LEGISLATIVE COUNCIL

Thursday 9 December 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, question time and orders of the day, private business, to be taken into consideration at 2.15 p.m.

Motion carried.

CRIMINAL LAW CONSOLIDATION (CHILD PORNOGRAPHY) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

The Bill will make amendments to the *Criminal Law Consolidation Act* and consequential amendments to the *Criminal Law (Forensic Procedures) Act 1998*, the *Summary Offences Act 1953* and the *Summary Procedure Act 1921*.

The amendments will move the child pornography offences from the *Summary Offence Act* into the *Criminal Law Consolidation Act*. The aims of the provisions, being the protection of children from exploitation, degradation and humiliation, remain.

Child pornography is a heinous exploitation of children and the demand for such material fuels its production and supply. The purpose of these amendments is to reduce and, as far as possible, eliminate, the possession, production, supply and sale of child pornography.

These amendments will increase the penalties for the offence of possession of child pornography and for the production or dissemination of child pornography, and introduce new offences of procuring and grooming a child for the purpose of engaging in sexual acts, and filming or photographing children for prurient purposes. The increase in penalties for child pornography offences is in line with moves in other jurisdictions to increase penalties for these offences.

The penalty for the production or dissemination of child pornography will increase to 10 years maximum imprisonment.

The penalty for possession of child pornography will increase to 5 years maximum imprisonment for a first offence, and 7 years maximum imprisonment for a subsequent offence. In determining whether an offence is a subsequent offence, all previous offences involving child pornography will count.

The Bill broadens the definition of child pornography to include material that is intended, or apparently intended, to excite or gratify sexual interest, as well as a sadistic or other perverted interest in violence or cruelty. This will allow for the prosecution of offences where the material may be highly offensive but not overtly sexual. There is a defence in the Bill so that publications, films or computer games that have been classified by the Classification Board, apart from those that are refused classification (RC), will not be part of the definition of child pornography.

Background

Currently, section 33 of the *Summary Offences Act 1953* prohibits the production, sale, barter, exchange, or hire of indecent or offensive material. The basic penalty is $20 000 or imprisonment for 6 months. However the maximum penalties are increased if the offence involves child pornography.

Child pornography is defined in section 33(1) to mean indecent or offensive material in which a child (whether engaged in sexual activity or not) is depicted or described in a way that is likely to cause serious or general offence amongst reasonable adult members of the public. A child means a person under, or apparently under, the age of 16 years.

The production of child pornography offence attracts a 2 tier penalty so that the first offence attracts a maximum 2 year imprisonment penalty and a subsequent offence a maximum 4 year imprisonment penalty, making the first offence a summary matter and, a subsequent offence, a minor indictable offence.

Currently, the offence of possession of child pornography carries a penalty of $5 000 or 1 year imprisonment. Possession of child pornography is classified as a summary offence.

The Bill defines child pornography by a 2 part test. The first part of the test refers to either material that describes or depicts a child engaging in sexual activity, or material that consists of, or contains, the image of a child or bodily parts of a child (or what appears to be the image of a child or bodily parts of a child) or in the production of which a child has been or appears to have been involved.

The second part of the test for child pornography material is that it must be material that is intended, or apparently intended, to excite or gratify sexual interest; or material that is intended, or apparently intended, to excite or gratify a sadistic or other perverted interest in violence or cruelty. This qualification will ensure that items clearly not intended to excite sexual interest, such as advertising brochures for children's clothing and underwear, would not be caught by the definition.

Clearly, if material is intended (by any participant in the prohibited process) to excite or gratify a sexual or other specified interest, that participant's behaviour will be caught, and rightly so. But the proposal in the Bill is not limited to that situation, nor should it be. It would be unduly onerous to require proof of the actual intention in every case. If the finder of fact finds that the intention to excite or gratify a sexual or other specified interest is apparent on the face of the material presented to it, the behaviour will also be caught. And so it should be.

