of hope and inspiration to all of us involved in progressing reconciliation and improving the life of the Aboriginal community, and she will be sadly missed. Aunty Doris and Cecil (and I think one of their sons was also called Cecil) were married for over 60 years and had 15 children. I extend my condolences to the family of the late Aunty Doris Graham.

PARLIAMENT, CONTENT MANAGEMENT SYSTEM

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, a question about the provision of a content management system for parliament.

Leave granted.

The Hon. IAN GILFILLAN: Members may be interested to know that a Request for Proposals for the 'redevelopment of the parliament internet and intranet sites' is currently being handled by DAIS. From previous statements and questions in this place, members know that the Democrats are very interested in IT matters and, in particular, opportunities for open source product. However, members may not know that, in the world of the internet, the dominant product for delivering web pages is not made by Microsoft but is, in fact, an open source product known as Apache. There is also a growth of open source content management systems used to manage internet and intranet content, such as MySource, Zope and PostNuke. In our office, the Democrats use an open source solution of PostNuke on Apache on our web sites around the country.

It is of interest that, on 25 May this year, the minister to whom the question is being addressed (Hon. M.J. Wright) said (from *Hansard*):

> As a principle, though, we support the notion of open source. We need to be about getting the best outcome in any given procurement. We need to look at a range of criteria to get the best outcome for a given procurement, and obviously open source would be one of those criteria. . . certainly, from a policy perspective, we support open source. Where possible we would support it.

Therefore, it was an expectation that the winning tender would quite likely be an open source solution—solutions that run on very high profile business sites around the world. However, we find that the proposal closes the door on the whole world of open source solutions, and I will read from the request for proposal:

> 4.3.1 The Parliamentary Network uses a mix of technologies to deliver IT services. PNSG works with a number of vendors to select the products considered best of breed to enable the delivery of business services.

It continues (somewhat dramatically), as follows:

> 4.3.2 Operating System
> Server software runs on Windows 2003 or Windows 2000, SP4 or later. Desktop software (including applications and browser plug-ins) runs on Windows 2000 SP4 or later and Windows XP SP1 or later.

The following is the punchline, bearing in mind the minister's strong statements about leaving the door open for open source and given that this is the invitation for people to tender for government business:

> 4.3.3 Programming Language
> The Parliamentary Network runs under the Microsoft.NET runtime environment. The exceptions are some third party components. Thus, all developed components of the PIIP system must be written using the C# programming language to run under the Microsoft.NET runtime environment.

With this, we have carefully set aside the whole world of non-Microsoft proposals, even though they would include best-of-

breed examples from around the world at significantly lower cost than proprietary software cousins. My questions are:

1. Why is the minister's department still publishing requests for proposal that clearly exclude more than half the software world?

2. Why is it still not understood that tenders should be written in terms of function and not in terms of brand loyalties?

3. When is the minister and his department going to do more than release pious platitudes about open source and actually get on with the business of IT on a par with the rest of the world?

4. How can the IT world have any confidence in statements of this government when such a blatant case of deception destroys its credibility?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): There was an awful whip in the tail of that question. I will refer the question to the minister in another place and bring back a reply.

LATHAM, Mr M.

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question regarding Mark Latham's comments on state governments.

Leave granted.

The PRESIDENT: I am not sure that it is the business of this council, but we will see where you go.

The Hon. J.M.A. LENSINK: A number of comments from Mark Latham have been reported in a number of papers following the meeting of the national executive in Canberra on Tuesday. I quote from today's *Advertiser*, as follows:

> Some Labor MPs believe his [Mark Latham's] erratic and autocratic character make him unelectable. He told the national executive meeting in Canberra on Tuesday that state Labor premiers should shoulder some blame for the election defeat. He said federal Labor had been too soft on problems caused by state governments, which had rebounded during the campaign.

Yesterday's *Australian* stated that, despite the sometimes frank assessment of the loss, senior figures were not impressed. One said that Latham is—then there is an expletive—mad; he is in complete denial. *The Australian* also reported:

> And a New South Wales source said last night: 'NSW was the best performing state for federal Labor. How does Latham account for Queensland, South Australia, Western Australia and Tasmania?'. . . The Labor executive agreed to establish a detailed research strategy to look at the reasons behind the fall in the party's primary vote to just above 37 per cent.

In today's *Financial Review*, Premier Bob Carr, who has been the most critical, said:

> There's no Labor Party polling that says state issues intruded even to the slightest extent in New South Wales or in other states . . . Everybody knows that economic management, and particularly interest rates, were the dominating issues in that campaign.

The Hon. R.K. Sneath interjecting:

The Hon. J.M.A. LENSINK: Bob Carr, Labor premier, if you were not aware, Mr Sneath. My questions are:

1. Why has the South Australian government not responded when Tasmania, Queensland, Victoria, Western Australia and New South Wales have all made comments on this issue?

2. Does the minister agree that it was the South Australian government's fault, as implied by the federal Leader of the Opposition's comments, for the poor performance in South Australia, or does he agree with comments of other Labor figures that Mr Latham indeed is in denial?

3. Does the minister agree with Bob Carr's assessment that the exceptional economic management of the Howard government has been endorsed by the people of South Australia?

4. Will this government direct its members, particularly some notable backbench members in this chamber, to desist from proclaiming the merits of some of federal Labor's failed policies, which would now be under review, including Medicare Gold and its divisive schools policy?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): What an absolutely extraordinary question. I would have thought that the honourable member and all other members of the Liberal Party would be concentrating on the new-found power that its party has in controlling both the Senate and the House of Representatives.

The Hon. J.M.A. Lensink: We are celebrating.

The Hon. P. HOLLOWAY: Yes, that's right, and that is about all you are are doing. The claim is—

The Hon. J.M.A. Lensink interjecting:

The Hon. P. HOLLOWAY: That's right, the government did win, and I would have thought that it would be out there trying to prove that it deserved to win the election. The honourable member asked me why South Australia had not responded. As far as I am concerned, this government has much better things to do than comment on newspaper reports, particularly in the silly season in the lead-up to Christmas. I would have thought that now is an appropriate time for many of the newspapers and journalists in this country to start paying some attention to the government that won the election, and perhaps we might get some questions about what it will do about some of the challenges facing this country such as the skills shortage, the problems we have in our medical system and Medicare.

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

The Hon. P. HOLLOWAY: And it was certainly true, yes, at the election Medicare Gold and these policies were rejected; but, sadly, the problems that those policies were put forward to solve have not gone away and, regardless of what policies one might support, there is still an enormous unmet need in relation to the health system and other key issues facing the state. The honourable member's question was: is it the fault of the South Australian government that there was poor performance in Canberra? I think the answer to that lies in this morning's newspaper under the headline 'Rann can win in landslide'. The article states:

> A Rann government landslide at the next state election was likely, an opinion poll shows. It gives Labor its highest primary vote in South Australia since the 2002 election. With a primary vote of 53.5 per cent in the Morgan Poll carried out in September-October, Labor has improved—

The Hon. J.M.A. LENSINK: Mr President, I rise on a point of order. My question was specifically in relation to the federal election result on 9 October and not any speculation about polls that were not counted on the day.

The PRESIDENT: It has been a long held convention in the chamber that the minister is able to answer the question in the way that he sees fit. If one leads with one's chin, one should expect to get some retribution.

The Hon. P. HOLLOWAY: The question was, after all: is it the fault of the South Australian government that there was poor performance in Canberra? I am simply saying what this morning's newspaper says in relation to the performance of the Labor government and how it is regarded by the people

of this state. This article refers to the fact that Labor has improved by half a percentage point. It says:

> The Liberal vote is stagnant on 33 per cent. The poll puts the two-party preferred vote at Labor on 61 per cent and the Liberals on 39. That represents an 11.9 per cent swing to the government.

We do need to treat all public opinion polls with some caution, but nevertheless where there is smoke there is fire.