The Bill goes on to update the offence (currently contained in section 58A of the *Criminal Law Consolidation Act*) of inciting or procuring the commission by a child of an indecent act to gratify prurient interests. New section 63B provides for an offence that will cover situations where a person incites or procures a child to commit an indecent act, or where a person, for prurient purposes, causes or induces a child to expose any part of his or her body. There is also a new offence of filming, for prurient purposes, a child who is engaged in a private act. A private act can be a sexual act, using the toilet, undressing or any activity involving nudity. It will not matter whether the activity that constitutes the offence occurs in private or in public, whether the child consents, or whether a parent or guardian consented to the act taking place. Recent arrests interstate have occurred where teachers have installed filming devices in change rooms to film children changing. Such actions are likely to be caught by the Bill.

On 30 August 2004, the Commonwealth passed amendments to the *Criminal Code Act 1995* (Cth) that created offences for using the internet for the purposes of disseminating, accessing or downloading child pornography and child abuse material. The Commonwealth drafted the amendments so that the States and Territories would also be able to legislate in this area without running into constitutional problems.

The Bill will reflect some of the Commonwealth internet provisions with some minor amendments. Nowadays, paedophiles search through chat rooms, newsgroups and other internet services to find children to prey upon. Some paedophiles use pornographic images as part of the manipulation process to entice children into so-called "positive" sexual encounters with adults.

The Bill will introduce new offences of communicating with a child with the intention of procuring a child to engage in, or submit to, a sexual activity, and communicating, for a prurient purpose, with the intention of making a child amenable to sexual activity. The offences are drafted as separate offences, which is appropriate, given that grooming is a preparatory offence and procuring involves more substantial acts. The Bill excludes from the orbit of the new offence the situation where a police officer, using the internet, poses as a child to attract those who would "groom" or procure a child for pornographic purposes. The Bill does this by referring to making a communication with the intention of procuring a child to engage in, or submit to, a sexual activity or, in the alternative, to making a communication for a prurient purpose and with the intention of making a child amenable to sexual activity.

It should be noted that the provisions are drafted in general terms and are not limited to the use of the internet.

The Bill will also expand the definition of child pornography to include "morphed" images. Nowadays, it is possible to create child pornography that may or may not involve actual abuse of children. Using digital graphics software, it is possible to combine 2 images into 1, or distort pictures to create a totally new image: a process called morphing. Non-pornographic images of real children can be made to appear pornographic, and pornographic images of "virtual children" can be generated.

Consistent with the current definition in section 33 of the *Summary Offences Act*, the definition of child for the purposes of depiction of child pornography remains as 16 years and includes a person who is "apparently under the age of 16".

The Bill, when dealing with possession of child pornography, is careful to include a defence where a person receives unsolicited child pornography and takes reasonable steps to get rid of it as soon as he or she becomes aware of the material and its pornographic nature.

The Bill continues to distinguish between the offences of possession and production or supply of child pornography. This is because there is a fundamental difference between those who operate alone and those who have an element of collusion in their offending. In other areas of the criminal law, possession offences generally attract a lower penalty than the production or supply of prohibited material.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1 to 3—Short title, Commencement and Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Repeal of section 58A

Current section 58A provides for an offence if a person, for prurient purposes, procures a child to commit certain acts. This section is made otiose by the proposed insertion of Division 11A and so it is to be repealed.

5 and 6—Redesignation of sections 64 and 65

It is proposed to redesignate section 64 as section 60 and section 65 as section 61.

7—Insertion of Part 3 Division 11A

It is proposed to insert Division 11A after Division 11 (comprising sections 48 to 61).

Division 11A—Child pornography and related offences

62—Interpretation

New section 62 contains definitions of words and phrases for the purposes of new Division 11A. For example, a ***child*** is defined as a person under, or apparently under, the age of 16 years. (This is the definition currently contained in section 33 of the *Summary Offences Act 1953*.) ***Child pornography*** is defined as material—

(a) that—

(i) describes or depicts a child engaging in sexual activity; or

(ii) consists of, or contains, the image of a child or bodily parts of a child (or what appears to be the image of a child or bodily parts of a child) or in the production of which a child has been or appears to have been involved; and

(b) that is intended or apparently intended—

(i) to excite or gratify sexual interest; or

(ii) to excite or gratify a sadistic or other perverted interest in violence or cruelty;

Other definitions include, acting for a ***prurient purpose*** and ***private act***. Private acts include such acts as using the toilet, showering and bathing, being in a state of undress and engaging in a sexual act.

63—Production or dissemination of child pornography

New section 63 provides that it is an offence, the maximum penalty for which is 10 years in prison, if a person—

(a) produces, or takes any step in the production of, child pornography knowing of the aspects of the pornographic material by reason of which it is pornographic (see definition of ***pornographic nature*** in new section 62); or

(b) disseminates, or takes any step in the dissemination of, child pornography knowing of its pornographic nature.

63A—Possession of child pornography

New section 63A provides that it is an offence to possess child pornography knowing of its pornographic nature. It will also be an offence to obtain access to child pornography with the intention to obtain access or to take any step towards obtaining such access. The maximum penalty for a first offence against this section is imprisonment for 5 years and imprisonment for 7 years for a subsequent offence. For the purposes of determining whether an offence against this new section is a first or subsequent offence, any offence involving child pornography (whether against proposed Division 11A or a corresponding previous enactment) must be taken into account.

A defence is provided in relation to possession of child pornography. The defendant must prove that possession of the child pornography the subject of the charge was not solicited by the defendant and that as soon as the defendant became aware of the existence of the material and its pornographic nature, the defendant took reasonable steps to get rid of the material.

63B—Procuring child to commit indecent act etc

New section 63B(1) provides that it is an offence for a person to incite or procure a child to commit an indecent act. It is also an offence for a person who, acting with the intention of satisfying his or her own desire for sexual arousal or gratification or of providing such feelings in another (see definition of ***prurient purpose*** in new section 62), causes or induces a child to expose a part of his or her body or records a child (by taking photographs, filming etc) engaged in a private act.

It does not matter if the behaviour occurs in private or in public or with or without the consent of the child or the child's parent or guardian, such behaviour as is prohibited under subsection (1) will still constitute an offence.

New section 63B(3) provides for the commission of other offences in the following situations:

(1) where a person procures a child or makes a communication with the intention of procuring a child to engage in, or submit to, a sexual activity;

(2) where a person makes a communication for a prurient purpose and with the intention of making a child amenable to a sexual activity (colloquially known as "grooming" the child).

The maximum penalty for each of these offences is imprisonment for 10 years.

63C—Pornographic nature of material

New section 63C(1) provides that even though the circumstances of the production of particular material and its use (or intended use) may be taken into account in determining whether it is of a pornographic nature, none of those circumstances will deprive material that is inherently pornographic of that character.

The section further provides that no offence against proposed Division 11A will be committed in the following circumstances:

(1) producing, disseminating or possessing material in good faith for the advancement or dissemination of legal, medical or scientific knowledge;

(2) producing, disseminating or possessing material that constitutes, or forms part of, a work of artistic merit if, having regard to the artistic nature and purposes of the work as a whole, there is no undue emphasis on aspects of the work that might otherwise be considered pornographic;

(3) possessing or disseminating material that has been classified under the *Classification (Publications, Films and Computer Games) Act 1995* (except where it is classified as RC) or for the purposes of having the material classified under that Act.

This new section may be compared with current section 33(4) and (5) of the *Summary Offences Act 1953*.

Parts 3 and 4—Amendment of *Criminal Law (Forensic Procedures) Act 1998* and *Summary Offences Act 1953*

The amendments proposed to these Acts are consequential on the amendments to the *Criminal Law Consolidation Act 1935* proposed by this measure.

Part 5—Amendment of *Summary Procedure Act 1921*

Section 104 of the *Summary Procedure Act 1921* relates to the preliminary examination of charges of indictable offences and provides for procedures to be followed by the prosecution in respect of the filing of documents of an evidentiary nature in court and the provision of such documents to the defence. The proposed amendments will prevent the prosecution from being obliged to file documents that are of a pornographic nature or only of a peripheral relevance in the Court or provide copies of the pornographic material to the defence. Instead, if the prosecution is relying on pornographic material as tending to establish the guilt of the defendant, the defendant and his/her legal representative and any expert witnesses may, at least 14 days before the preliminary examination, view the material.