I would suggest that, with figures such as that in this morning's paper, it is highly unlikely that any actions of this state government would be reflecting on the performance of the federal Labor Party in this state. Incidentally, this morning's article also states:

> The seats to fall would range from such marginals as Hartley and Stuart to what are considered blue-ribbon seats, Morphett and even opposition leader Rob Kerin's rural electorate of Frome.

While the newspapers of this state might well be trying to stir up questions about Mark Latham (who, after all, has been the Leader of the Australian Labor Party federally for only 12 months), we have already seen the first signs that members opposite are looking at their leadership within this state. I am sure that polls such as we have today inevitably will cause a lot of consternation within the opposition ranks in relation to its performance in this state and its leader.

My advice to the honourable member would be that, perhaps, she concentrate on her own performance. This Rann government is interested in its performance as a state government in South Australia. We will work very closely with the federal government, whether it is Liberal or Labor. We are concentrating on doing our job well, and I suggest to members opposite that they should concentrate on their performance because, if this morning's article is any indication, members opposite have a lot to be concerned about.

DISABILITY PARKING

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about disability parking.

Leave granted.

The Hon. KATE REYNOLDS: I have been contacted by constituents (and I am certainly aware that, over many years, my Democrat colleagues have also been contacted by constituents) who are concerned about the increasing number of able-bodied drivers parking in car parks reserved for people with a disability. These people regularly find themselves blocked out of specially allocated car parks (which are usually larger than normal car parks to accommodate wheelchair usage and which are located close to building entrances) by drivers who do not have a disability parking permit and who, it appears, blatantly ignore the zoning of those parks.

To add insult to injury, under the Road Traffic Act regulations the penalty for stopping a vehicle in a parking area designated for people with a disability (if you do not have the appropriate permit) is only $70, which seems a very minor deterrent. This issue was picked up by *The Advertiser's* Rex Jory last week (and I am sure you would have read it, Mr President) who advocated a clamp down on selfish drivers to give people with disabilities (as he expressed it) a fair go. As Mr Jory rightly pointed out, the designated car parks are not a privilege for people with a disability: they are a necessity to maximise ease of access and to minimise discomfort.

In fact, Mr Jory suggested that, instead of simply fining drivers who illegally use the designated car parks, perhaps authorities could introduce wheel clamping, which he described as a realistic penalty given the cost, inconvenience and embarrassment caused to the offending driver. My questions to the minister are:

1. How many complaints has Transport SA received regarding people parking in disability car parks without the appropriate permit, and how are these complaints acted upon?

2. Does the department monitor the number of complaints about breaches received by local councils?

3. Will the minister provide details of how many parking fines were issued in the past financial year to vehicles parked illegally in disability designated parks?

4. Does the minister believe that a $70 fine is an adequate penalty or deterrent for parking in a designated disabled car park?

5. Does the government have any plans to increase the minimum number of designated disabled parks included as part of any new development?

I might add one final question: is anyone able to indicate when we might get some answers to our questions?

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

JAMES HARDIE INDUSTRIES

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, questions about James Hardie Industries and compensation for victims of asbestos-related disease.

Leave granted.

The Hon. NICK XENOPHON: On 26 October, I asked a series of questions to be directed to the Premier in relation to the parlous state of the Medical Research and Compensation Fund set up by James Hardie Industries. Many would say that it was an artifice to avoid its responsibilities to tens of thousands of asbestos victims. It is estimated by asbestos-victims groups that up to 53 000 Australians will be diagnosed with asbestos-related diseases between now and 2020, including up to 2 500 South Australians, who will die in the next 20 years from asbestos-related disease.

An article which appears on the front page of today's *Financial Review* and which is headed 'Hardie Foundation asks for Liquidator' reports that the James Hardie asbestos victims compensation fund will begin moves today to appoint a provisional liquidator as a result of a $1.5 billion funding shortfall. That story goes on to state that the Medical Research and Compensation Foundation will ask the New South Wales Supreme Court today to appoint a professional liquidator, with a hearing set down for next Thursday. This is a very serious development, given the existence in this state of potentially thousands of victims of asbestos-related disease, and their families, due to exposure to James Hardie products. My questions are:

1. What urgent action is the government proposing in light of the impending liquidation of the James Hardie victims compensation fund?

2. What assurances will the Premier, who is Patron of the Asbestos Victims Association of South Australia, give to asbestos victims in this state and potential future asbestos

victims in this state that they will not be left without compensation as a result of exposure to James Hardie products?

3. What steps is the Premier taking with other state premiers and the federal government to ensure that there is a resolution to the impasse that has now led to the impending liquidation of the Medical Research and Compensation Foundation?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Premier and get a response. I am sure the honourable member is aware of the Premier's statement made either earlier this month or late last month in relation to the James Hardie situation. As I indicated at that time, I am sure we all deplore the actions that have been taken. I will get a response from the Premier and bring back a reply.

GOVERNMENT ADVERTISING

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, as Leader of the Government in this council, a question about government advertising.

Leave granted.

The Hon. D.W. RIDGWAY: Today in my post box I received a copy of a magazine *extra extra*, with an article headed, 'The great cabinet challenge'. It is not so much a glossy publication but, rather, a very colourful publication, featuring a number of the state cabinet ministers. My questions are:

1. What is the cost of this publication?

2. From which budget line of the State Library's budget has it come?

3. Why were seven of the cabinet ministers omitted, they being the Deputy Premier and Treasurer, minister Conlon, minister Atkinson, minister White, minister Wright and, of course, the Minister for Aboriginal Affairs and Reconciliation?

4. More importantly, on the back page, there is a feature on the Hon. Paul Holloway, the Leader of the Government in this chamber. His challenge to the State Library is as follows:

> If I wanted to research geothermal energy or hot rocks at the State Library, how would I go about it?

Is this request as a result of being unable to answer a supplementary question some weeks ago?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The answer is no. In fact, I did answer that question. I was very happy to comply with the request of the State Library to publicise the information that is now available through the State Library. Mr Alan Smith is the new State Librarian. He was formerly head of Carrick Hill. He is very keen to promote the services of the State Library and the great diversity of resources that are contained within the library. I am very happy to respond to that. Of course, one of the things that the South Australian library has is a very detailed collection in relation to the minerals sector, so I advise any South Australian who wishes to get information that we have a wonderful resource in the State Library. The new facilities are magnificent—

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

The Hon. P. HOLLOWAY: Yes; we should give a tribute to a former member of this place, the Hon. Diana Laidlaw, for her persistence in doing that. It was continued under this—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I am sure that if the Hon. Diana Laidlaw were still a member of parliament she would be quite happy to assist the South Australian library, as I was, in promoting the broad range of services it provides to South Australians. The library contains a significant amount of material, not just on hot rocks. In fact, I suggest that the Hon. David Ridgway himself should go and have a look at some of that information. One of the books I noticed there went back to the 1990s, when there were discoveries in parts of the US. If he did, as I said in answer to his question two or three weeks ago, he would realise just how fortunate we are in this state in having such a massive hot rock resource.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: I suggest that the Hon. David Ridgway learns a little bit about physics and about the core of the earth. He should go and get a book on the structure of matter, because he obviously needs to learn a lot about the structure of the core of the earth. He should also, perhaps, go and read more about what this state is doing in relation to discovering minerals.

Yesterday I talked about the discoveries up near the Olympic Dam deposit, and today I noticed that the stock exchange has been given some more information by Havilah Resources. As a result of the efforts that this government has put in over the last couple of years in the mining sector there has been a remarkable increase in exploration around the state. As a consequence of that, some of our resources will be developed, so I am happy to provide publicity. And I hope that all South Australians go and read about our successes, not just with hot dry rocks but in minerals, in the state of the economy, and in all the other areas—right across the state, in fact.

POLITICAL APPOINTMENTS

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

Leave granted.