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

MOTOR VEHICLES (FEES) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

This Bill amends the *Motor Vehicles Act 1959* to enable the Registrar of Motor Vehicles to deal with small underpayments, overpayments and refunds relating to licensing and registration transactions and change of record status.

The Act requires fees prescribed by the regulations to be paid for the registration of motor vehicles (including motor bikes and trailers), the issue of driver's licences and learner's permits and other registration and licensing transactions.

The Department of Transport and Urban Planning has for a number of years implemented a practice of administrative convenience, that is, where small overpayments and refunds or small amounts have been due, usually as a result of a change in concession status, the fees have not repaid or recovery pursued. This practice was in place because it is not cost-effective to repay small overpayments, refund small amounts or pursue small balances due. In many cases a refund or repayment of a small amount would result in the client receiving a cheque for an amount of money less than the cost of the cheque and postage.

The Auditor-General in his report for the year ended 30 June 2003 noted this practice of administrative convenience and accepted that where the amount of money involved is 'small', administrative convenience would suggest that the cost of arranging a refund would outweigh the refund being made. However, the Auditor-General was of the view that unless provided for in legislation, relevant agencies are obliged to refund overpayments and pursue underpayments.

While the Act and regulations made under the Act do provide the Registrar with some discretion relating to refunds and underpayments of prescribed fees, the discretion does not currently extend to all registration and licensing transactions where underpayments, overpayments and refunds can occur.

The Bill—

(a) empowers the Registrar to withhold repayment of a fee that has been overpaid (up to $3 (indexed for CPI)) unless the person who paid the fee demands a refund; and

(b) empowers the Governor to make regulations providing that the Registrar is not required—

(i) to make a refund where the refundable amount does not exceed $3 (indexed for CPI); or

(ii) to recover a fee where the amount unpaid does not exceed $3 (indexed for CPI).

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Motor Vehicles Act 1959*

3—Amendment of section 5—Interpretation

This clause inserts a definition of ***CPI*** and a new subsection providing that if a monetary amount is followed by the word "(indexed)", the amount is to be adjusted on 1 January of each year, beginning in 2006, by multiplying the stated amount by a multiplier obtained by dividing the CPI for the quarter ending 30 June in the previous year by the CPI for the quarter ending 30 June 2004.

4—Insertion of section 138C

138C—Refund of overpayments

Proposed section 138C empowers the Registrar to refuse to make a refund of an overpaid amount that does not exceed $3 (indexed) unless the person who made the payment demands a refund.

5—Amendment of section 145—Regulations

This clause amends section 145 to empower the Governor to make regulations that allow the Registrar to refuse to make a refund where the amount refundable does not exceed $3 (indexed) or to recover a fee where the amount unpaid does not exceed $3 (indexed).

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

TEACHERS REGISTRATION AND STANDARDS BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 811.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to support the bill. In doing so, I congratulate my colleague the member for Bragg (the shadow minister for education) on her comprehensive presentation of the Liberal Party's position in relation to this bill in another place and also her comprehensive consultation with interested parties and, indeed, with her colleagues. Given the fact that there is some desire to get this legislation rushed through this chamber today, I do not intend to speak at length to the second reading of the bill because, as I said, my colleague has comprehensively raised a number of issues. Certainly, from the Liberal Party's viewpoint, we will do what we can to expedite proper consideration of the legislation, but the bill arrived here only in the past 24 hours or so and today is the last sitting day. It will therefore be a hurried consideration of the legislation and there are significant ramifications in some of the changes to the legislation.

Having some background in the education portfolio (seven years as shadow minister and four years as a minister), I am aware of the unintended consequences sometimes of legislative change, and it is important that this parliament gets it right—in relation to the education issue, obviously, but, particularly, the emphasis in this bill is on child protection. It is clear that we should do all that we can to get it right in relation to that. But, also, there are important implications for those who teach within our schools, and we owe a duty of care to them as well as to the children in our schools to ensure that we have considered properly the legislation that is before the parliament and that we are not unreasonable in any of the requirements that we have of our teachers and of our schools generally.

So, I intend to leave most of my questions and comment to the committee stage because I think that will at least expedite the consideration of this bill by this chamber, but I will flag a handful of issues during the second reading stage to at least alert the government and its advisers to some of the concerns and questions that the opposition continues to have (and, also, some interested parties continue to have). I indicate that we will seek a response at the end of the second reading stage (and, indeed, also in the committee stage) to

questions about the provisions before we rule out the possibility of potentially seeking to convince the government to further amend the bill or, indeed, possibly move to amend it ourselves, if that is required.

The first issue I want to canvass is in relation to clause 37. This, together with other provisions, strikes at the heart of the child protection issues raised in the legislation. The opposition can understand and accept that, in the circumstances where someone is ultimately found guilty of a serious offence, certain implications flow, particularly from the viewpoint of child protection, where a number of offences will mean that that particular individual will not be able to teach within our schools. So, there is a process, and I will not go through all the details, but if, ultimately, having been through the process someone is found to be guilty, then I think most people will accept the provisions in the legislation in relation to the consequences for that individual. However, I want to canvass the general area where accusations are made against teachers, and they can come into two broad categories.

One might be accusations of unprofessional conduct, the words used in the bill, but improper behaviour or unprofessional conduct as it might relate to child abuse issues within a school. Whilst it might not be proved, it may well be that the person did commit the offence and it was just unable to be proved, and we would accept that category of offences. On the other hand, there are examples of where accusations of sexual abuse, for example, or abuse of children are made where those accusations are wrong, whether that is maliciously wrong because someone wanted to hurt a particular teacher or whether, as a result of mental instability or whatever other reasons there might be, they are wrong in fact, misinterpreted by an individual student. They are the two broad sets of circumstances that the legislation has to countenance.

In the first type (where the offences did occur but it is just impossible to prove it), clearly we would be inclined to be harder as a community and as individuals and have greater requirements. However, where someone is falsely or incorrectly accused, speaking individually I have great sympathy for teachers who find themselves in those circumstances, and I think that we do owe a duty of care to try to ensure that, as we respond to the circumstances we have to respond to in relation to child protection, we are at least as reasonable as we can be for this category of teachers who are falsely or wrongly accused. Clause 37 covers a range of circumstances. Subclause (1) provides:

> If the employer of a practising teacher dismisses the teacher in response to allegations of unprofessional conduct, or accepts the resignation of the teacher following allegations of unprofessional conduct, the employer must, within seven days, submit a written report to the Teachers Registration Board—
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> (a) describing the circumstances of the dismissal or resignation; and
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> (b) containing all other prescribed information.
>
> Maximum penalty: $10 000.

Subclause (2) provides:

> A person incurs no liability by making a report purportedly in compliance with this section in good faith.

Going back to the two categories of complaints that I talked about earlier, where allegations of sexual abuse, say, are made against the teacher and the teacher resigns before any finding of guilt or dismissal can occur, this provision is seeking to cater for that by saying that the employer must submit a written report to the Teachers Registration Board describing the circumstances of the resignation, in this case, and containing all other prescribed information.

In the first set of circumstances, I assume there would be (and this is one of the questions: what is the level of detail that is required?) an indication that a child, or a number of children, made allegations of sexual abuse against Mr X, who was a teacher at the school. The teacher steadfastly protested his innocence but then resigned from the school before any finding or decision for dismissal could occur.

As I have said, in the first set of circumstances, where we assume Mr X was guilty of child abuse against a student, this clause seeks to move against the notion of a teacher school hopping, where someone has not been found guilty and has not been dismissed but resigns after allegations and that information is provided to the Teachers Registration Board. As I have said, in those circumstances, that information is there, and one assumes that it is available to others. I want to ask some questions about that matter when I look at the other set of circumstances as well.

However, I am assuming that, if Mr X applies to teach at another school, the employer of that school telephones the Teachers Registration Board or accesses a web site or writes a letter (I am not sure what the provisions are) and gets some information back which says, 'Mr X was accused of child abuse by one or two children; he protested his innocence and resigned. They are the circumstances we have.' In the circumstances where Mr X is guilty, we probably do not have any sympathy, and rightly so, that a future employer would say, 'Well, I'm sorry Mr X, you've had these allegations of child abuse made against you, and you resigned. I'm not prepared to employ you.' It is more likely to be that there would not even be that discussion, I suspect: the person would just not be offered an interview in terms of trying to get further employment. As I said, in those circumstances where the person was guilty, it is hard then to be critical of the process and hard to be critical of the fact that the teacher has been treated in any way unfairly.