The Hon. A.J. REDFORD: Yesterday in my matter of interest I spoke about the appointment of Mr Bourne as Deputy Chair of the Parole Board. In that contribution I referred to the conduct of the Attorney-General. This morning I was contacted by the Attorney-General, who assured me that he had no knowledge of the decision of the Minister for Correctional Services to recommend Mr Bourne's appointment to the cabinet or of the process leading up to that appointment. He also assured me that he immediately absented himself from the cabinet when it came to his attention and took no part in any deliberations. I accept the Attorney-General's assurances in that regard. My criticisms of the minister and the cabinet, excluding the Attorney-General, regarding the process stand.

STATUTES AMENDMENT (MISUSE OF MOTOR VEHICLES) BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 478.)

The Hon. SANDRA KANCK: I begin by pointing out that I have great respect for the Hon. Dr Bob Such, the originator of this legislation, both as a person and as a legislator and that I am also aware of the problems created by hoon drivers in the streets of suburban Adelaide. I point out that, just near my house on Tuesday afternoon, we had an experience of that where a guy's suspension actually dropped from the car and he had real problems.

Having said that, I am very disappointed in the bill and concerned by the level of support it has so far received in this parliament. In its attempt to curb the behaviour of hoon drivers, the bill undermines important legal principles. The bill punishes the innocent, as well as the guilty, for wrongdoing involving the misuse of a motor vehicle. Should the owner of a car lend a vehicle to another and that person is apprehended by the police for doing wheelies or burnouts, or any acts classified as misuse, the car can be immediately impounded for 48 hours. I have a message for all those members of this parliament who intend supporting this provision: it is not a crime to lend your car to another person. In fact, it can be quite a neighbourly thing to do. For example, a sick child, an injured cat, a stranded teenager—there are numerous reasons why a person might need to borrow a car. The bill says, 'Don't do it. Don't risk it; your car might be impounded for 48 hours.'

As the Attorney-General said, when speaking to this bill in another place, 'This will send a strong message to owners to think carefully before letting people drive their car'. What does that say about where we are heading as a society and as a community? I doubt that the Attorney would lend his pushbike to anyone, either. Generosity of spirit does not appear—

The Hon. T.G. Roberts: He would lend it to Vinnie.

The Hon. SANDRA KANCK: Well, Vinnie would be very lucky, because generosity of spirit does not appear to be readily apparent in the contribution he made in the House of Assembly. It does not alter the fact that it is not a crime to lend your pushbike to someone, nor should it be a crime to lend your car. However, this legislation will alter that.

The Hon. T.G. Cameron: But it still does not make it a crime.

The Hon. SANDRA KANCK: If someone you have lent your car to uses it to spin the wheels or hoon around the suburbs and the police impound your car, yes.

The Hon. T.G. Cameron: But you get it back.

The Hon. SANDRA KANCK: You get it back 48 hours later. For the crime of lending your car to someone, it is impounded for 48 hours. Here is an example: a single mother lends her teenage son her car on Friday morning so that he can get to work. He squeals the tyres on the way to work—and I have to say that I have been known to squeal my tyres sometimes if I have had my foot on the brake and I have taken off too fast—and he is caught in the act by a police patrol, and the car is automatically impounded for 48 hours.

This fictitious family—mum and three young kids—have booked into a holiday shack on Yorke Peninsula for the long weekend. They were planning to drive to the shack. Of course, public transport is not available to get them there, now that their car is impounded. A hire car would break the family budget, and no-one else would be foolish enough to lend them a car after all this. The end result is that the innocent family goes without their holiday. Now, wouldn't that be a great result for this parliament! Others would not be able to get to work, take their kids to sport or the dog to the vet, because this parliament has decided that it is a crime to lend your car to another person who then misuses it, as outlined in this bill.

The principle we should be upholding is simple and just: you punish the perpetrator, not those associated with the perpetrator. This principle is highlighted by the fact that other very serious traffic offences do not lead to the impounding of the car. If you lend your car to someone who drink drives, drives recklessly or speeds, it will not be impounded if they are caught by the police. Drunk drivers kill with alarming regularity. Speed is a major cause of death on our roads, as are reckless drivers. By contrast, burnouts are simply incredibly annoying, polluting acts of stupidity, but they rarely would result in a fatality.

So, why this discrepancy? Because hoon drivers are invariably young men. Hence, the legislation is highly unlikely to affect anyone in this parliament and, in respect of the wider community, it is confined to a politically insignificant part of the electorate. That said, I can see the benefit of impounding young men's cars when they are caught hooning. I suspect that it would provide a salutary lesson and, as a consequence, I support the imposition of such a penalty—but only when the driver of the vehicle owns that vehicle. Impounding the cars of others who have not breached the law is wrong.

The potential for punishing the innocent also lies at the heart of another of my objections to the bill. Bob Such has decided to circumvent another fundamental tenet of our legal system: innocent until proven guilty. In this state, we have due process—or at least we did until this moment. For example, police detect an individual committing a crime; that person is arrested, charged and brought before a court of law where both the facts and the law are argued before a decision on guilt or innocence is made. That process protects us from the whim of individuals. However, it is not perfect, because innocent people can spend long stretches on remand before being acquitted. Indeed, innocent people are occasionally convicted (just as, at times, the guilty walk free), but this process makes it much less likely for a miscarriage of justice to occur. When the police become judge, jury and executioner, the protection that due process provides is gone, and innocent people will be caught in the backwash of this legislation. Our esteemed Attorney-General brushes aside this concern with this observation:

> If the driver is not convicted, police bear the cost of impounding. Taken with the requirement for police, before impounding the vehicle, to tell the driver that they intend to report or have reported him or her for an impounding offence or to charge or to arrest the driver for it, this stops vehicles being impounded unjustifiably.

What absolute nonsense. In the event of a non-conviction, the police might bear a financial cost for impounding, but that is not comparable with the social and even job costs of having a car taken away. There is no justification for wrongly punishing innocent people denied due process. I look forward to the contribution of the Hon. Robert Lawson QC on this issue. The Hon. Bob Such obviously has some difficulty with this aspect of his bill. As a consequence, he trotted out the old line about justice delayed being justice denied. He said:

> One of the problems is that we are often dealing with offending so far removed in time from the offence, particularly in the case of young people, many of them have forgotten—or have trouble remembering—what they did.

I would be very interested to hear what the Youth Affairs Council has to say about that remark. Nevertheless (and unfortunately for Bob), he later contradicts this specious argument with this observation:

Most young people would sooner have something dealt with promptly than have it drag out for ever and a day, so that six months later or a year later they are trying to resolve an issue which happened a long time ago.

So, which is it? Do they forget about what they have done, or does it play on their mind? The fact is that neither explanation justifies abandoning the principle of innocent until proven guilty. Allowing the state to confiscate an individual's property before a proper hearing sets a dangerous precedent.

What is most disturbing is that there is no justification for this hysterical bill. I am happy to support legislation that impounds the cars of hoon drivers—but only after they have been convicted in a court of law and only when they own the car. The level of deterrence will almost certainly be the same as the bill in its current form. Indeed, the real test will be the speed with which police can respond to reports of hoon driving, and on that front I suggest that we do not hold our breath. I will not support legislation that undermines long-standing legal safeguards. I oppose the bill.

The Hon. T.G. CAMERON: I had not intended to make a contribution on this bill but the Hon. Sandra Kanck has got me to my feet after a very passionate speech pointing to a couple of things that I had not even considered when looking at this legislation. There were times when I thought it was the Hon. Ian Gilfillan talking about people's rights. The Hon. Sandra Kanck is correct in what—

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. CAMERON: But I thought you always agreed?

The Hon. Sandra Kanck: We had to fight over who would do the bill.

The Hon. T.G. CAMERON: In that case I now understand some of the rhetoric.

The Hon. Sandra Kanck: It is not rhetoric!

The Hon. T.G. CAMERON: The language that you have used. At times the honourable member sounded just like the Hon. Ian Gilfillan. Now I understand the reason why: you are on all fours with this one. The bill does read a bit to me as though this is using a sledgehammer to crack a nut. I agree with the sentiments of the Hon. Sandra Kanck that, if you have loaned your car to someone and they happen to spin the wheels, the police officer has a migraine headache at the time and decides to impound the car, in my opinion it would mean that you are being unlawfully deprived of having access to your own property. Like the Hon. Sandra Kanck, I too will be interested to see the tortuous route that the Hon. Rob Lawson takes with this one as he finds a legal way to support it. I cannot imagine that he would want to support it legally because to me it seems flawed. There is another side to this argument. I will correct the Hon. Sandra Kanck, because it is not just young lads these days who are hooning around in their little cars—

The Hon. Sandra Kanck: Barinas.

The Hon. T.G. CAMERON: Yes, Barinas—spinning their wheels. I recall what occurred only a couple of days ago as I pulled off from the traffic lights, and I do not take off from traffic lights as slow as everyone else does. A 20 year old young lady behind the wheel of a little white car—it must have been a Barina—was hammering the hell out of this little car as it roared up the street. You have to be pretty quick to beat me off the mark.

The Hon. Sandra Kanck: She actually beat you?

The Hon. T.G. CAMERON: I was soon able to get back in front. I make the point that 10 or 15 years ago it would have been entirely accurate to refer to the young men hooning around on the road, and we would have been correct, 99 per cent of the time. Fortunately, the world has changed in the last 15 years and young women are now getting much better paid, they are much more independent and, if they want a bit of independence, they have learnt that one of the easiest ways to get that is to get your own car so you do not have to rely on a man to drive you around. An enormous number of young women are now empowered; they have their own licence and their own car. I just want to remind the Hon. Sandra Kanck that they, too, sometimes hoon around on the road.

The Hon. Sandra Kanck raised the question of a person having their car impounded for squealing their tyres. That is a ridiculous notion, and it can only lead to abuse by the police. I have no doubt that, once this bill is passed (if the Liberal Party is silly enough to support this kind of legislation), young people will have their cars impounded, whether or not they were engaging in hoonish behaviour, and it will be a way of removing such people from the scene, and the police do that.

I had a chequered youth. I have been removed a few times by the police. Any excuse will do—'You're drunk; you shouldn't be near this place.' I do not think that I had had a drink for about five days, but they claimed I was drunk and used their right to remove me on that basis. They were somewhat surprised later on when they had the results of the blood test to find out that there was no alcohol in my blood at all, yet they were both prepared to sign statutory declarations to the effect that I was inebriated and falling all over the place. But, be that as it may.

I would urge the Hon. Robert Lawson to have a close look at the legality and the civil liberties issues raised by the Hon. Sandra Kanck. I have seen the shadow attorney-general tie himself into all sorts of knots at times about all sorts of legal issues. Quite clearly, this legislation in its current form is flawed. We even have a situation where a person's car could be impounded, irrespective of whether they were guilty or innocent. The car would be kept for 48 hours. If it does not fall within the criteria set out in the bill, you will not get the bloody thing back; they will keep it for 48 hours—for a minor offence of taking off from a set of traffic lights and inadvertently spinning the wheels (and the Hon. Sandra Kanck does spin the wheels sometimes in that nippy little car in which she gets around.) I would urge all members to watch out when, somewhere down the track, the Hon. Sandra Kanck loses her little car for 48 hours because she spun her back wheels.

The punishment must fit the crime, but there does not seem to be any other penalty other than that for a whole range of behaviours, much of which the Hon. Sandra Kanck has not touched on and which could quite easily (and it is at the police officer's discretion) fall within the purvey of hoonish behaviour. I do not think we even have an accepted legal definition for hoonish behaviour. The term is bandied around, but it often means different things to different people. For instance, if you call someone a hoon, you are just as likely to get belted for it, but, if you call someone else a hoon, they could take it as a compliment. I will be interested to hear what the Hon. Robert Lawson has to say about this.

Someone could feel aggrieved—it could be me. I could spin my wheels as I take off on North Terrace, get pulled over by a police officer, and I would say that, if it was me or the Hon. Ian Gilfillan, our car would probably be confiscated. You would lose your car; you would have to catch a taxi

home or find your own way home. I can understand that with a drink driving law, but to deprive someone of the legal use of their property for 48 hours, merely at the whim of a police officer, to me sounds a bit like, 'Let's make out like we sound tough on law and order and then we will wash our hands of the process.' I put this question to the shadow attorney-general because I do not think the government's spokesman would be able to answer it. What happens if a car is stolen and the person is so aggrieved about it that they want their car back immediately? Is there any way under this legislation that they could get it back? Could they, for example, as you can with almost everything else, petition the Supreme Court?

In the event that you actually lose your car, will you get it back? What about issues of damage caused to the car whilst it is being impounded? Is an individual entitled to any compensation for damage done to a vehicle whilst it is impounded? We could have all sorts of situations. It could be that it is a stolen car and it has not yet been reported as stolen. I think that when I was secretary of the ALP I had my car stolen three times in about a two-month period. On two of those occasions—I had better be careful how I put this—the car was returned to me before I had realised it was stolen.

What if a police officer pulls over the driver of a car and the chap says, 'Look, I have just borrowed the car. It is not my car.' The police officer impounds it and, in conjunction with the impounding of the vehicle, what do they do with the driver? That driver could just be let go, and almost certainly would be. Police officers would not have any provision here to hold that person. There is no report that the vehicle is stolen. This young criminal who has stolen a vehicle says, 'Look, I have just borrowed it. It belongs to Mr So and So.' He has checked the registration paper; he knows. What procedures will the police follow? They could end up keeping the car but letting the individual who stole it go.

It is a little like the newspaper article I read the other day in which someone was concerned about the number of unregistered vehicles being driven around on our roads. I think that I and others in this place have raised that issue half a dozen times in the last seven or eight years, and the police still do not do it. You can still be pulled over and stopped by a police officer and your licence and the registration of your motor vehicle are not checked.

I would be interested to hear—not having had a detailed look at the legislation (I will between now and committee, now that the Hon. Sandra Kanck has alerted me)—the Liberal Party's response on this and whether or not it intends just to roll over and allow this legislation through, or whether someone can have a real good look at it to make sure that our civil liberties in South Australia are being protected. There was a time when the political party that was at the forefront of protecting people's civil liberties in this country was the Australian Labor Party. Unfortunately, that mantle now belongs to the Australian Democrats.

The Hon. R.D. LAWSON: I indicate that Liberal members will be supporting the passage of this bill. It is not a question of the Liberal Party's rolling over and supporting a government that talks tough on law and order but does very little. This proposal was, in fact, initiated by the Liberal Party in the 1992 election. This bill was introduced by the Hon. Bob Such, and it was supported by Liberal members because, as I indicated, it was an idea of the Hon. Robert Brokenshire that was adopted by the Liberal Party. An amount of hysteria is being aired by the Hon. Sandra Kanck and the Hon. Terry Cameron. They talk of legal principles. There is due process in this bill. We would not be supporting it if it did not have due process and protection for the innocent, but whenever one is talking of civil liberties it is important that we balance them.

There are the civil liberties of people to live a peaceful life and to not have to put up with the sorts of noise and danger that is described in the speeches of local members on both sides in the other place; members who, I suspect, are a little closer in many respects to communities and receive more complaints than we do in this place. There is the question of balancing the civil liberties of people to live a reasonable and safe existence not only in their own homes but also when driving, and of course the civil liberties of everyone to not have their property taken or their liberty in any way restricted without due cause.

We believe that the bill strikes the right balance between the civil liberties of law-abiding citizens and those who, if contravening the provisions of the bill, have some sanctions visited upon them. The sanctions in this bill are not draconian.

The Hon. T.G. Cameron: They can seize your $50 000 car and keep it!

The Hon. R.D. LAWSON: The fact of the matter is that it is only by court order that forfeiture of property can be effected. When a court order is required, there are due processes—

The Hon. T.G. Cameron: They can still keep your car.

The Hon. R.D. LAWSON: For a period of 48 hours. This bill does four things. First, it creates a new offence of misusing a motor vehicle, which is specified in new section 44B of the Road Traffic Act. The misuse of a motor vehicle does not simply include the inadvertent spinning of wheels or skidding of tyres.