I now want to take the second set of circumstances, which is where Mr X is wrongly or unfairly accused of child abuse. Again, from my own experience, there have been teachers who have been accused, wrongly as it turned out, who have suffered great mental stress, trauma and significant health problems and, even though the court case was still winding its way through whatever the proceedings were, have chosen not to continue teaching as a profession and have resigned because of the mental trauma. In those circumstances, this clause would again take effect; that is, this teacher still maintaining, correctly in this example, his innocence in relation to the accusation of child abuse, will have resigned from the school; the employer of the school is required to write to the Teachers Registration Board indicating that (again, the same as in the first example) a child or children accused Mr X of child abuse; he proclaimed his innocence and resigned some weeks later before a decision was taken to dismiss or he was found guilty of any child abuse charge. Again, if Mr X, further down the track, goes to another employer to seek employment, one assumes again that that employer, in the circumstances I gave before, would be able to contact the Teachers Registration Board and would be given exactly that information. To all intents and purposes, it would look exactly the same as the first example I gave, except that in this case the teacher is innocent. It was a malicious allegation that had been made.

In those circumstances, my view is still the same, that the teacher is unlikely to be employed by another employer

because another employer is not in a position to be able to judge the truthfulness or otherwise of the claim of innocence by the teacher, will not have access to the detailed information that had been made by the children (for example, will not know the children or the background of the children), and will know nothing of the detail of the circumstances although they might know the general nature of what has occurred. I cannot envisage that there would be very many schools, given the climate at the moment, that would employ that teacher.

The challenge for us as a parliament is how we ensure that we are not being unreasonable to the teacher who is maliciously or wrongly accused of child abuse. I do not profess to say that there is an easy answer to it. I believe it would be wrong of this chamber not to explore this issue with the government and its advisers in some detail before it hurries the passage of this legislation. Again, as a former minister, I can indicate a number of examples where, maliciously, primary aged children, for whatever reason—I will not go into the detail—have taken a set against a particular teacher.

In one case a handful of children, not just one child, made a series of allegations against a particular teacher which were untrue, and ultimately the children conceded that they had made up the allegations. I will not go into the detail of where they learnt about these sorts of allegations but there are plenty of ways, whether it be television programs, movies, newspapers, word of mouth or whatever. One particular person was the leader, took a set against a particular teacher and managed, through the strength of leadership, to convince a handful of others to support the particular story against the teacher, and that teacher suffered tremendous mental stress as a result of a malicious and false accusation.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: I agree with the Hon. Mr Sneath that it is disgraceful, but there are other examples where it occurs. There are other examples of misinterpretation of genuine affection or compassion by a teacher for a young student in particular, in primary school. In some cases, because of the concerns of parents and others about the care of children, and some children themselves, genuine compassion and concern as opposed to sexual abuse or whatever is misinterpreted by young children. I know of examples where that has occurred. I know of examples where an individual teacher's whole teaching career was destroyed because of misinterpretation as opposed to a malicious accusation against that person; a teacher who has never taught again as a result of a misinterpretation of what occurred.

I hasten to say, and I have given the two examples, that in a number of cases there are examples where a teacher has been guilty of child abuse and it has not been able to be proved. I accept that. However, in doing what we are seeking to do, we have to somehow look out for the set of circumstances that I have outlined. If we delude ourselves today in relation to this issue, by just assuming that all allegations of child abuse are right and accurate, and we say to teachers in the circumstances that I have outlined 'Too bad', I do not believe that we are undertaking our task as legislators fairly.

I am not satisfied in what I have seen so far that we have that balance right in relation to this. Who gets access to this recorded information? How much detail can be provided in the recorded information? Can anybody who purports to be a future employer of a teacher get access to the information? Is it only the principal or, in the case of schools run by individual school boards, the chair of the school board, or any member of that school board? Can any parent in a school that might be about to employ a teacher get access to the information? Can somebody who is about to run a business employing registered teachers in tutoring, for example, get access to the information?

We would be seeking from the minister and the government some detail about what information is available, what detail of information is intended to be available and who is to have access to the information that has been provided in the circumstances that I have just outlined. That is the first and most significant issue that I think, in the committee stage, we need to consider in some detail. I seek an initial response from the minister at the conclusion of the second reading so that we can consider the government's response to those issues and how the minister envisages this act operating in the circumstances that I have outlined—that is, a malicious or wrongful accusation against a particular teacher. Certainly, subject to those responses from the minister, I would be urging greater discussion when we get to the respective provisions in the legislation.

The second area that continues to be of concern to some of the interested parties—in particular, the independent schools—are the requirements under clause 20 of the legislation, that is, the requirement to be registered. There is also some overlap with the special authority for unregistered persons to teach provisions under clause 30. My colleague the Hon. Mr Xenophon, who I think sadly might be unwell today, referred to some representations that Mr Garry Le Duff had made to him in writing and I think also by way of a meeting in the last 24 hours. He briefly raised some of these issues late last evening. I have also been contacted by Garry Le Duff. I also put on the record that he has also consulted widely with my colleague the member for Bragg and other interested members in relation to this issue. I also indicate that he is a very competent representative of the independent schools sector and highly regarded by those within education, not just within independent schools education but also within public education. He has many years of experience in terms of helping to manage the interests of independent schools in South Australia. He also has a history of happily working—to the extent that that is possible—with the government of the day, Liberal or Labor, and, more particularly, with the education department leadership in matters of joint interest.

It is to South Australia's credit that the level of cooperation between non-government and government schools in South Australia is much stronger and, therefore, much better than in the eastern states particularly. The extent of the class warfare that exists in some eastern states between government and non-government schools is unhealthy, unproductive and not in the best interests of children. The level of cooperation between government and non-government schools in South Australia is light years ahead of some of those states. That is to the benefit of children not only in non-government schools but also in government schools.

I give credit to administrators such as Garry Le Duff and Allan Dooley, from Catholic Education, for their willingness to work with government schools. I give that background to say that this is not someone who is prone to alarmist concerns, as those he raises in relation to this issue are genuine, as he sees them, on behalf of independent schools but, frankly, they also relate to other schools. I want to place on record an email I received from Mr Le Duff, dated 8 December, in relation to clause 20. It states:

> The relevant parts of the Bill are Part 4 (Requirement to be Registered) and Part 6 (Special Authority to Teach).
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> The AISSA's concern applies to the lack of clarity about the scope of persons required to be registered as teachers. This arises

from the requirement that an unregistered person must not personally provide primary or secondary education without being registered. We seek clarification of how this requirement could impact on the ability of schools to deliver Vocational Education and Training (VET) through external accredited training providers such as TAFE or a VET private provider. We strongly support that staff in these training institutions undertake police checks as a child protection procedure; however, should they be required to register as a teacher or obtain a special authority to teach? Currently where students are involved in VET programs off campus in TAFE, or at a private provider site the staff at those sites have not sought registration or a special authority to teach. The AISSA considers it should not be a requirement for these personnel to be registered teachers.

I interpose at this stage that vocational education and training programs in schools have been, and continue to be, a significant issue since the early to mid 1990s. It will be even more significant over the coming years, as the trend is towards more vocational education and training options within schools, rather than fewer. This government and the former government have been active in encouraging the development of further options for schools, and those provided in 2004 are much more flexible and varied (and, frankly, probably much better) than those provided just 10 years ago. As I said, that trend is likely to continue.

Garry Le Duff has raised this important issue, and he advises the parliament that, in some cases, the staff in the current programs being provided off campus or by private providers are not registered teachers and have not sought special authority to teach under the proposed arrangements under clause 30, although I think that it is a different provision in the current act. This provision is there for the circumstances that occur not only in VET programs but also in a variety of others. I am not sure that it is always complied with in country areas, and I will give an example. Because specialist Japanese, Indonesian or Chinese language teachers cannot be found at the drop of a hat, I know that native or fluent speakers are employed in kindergartens and primary schools to provide a course of primary instruction as, in some country areas, it is the only way that a foreign language program can be offered.