The Hon. T.G. Cameron: It could.

The Hon. R.D. LAWSON: It could not, with the greatest respect to the interjector. The new section provides:

> (b) operates a motor vehicle in a public place so as to provide sustained wheel spin;

It is not a mere inadvertent skid or accidental—

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: The honourable member asks, 'How do we define "sustained"'? It will be—

The Hon. T.G. Cameron: How many seconds is 'sustained wheel spin'?

The Hon. R.D. LAWSON: The honourable member wants the legislation to define how many seconds, that is, 3.5 seconds, one second or 10 seconds. The court will well and truly understand—

The Hon. T.G. CAMERON: I rise on a point of order, sir. The honourable member is attributing statements to me which I did not make.

The PRESIDENT: That is not a point of order. It might be wrong, but it is not a point of order.

The Hon. R.D. LAWSON: I agree that I should not be acknowledging or responding to the honourable member's interjections. 'Sustained wheel spin' is a commonsense term. Any member in this place would be able to recognise it when they see it, just as the sort of noise in the second offence is described—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: The Hon. Mr Lawson should address his remarks to me.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: The second principal amendment effected by this bill is the creation of a new offence—

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! Interjections are out of order.

The Hon. R.D. LAWSON:—under the Summary Offences Act, namely, emitting excessive noise from a vehicle by amplified sound equipment or other devices. It is an offence under this provision to cause or allow excessive noise to be emitted from a vehicle driven or otherwise occupied by a person by amplified sound equipment or other devices.

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: Noise emitted from a vehicle is excessive for the purposes of this section if it is such as to unreasonably disturb people in the vicinity of the vehicle. The test is not one based upon a mathematical formula of decibels.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron will have plenty of opportunity to ask these questions during the committee stage. The honourable member has given his contribution and he was heard in silence, I might point out.

The Hon. R.D. LAWSON: If, by his interjection, the honourable member is suggesting that there ought to be some decibel count, I respectfully disagree. This is a commonsense section to be operated by police officers in the field in response to—

Members interjecting:

The PRESIDENT: Order! There are too many hoon interjections going on in this council.

The Hon. R.D. LAWSON: Proposed subsection (8) will provide:

> In any proceedings for an offence against this section where it is alleged that excessive noise was emitted from a vehicle, evidence by a police officer that he or she formed the opinion based on his or her own senses that the noise emitted from a vehicle was such as was likely to unreasonably disturb persons in the vicinity of the vehicle constitutes proof, in the absence of proof to the contrary, that the noise was excessive.

In those circumstances it will be necessary for a police officer to testify. It will not be up to some other person to say, 'I want you to book Bert for turning up the volume of his hi-fi system.' The problem of excessive noise from amplifiers in motor vehicles is something that every member of this place who drives on the roads and who is at all aware of what is happening would know is a common problem.

The penalty for these new offences is a fine of up to $1 250 and/or disqualification for up to 6 months, which is consistent with the general scheme of penalties in the Road Traffic Act. There are two sanctions that I will mention in relation to these offences. An impounding offence is defined as an offence against the two new sections I have just mentioned as well as certain other existing offences, such as driving dangerously or recklessly, driving dangerously or recklessly and causing death or injury, driving under the influence, or driving with more than the prescribed concentration of alcohol in the blood. They are impounding offences, and in connection with impounding offences the police may seize and impound a motor vehicle for up to 48 hours. Finally, there is a provision which allows the courts to make orders for impounding or indeed forfeiture where the offender has committed a previous prescribed offence. This legislation is based upon similar legislation—

Members interjecting:

The PRESIDENT: Order! There is a party going on. The lobbies are there for that sort of thing.

The Hon. R.D. LAWSON: I am worried about someone having a knee-trembler around behind you, Mr President!

The Hon. T.G. Cameron: I hope that is in the *Hansard*! And I interjected, so it has to go in now!

The Hon. R.D. LAWSON: This legislation is based upon legislation which has been introduced in Queensland and which, by all reports, has been effective. Comparable legislation, or some similar scheme, has also been introduced in New South Wales and I have seen material to suggest that it is successful there.

The Hon. Sandra Kanck: Nothing as draconian as this, though.

The Hon. R.D. LAWSON: The Hon. Sandra Kanck says 'Nothing as draconian as this.' That is not the case: this scheme is based almost entirely upon, and is comparable to, the Queensland system. The statistics provided in another place indicate that these sanctions have proved to be an effective deterrent. Accordingly, we will be supporting the legislation.

An amendment was moved by the member for Mitchell in another place to insert a provision that, if a vehicle was seized and the person was subsequently not convicted of that offence, there would be a requirement that the police pay the person compensation of not less than $100. That was not supported there. I do not know whether anyone will be moving it here, but I can indicate that from our point of view we would certainly be sympathetic to a proposal of that kind if, when this system is operating and in the fullness of time, it is found that there is a significant problem with vehicles being wrongfully seized. The experience elsewhere has been that that is not the case, and we would not expect it to be here. This is not a matter of using a sledgehammer to crack a nut: this is a matter of providing a fair and reasonable legislative response to actual problems that are being experienced every day by citizens in our community. We will be supporting the bill.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank honourable members for their contributions on this bill and I particularly thank the Hon. Robert Lawson for his comments. I think he very accurately sums up the bill and puts it in its proper perspective. If there are any questions in relation to the detail of the bill, I am happy to deal with those during the committee stage. I commend the bill.

Bill read a second time.

MENTAL HEALTH

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

Leave granted.

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

> That the Social Development Committee investigate and report upon the range of assessment and treatment services for people with mental health disorders in South Australia, with particular regard to—
>
> 1. The adequacy of funding and staffing of mental health, particularly in community and accommodation services;
>
> 2. Best practice in the treatment services for people with complex needs who have contact with the mental health, forensic and/or corrections systems;
>
> 3. The incidence and management of mental health in the prison population;
>
> 4. The impact of legal and illegal drugs on the mental health of both the general public and prison population.

5. The efficacy of diversion programs upon rates of recidivism;
6. The criteria for the release of mental health patients who are potentially dangerous;
7. The adequacy of supervision of offenders after release from institutions, including those on parole;
8. The adequacy of offender discharge plans;
9. The identification of offender's mental health difficulties; and
10. The definition of mental health in so far as the corrections system is concerned.

I am indebted to my colleague the Hon. Angus Redford, who I have now been able to consult on the finer details of this motion. Most members would be aware of these issues, because, unfortunately, they have had quite a high profile for some time. They have come to my attention since I have been in this place; I do not think I have stopped hearing about the issues in relation to people who have complex needs and who have mental health difficulties and who come into contact with the corrections system.

As a new member of the Social Development Committee, I sat on the inquiry into supported accommodation, which has since reported. We had evidence at that time from Jonathan Phillips, who is the head of Mental Health in South Australia. I will quote from some of the evidence, because it really does illustrate some of the points I am trying to make. In talking about mental health in South Australia, Mr Phillips said in his opening statement:

> . . . mental health services in the state have fallen behind mental services in all other jurisdictions in this country. This is a very worrying situation which needs to be corrected, and it is going to need everyone from parliament to the humblest person in this community to work together to catch up on lost time. The situation is more alarming in that, on a national scale, South Australia spends a reasonable amount of money in the mental health area. It is never enough—Australia does not look good against other nations. But South Australia is putting money towards mental health care. It is how that money is used and how the public can best be assured that they are going to get proper services. . . mental health services in the state are heavily institutionalised, and a great deal more money—some 50 per cent—is going to one hospital alone. This means that mental services in the community are significantly underdeveloped in terms of what they should be, and of course that includes accommodation. . . It will be necessary, as a matter of some urgency, to move towards a situation where, like all other modern mental health services, the services community-focused and delivered from the community, with assertive community health teams, admissions close to home in the suburbs where people live, and appropriate accommodation for those who are unfortunate enough not to be able to buy or rent their own.

The Hon. Terry Cameron, a member of the committee, then asked this question:

> Is it possible that the mentally ill people in this state are somehow the unwitting victims of a bureaucratic bun fight, or a bun fight that is taking place somewhere?

Dr Phillips said:

> Indeed, yes. It is terribly important to accept that people with serious mental health problems are the most vulnerable members of the community, and of course they will be pushed hither and thither by the bureaucratic process, the political processes and every other process.

The Hon. Terry Cameron then asked:

> Any idea of what sort of dollars?

Dr Phillips said:

> Yes, and I am giving a round figure—probably around about $30 million is needed over a period of about six years.

Associate Professor Graham, who also gave evidence that day, talked about that $30 million and said:

> Transitional funds in this sense will be used predominantly to, for example, if you take a patient out of a hospital bed, you cannot close the bed nor can you close the ward. In order to make the savings, you actually need to close a whole range of infrastructure. So, in taking 10 beds out of a 30 bed ward, you still do not make any savings. It is not until you actually close a series of wards that you can, in fact, make the savings and transfer the savings, or reallocate the moneys into supported accommodation or community-based mental health services.

The Presiding Member, the Hon. Gail Gago, asked some questions about ACIS teams. In relation to some of those details, Dr Phillips responded as follows:

> The issue of ACIS teams is, in my view at the present time, I regret to say, very unsatisfactory. As an acute community response service, ACIS, by definition, must be a 24-hour service. Mental health takes no notice of the clock. At the present time, there is no 24-hour service in the state whatsoever.

He goes on to describe a telephone triage call system. He said:

> It is amazing what a highly skilled nurse at the end of a telephone at 2 a.m. in the morning, with her drop-down protocols on her computer and all the technical information she needs at her fingertips, can do in terms of acute triage. I have looked at the costings of this and, in fact, the bigger it is, the less it costs.

He then goes on to discuss the housing provisions, which he describes as 'labyrinthine', and expresses a desire for non-government organisations to play a greater role in the provision of mental health services.

Since August last year, we have read a number of articles in the newspaper in relation to mental health. Of course, we read about the unfortunate pillorying of Frances Nelson, who is very well-regarded in the community and knows her job very well. In August last year, she talked about under resourcing in mental health in relation to escapees from Glenside. She stated:

> . . . they are doing a very difficult job with very few resources, but it really does make you wonder what is going on when the head of the department hasn't even been told by his own staff about an escape.

Mike Rann's response was to criticise the Parole Board for allowing this person to be transferred to Glenside, saying that it had ignored the issue of public safety. He said that he would overhaul the Parole Board, including provisions that the board's first priority in determining its role would be public safety. As I will demonstrate in some of my later comments, he is the one at fault here, because the inadequate provision of mental health services puts the public at risk and not the Parole Board, which seeks to determine whether people ought to be released; whether they are safe to be released; and whether there is adequate supervision, resources, procedures and so forth.

We continue to witness a series of Glenside escapes, largely driven by the fact that places such as James Nash House are under resourced, which means that people spill over to Glenside. As it is not the same sort of facility, it is perhaps not able to cope in the same way. Despite having had a security review, a number of its recommendations have not been acted upon, and widespread problems continue in that system. Issues have been cited relating to the Courts Administration Authority not informing the Parole Board about the release of mentally ill offenders into the community, and this causes some fairly self evident problems. It remains to be seen whether these have been implemented, but risk assessments at that time had still not been completed as regards the admission of patients and annual reviews of the medication of long-term patients and so on.

In September last year, the public was informed that violent criminals on community supervision licences were becoming an issue, and Frances Nelson called for an urgent review of state laws making the Department of Human

Services responsible for their detention. In an article dated 26 November, the lead paragraph states:

> Killers, rapists and robbers who are likely to reoffend walking the streets without supervision because they are former mental health patients, Parole Board chief Frances Nelson said yesterday.

She further stated that community safety was paramount, but often offenders are walking free who are not complying with their medication. This culminated in an article that she wrote in the *Sunday Mail* of 21 December in which she stated that the serious issue of offenders with mental health problems has been ignored. She continued:

> A significant number of people in our community are incapable, through no fault of their own, of living independently.

This is the crux of it. She further stated:

> A large proportion of offenders with mental health difficulties could we kept out of the criminal justice system if they were managed appropriately. The key word is 'managed'. People could be managed and supervised with less security but with sufficient supervision to prevent them from hurting others. It requires the commitment of resources. . .

That is the point I made previously in response to Mike Rann's criticism that the Parole Board was endangering public safety: in fact, it is the lack of resources. Frances Nelson continues:

> It also makes economic sense. . . it costs $73 000 a year to keep a prisoner in a maximum security prison. Numerous studies have been done on this subject and the cost of proper management would be less than half the cost of keeping someone in jail.

There is insufficient bed space to accommodate all the people having difficulties. At that time, there were difficulties with Catherine House, which was under threat of closure due to lack of funding. Her final comment is:

> A true measure of commitment to community safety is the importance afforded to mental health issues and the provision of proper resources to deal with them.

Because it is under resourced, another issue is the Parole Board's ability to deal with parole applications, which leads to delays of some six months and a backlog and overcrowding in our state's gaols. A comparison was made with the Independent Gambling Authority, which receives some 10 times the amount of resources yet has a much lighter workload when compared with the Parole Board.

As the council is aware, as this issue has been raised here previously, the Deputy Presiding Member of the Parole Board, Phillip Scales, decided that he would not continue in that position. The article, dated 20 July this year, states:

> He—
>
> Phillip Scales—
>
> said the Government's tough on crime policy was 'generally presented in the context of harsher sentences and expanding prisons, although such expansion has now been put on hold, with the result that prisoners' accommodation is in disarray'.

This is one of the key points:

> There must be far more emphasis placed on appropriate treatment for prisoners in rehabilitation, otherwise they will come out worse than they went in and the community will suffer the consequences.

The point has been made by Frances Nelson at some point that everyone who is currently in our prison system is likely to come out at some point, so clearly we would rather that they were better rehabilitated than when they went in.

There was another prisoner escape on 21 July this year. It involved a paranoid schizophrenic who had refused to take his medication and should have been placed in secure care after breaching his parole. He could not be admitted to James Nash House because there were not enough beds so he was therefore diverted to Glenside, from which he escaped. Then we had another one about the same time who threatened staff with a syringe of blood. The comments made at the time were that it was another case that demonstrated that the community is at risk because the government will not put enough into mental health resources in relation to people who offend. It has been estimated some 15 per cent of the state's 1 600 parolees have mental health problems. The recurring theme is: resources, resources, resources—and do not blame the public servants and those who are in charge of assisting these people because they are doing the best they can. Those people include parole officers, people within the mental health system, the Parole Board and other people within the corrections system.

At the end of July, we were provided information again through *The Advertiser* about a review conducted by the Department for Correctional Services and what was then the department of human services, which showed that information shared between the agencies on individual offender's mental health was patchy and fragmented and that criminals with chronic mental illnesses were being released into the community without psychological assessments or discharge plans and are not being followed up by mental health services.

In early August the Rann government announced that it would review the mental health system because it had been criticised as being 20 years behind the rest of the nation. We had criticism from Dr Grace Groom, Chief Executive Officer of the Mental Health Council of Australia, who described our system as dysfunctional, unresponsive and under-funded, and that a lack of rehabilitation was failing South Australia's mentally ill.

Frances Nelson has also made the point that some people within our corrections system are using the defence of drug-induced psychosis so that they can be deemed insane and were allowed their addiction to avoid prison. This is leading to a number of such people remaining in the community when perhaps they are a danger to themselves and the rest of society. The shortage of mental health beds at James Nash House and Glenside compounds this problem because, as facilities that are meant to service people in that area, they are unable to cope with the demand.

One of the other issues that I found of interest is illicit drugs. David Caldicott from the Royal Adelaide Hospital, who deals with a number of overdose people, has remarked on the rates and volatility of some of the drugs that are around. It is reasonable for us to recognise that a lot of these drugs are dangerous to people in the long term and can cause them to have psychoses and schizophrenia, endangering themselves and people in the community. Some of these drugs are increasingly being used. The demand is increasing in this area and the number of people who have more serious problems is also increasing.

The Public Service Association has also joined the call for more resources for mental health. Some of its members are saying that they are under a great deal of stress and are having a lot of difficulty dealing with the demands of the system.

In an article on 7 August, some of the statistics on the difficulties faced by people who fall within these gaps made interesting reading: 60 per cent of inmates have not completed year 10; 60 per cent are below functional levels in literacy and numeracy; 44 per cent are long-term unemployed at time of offence; 5 to 13 per cent are intellectually disabled; 75 per cent have alcohol and other drug problems; 32 per cent are in for alcohol and other drug-related offences; 64 per cent

are from broken homes; 75 per cent of women have been physically or sexually abused; 81 per cent of women are suffering post traumatic stress disorder; 17 per cent of males are pathological gamblers; 46 per cent are problem gamblers; 50 per cent of males have consumed alcohol at a level the World Health Organisation classifies as dangerous; 16 per cent are obese—which is below the rest of the population and is the only score on which they do better; 70 to 80 per cent are smokers; 39 per cent of women and 21 per cent of males have attempted suicide; hepatitis B and hepatitis C rates are 17 times higher than the community rate; and depression, schizophrenia and antisocial personality disorder are at five, 10 and 20 times community rates.

Comments have been made by Peter Severin, Chief Executive of the Department for Correctional Services, who said that the state's prisons were receiving increasing numbers of prisoners with some form of mental illness, so again we have recurring themes. Unfortunately for the community, when comments were made in relation to the women's prison at Northfield about its need for an upgrade, the fact that it was out of date and plagued by racial and drug problems, we had some very helpful (I say with my tongue in my cheek) comments from the Premier and Kevin Foley. They said that prisons were not their priority—'It is very easy to avoid going to prison, don't commit the crime.' Obviously we will not be tackling any of the problems in this system when they have those sorts of attitudes.

The thing that really topped it for me in terms of whether or not this issue was being dealt with at all was when Monsignor David Cappo, Chair of the Social Inclusion Unit, made some comments last week in relation to mental health. At a conference on crime prevention, a meeting of the Australian Crime Prevention Council, he called for urgent action on the state of mental health, particularly affecting our prison system. He said:

> . . . the rate of depression is 10 times the community rate, the rate of antisocial personality disorder 20 times the community rate and 64 per cent of people with mental disorders who are in prison also have a drug problem.

He also said that 'you can't deal with mental health in isolation'. That is a very important point because a number of agencies in our system do not communicate very well with each other and linkages need to be strengthened between them.

He also says that we need to look at ways of diverting a lot of people who are currently in prisons who really could be—if treated properly with good mental health care and perhaps other forms of custodial treatment—coped with and treated and helped, and that would cost government a lot less than locking up people in prisons. Once again these are repeating themes. I have heard them continuously through evidence on various committees since I have been in this place. I have also heard some comments from people from OARS in relation to people who are released from prison and who walk out the door with no support services. For them the survival instinct kicks in and that can often lead to recidivism.

I do not believe in being a nanny. I believe that we need to try to make people as independent as possible in their lives, but clearly a number of people do not have great life options to start with.

If members look at the rates of literacy, abuse and so forth, they have not had the best start in life and they probably need to develop some life skills and to learn some better social skills in order to be reintegrated. However, if we are going to take the attitude that they are thrown out without any form of supervision, then we are not only disadvantaging them but the general public. As has been stated several times in the last 18 months, it is also a public safety issue. In the interests of doing the right thing by people who have these difficulties and the general public, we should have this inquiry, and I would urge all members to support the motion.

Debate adjourned.

The Hon. T.G. ROBERTS: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

STATUTES AMENDMENT (RELATIONSHIPS) BILL

Adjourned debate on second reading.

(Continued from 9 November. Page 462.)

The Hon. T.G. CAMERON: I am very uncomfortable about this bill and, at the moment, I am not prepared to vote in favour of it. If a vote does take place on the bill, I will be voting against most of it. The bill seeks to make key changes to the nature of statutory de facto relationships in South Australia. It does deliver on an election promise by the Australian Labor Party, and it would allow recognition of same sex couples under existing de facto laws, and that is what I have problems with. In addition, the cohabitation time for recognition of de facto couples is reduced from five years to three.

I do not have a problem with that; I support it, although I would hope that, in supporting that section of the bill, it will change the cohabitation time for spouses to qualify for parliamentary superannuation. At the moment, they must wait five years. If we are going to be consistent and move to three years (which I support), I would be seeking some assurances that we are going to change all the acts of parliament back from five years to three, even for members of parliament. The bill also extends the obligations of opposite sex couples to same sex couples.

Pecuniary interest disclosure is another area with which I have problems. A growing debate has taken place on this issue. The letters are starting to flow in and, I guess, that process will only continue. I do take on board that the government held an inquiry prior to the introduction of this bill and that there have been numerous reports on the subject interstate and federally. It would take me about 10 minutes to read all those reports into my contribution, which would be a waste of time. As I indicated, I am not prepared to support the bill in its current form. I move:

> To leave out all the words after 'that' and insert 'the bill be withdrawn and referred to the Social Development Committee for its report and recommendations.'

I realise that there is strong opposition not only to the bill but also to referring this matter to the Social Development Committee. Most members of this council would realise that I am a member of that committee and have been ever since I have been in parliament. I have always believed that the appropriate place to send this issue was the Social Development Committee, which could call witnesses and properly examine the issue. I understand that people will argue that, as it now stands, the bill has been adequately examined, that enough reports are around and that we should move quickly on it.

There is a lot of interest in this issue in the electorate. The issue seems to be coming from a small section of the community who desperately wants it and another small

section of the community who is desperately opposed to it, with the overwhelming majority of our community either disinterested or not caring one way or the other. I believe that the matter should go to the Social Development Committee because I do not believe that we have adequately examined all the issues in the South Australian context.

I do not believe that most of the other inquiries and reports which were undertaken interstate necessarily took into account all the specific legal and social context issues applicable in South Australia; and, of course, they would not have taken into account the views of South Australians on this piece of legislation. The government inquiry—no matter how it is dressed up, no matter how extensive and widespread it is and how many people from whom it sought advice—does not have the same status as a full parliamentary inquiry or an inquiry by the Social Development Committee.

I believe that a parliamentary or committee inquiry is multipartisan, and it will give a better airing of the views of all South Australians than a government committee. The government's consultation process was to formulate a draft bill. That draft has now come out, and it is necessary for us to debate and discuss it. This is a radical change to the social fabric of South Australia. Change needs to occur in a slow, steady and sure manner, and I believe that a parliamentary committee—and I think that the Social Development Committee is the appropriate committee to do it—can have a look at the bill and, if necessary, make appropriate recommendations.

I would like members particularly to take on board the vociferous opponents for and against this bill and not to read this as a signal by me that I am opposed outright to the bill. Indeed, if you are a supporter of the bill, I submit that you should support my motion to refer it to the Social Development Committee. I believe that it will legitimise the process and the outcome will add to community satisfaction. I do not believe that an extensive or lengthy inquiry is necessary. It could be handled very quickly, and it would not be long before we got our report back to parliament.

That is all I need to say at this stage. I emphasise what I indicated in the first instance that, if my amendment does fail, I will be voting against the overwhelming majority of this bill.

The Hon. R.D. LAWSON: I rise to speak on the second reading of this bill. It is a bill on which members of the Liberal Party do have a conscience vote. No doubt, many may well take different positions on this bill. Obviously, I am not authorised to speak on behalf of members and their various attitudes to the bill. However, I am authorised to indicate that they all will support the motion of the Hon. Terry Cameron to refer the bill to the Social Development Committee. In speaking in support of his own motion, the Hon. Terry Cameron referred to a government inquiry into this matter. In fact, there has been no government inquiry, or any other form of inquiry, into the provisions of this bill. The Attorney-General's Department did issue a discussion paper earlier last year, and the result of that discussion paper is referred to in the minister's second reading explanation. However, the introduction of that discussion paper states:

> The South Australian Labor government is committed to removing discrimination against same sex couples. The Australian Labor Party has resolved to comprehensively review all state legislation to remove discrimination against certain persons. To advance these aims the Attorney-General and the Minister for Social Justice are collaborating with a review of state government legislation.

The significance is that the so-called inquiry undertaken by the government was not an inquiry to ascertain whether or not certain laws should be adopted. The discussion began from the premise that it was government policy that certain changes be made. It is interesting, incidentally, that a paper produced by the Attorney-General's Department should have stated that 54 acts of parliament were requiring amendment. We subsequently know that some 82 separate acts of parliament will have to be amended, if the Labor Party policy referred to in the discussion paper is implemented.

It is worth placing on the record—and I think it is important that it be placed on the record—the fact that this legislation was introduced in another place by the Attorney-General on 7 September this year. The second reading of the bill in another place, a bill in identical terms in another place, had commenced and debate was in full swing. While that was occurring, on 9 November, without any explanation at all, the same bill was introduced into this council.

The point of view adopted by members of the Liberal Party was that, while we are prepared to debate the bill in either house, we were not prepared to debate the bill in both houses at the same time. Indeed, we queried the government's motives in adopting the tactic of moving the bill in this place when it had already been introduced and was being debated in the other place. The usual procedure is that a bill will be introduced in one house, proceed through all stages in one house and then proceed through all stages. If bills proceed in parallel it is possible that both bills will be amended, and it is not legally or constitutionally possible for a bill to proceed through both houses.

Earlier this week, on 23 November, I wrote to the Leader of the Government in this place about this matter. The letter states:

> The above bill was introduced by the government in the House of Assembly on 15 September 2004. A bill in identical terms was introduced by the government in the Legislative Council on 9 November while the second reading of the bill in the House of Assembly was still being debated. We have been informally advised that the government intends to proceed with the bill in the council and withdraw the bill in the Assembly. In our view, it is highly undesirable to have the same bill progressing through both houses at the one time. Accordingly, whilst we are prepared for the bill to proceed in the Legislative Council, we will not agree to this course of action while the same bill is on the *Notice Paper* in the Assembly. I would be pleased if you would advise me in writing of the government's intentions in relation to this bill.

I emphasise the last paragraph: 'I would be pleased if you would advise me in writing of the government's intentions in relation to this bill.' Without receiving any response at all or any explanation from the government, the Attorney-General rushed off to the House of Assembly and with great alacrity withdrew the bill without prior notice to the opposition.

The Hon. T.G. Cameron: Why would he have done that?

The Hon. R.D. LAWSON: I leave that for members to reach their own conclusions. My conclusion is that the government is playing ducks and drakes with this bill. On the one hand, the Premier and the government are seeking to portray themselves to a certain section of the community as the inheritor of the tradition of Don Dunstan; they wish to be seen to be progressive. On the other hand, and bearing in mind the results of the last federal election, members of the government wish to appease certain elements in the community who, quite properly, are registering very strong complaints about this legislation. In these circumstances it is entirely appropriate there be a parliamentary committee; that

there be a forum for those who wish to present to the parliament their own views and evidence on this bill.

The previous discussion paper process was one in which the policy of the government was laid down. They were invited to send in their letters. The letters were received, but the government still did exactly what it proposed to do all along. The Social Development Committee is entirely appropriate for this purpose. The functions of that committee under the Parliamentary Committees Act are to inquire into, consider and report on a wide range of matters including any matter concerning the welfare of the people of this state, and any matter concerned with the quality of life in communities, families or individuals and how that quality of life might be improved.

This bill is well within the purview and expertise of the Social Development Committee. I am glad to hear the Hon. Terry Cameron, as a member of that committee, indicating that the process will not be a protracted one and that the bill will be fully explored, evidence called, and a community forum provided. With those few words and, once again without indicating the views of any member of the Liberal Party on the merits or otherwise of the bill, I indicate that we will be supporting its referral to the Social Development Committee.

I should mention that there is one particular aspect of this bill which is not featured in the publicity about it but on which it is entirely appropriate that evidence be collected. It is the change, which was not reflected in Labor policy at the election, to reduce the period of cohabitation required from five years to three years, not only for same sex couples but also for opposite sex couples in relation to arrangements generally. That is a major change which ought to be explored in a forum such as a parliamentary committee to enable its pros and cons to be examined and reported upon. I look forward to the report of the Social Development Committee and to its proceedings. I am sure it will, as always, provide the parliament with enlightenment and wisdom.

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

STATUTES AMENDMENT (MISCELLANEOUS SUPERANNUATION MEASURES NO. 2) BILL

Adjourned debate on second reading.

(Continued from 24 November. Page 679.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to support the second reading of the bill. This is essentially a technical bill and, in broad terms, the opposition is supportive of it. The commonwealth government has introduced an arrangement to encourage employees to make personal contributions to their superannuation schemes and, subject to satisfying certain requirements, the commonwealth will make a co-contribution payment to an employee's superannuation scheme.

I think up until the financial year 2003-04 the maximum co-contribution was $1 000, and I think in the most recent federal budget the commonwealth co-contribution for 2004-05 has been increased to $1 500. Under the arrangements for administering the scheme the commonwealth government is to utilise the Australian Taxation Office to make the payments to employees. The current arrangements to suit various superannuation schemes are that only the employee and the employer are able to make financial contributions into an employee's superannuation scheme. This seeks to provide for a third party, in this case the Australian Taxation Office, to actually be paying moneys into an employee's superannuation scheme. That is the essential premise of the bill and, obviously, it is one we have no problem in supporting.

There are further technical amendments which clarify the definition of salary for superannuation purposes for commissioned police officers appointed on a fixed term total employment cost contract, and the opposition is prepared to support those technical amendments. There are also some technical amendments in relation to ensuring that the superannuation legislation can cater for all potential superannuation splitting interest scenarios under the Family Law Act 1975. Some members may recall a recent piece of legislation where we talked about splitting instruments and the various scenarios under the Family Law Act. This tidies up one particular aspect of that legislation and, again, the opposition is prepared to support it.

The government has advised the parliament that the public sector unions and the South Australian Government Superannuation Federation have been consulted on the legislation and that they have indicated their support for the bill. With those few words, I indicate the opposition's support for the bill.

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

MENTAL HEALTH

Adjourned debate on motion of Hon. J.M.A. Lensink (resumed on motion).

(Continued from page 707.)

The Hon. T.G. CAMERON: I rise to indicate my general support for this motion. I have often thought that a more complete examination of mental health services here in South Australia was long overdue. However, I am not certain that I will support the motion in its current form. I am not so certain about supporting paragraph (3)—'The incidence and management of mental health in the prison population'. I am a little concerned that the mover of the motion might be lumping too much together into the one inquiry. I think I have been a member of the Social Development Committee for about 10 years now and, from previous experience, the best reports and the best way of dealing with business on that committee involve dealing with something that is manageable. I am not certain that the motion in its current form would be manageable. In supporting this resolution, I would make the observation that there has been widespread criticism for many years that not enough funding has been going into mental health services.

However, I would not like to see an inquiry into an issue of such importance get up if the real agenda is to go on some kind of a witch hunt or embarrass the government about where we currently are in relation to mental health. If that is the case, we will need to at least take into account the performance of the previous government in this area. I am just one member of this council who thinks that the previous government did not put enough money into mental health. In fact, if one was to look at it honestly, probably not enough money has been put into this issue for decades. I indicate my support for the motion. I indicate that I will possibly move an amendment to reduce the scope of the inquiry; otherwise, I have no problems with it.

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

ADJOURNMENT

At 5.04 p.m. the council adjourned until Monday 6 December at 2.15 p.m.