The current arrangements provide that that person should obtain a special authority to teach from the Teachers Registration Board, although I am not entirely convinced that it has always been the case that a country school has done so; if it has not, I suspect that, under the old arrangements, the responsibility fell onto the person who was teaching a foreign language in a primary school unlawfully, and they might well have left themselves open to offences under the old legislation. That is a specific example, but there are many others relating to music and dance programs in schools. There have been examples where dancing instructors have taught dance programs in government schools when they were not registered teachers. So, you can go across the curriculum and highlight a number of examples of people with specialist expertise being utilised by primary and secondary schools to offer courses of instruction. The intention is that they can do so having gone through the process with the Teachers Registration Board.

I think there have been some issues relating to how those processes operate. Certainly, I would be interested to know from the minister the number of special authorities issued for unregistered persons to teach and whether the Teachers Registration Board is in a position to indicate the particular areas of expertise in which they have been offered. I would be interested to know how many (in addition to the examples I have highlighted) have been offered for foreign language instruction within schools in South Australia. Garry Le Duff raises the issue that some of the teachers of these VET programs provided off campus by TAFE or private providers are not registered teachers and have not sought special authority to teach. In the first instance, we seek guidance from the minister as to whether she accepts that is also the case with government schools in South Australia, if they provide courses of instruction through VET programs, where the provider or the instructor has either not been a registered teacher or has not had a special authority to teach under the act. We seek a specific answer from the minister on that. If she cannot give us a number, we would like a guarantee that there are no examples in government schools where that has occurred or an acknowledgment that that does, indeed, occur under the current arrangements.

The point that Garry Le Duff is raising is important, and I think that in the committee stage of the debate the minister, through the minister in charge of the bill here, needs to provide some detailed response or rebuttal to the concerns being raised by the independent schools and others. In Mr Le Duff's email he goes on to give further examples, as follows:

The new bill could also impact on the extensive co-curricular activities provided by schools, such as after school sports undertaken by paid sports coaches. It is impractical for such persons to be covered by this legislation in relation to registration. Appropriate police screening procedures could be put in place by schools and school authorities to cover the child protection aspects of the proposed bill.

I believe this lack of clear definition of the scope of teachers' registration would impact on government and non-government schools. It appears that the government's intent is that the additional people covered by the requirement to be registered could receive a special authority to teach. . . It is unclear, for instance, whether staff employed in the VET sector should seek the special authority to teach. Unfortunately, AISSA is concerned that the board may not grant the special authority unless the expectations are clearly expressed in the act.

Mr Le Duff and others have put to me (and I would be interested in the government's response to this) that their perception is that granting a special authority is often seen by some board members as contrary to the existing objects and functions of the board, which currently emphasise the importance of professional standards, competent educators and promoting the teaching profession.

Of course, some key interest groups such as the AEU are strongly represented on the board. One can understand, even if one does not agree with it, that the AEU might have a position that all, or as many as possible, teaching activities in schools should be undertaken by registered teachers. As an association they may well adopt a position that the issue of special authorities to teach should be seen as special exemptions, rather than becoming increasingly used. In terms of their role within the Teachers Registration Board they might, therefore, be prepared to make it harder in terms of the processes and procedures for special authorities to teach to be too widely or freely available. I am specifically interested in the minister's response to that, and whether the minister believes that there are those issues of concern in relation to the issue of granting special authorities. I guess that comes back to the issue of how many special authorities have been granted this year in relation to primary and secondary education in our schools.

In relation to the example of paid sporting coaches, I again highlight that with the current debate about obesity and young people in schools, and the never ending debate about physical education and sport in schools, it is a core part of the curriculum in government and non-government schools in

South Australia, and the issue of sporting coaches is, therefore, an important part of the curriculum in our schools. Paid sporting coaches are managing sporting programs and, together with the physical education programs, they would be assisting with the delivery of curriculum options at non-government and, I suspect, possibly government schools as well as in South Australia. So, the issues that Garry Le Duff is raising need to be explored in greater detail in the committee stage.

The other issue I want to raise in relation to clause 20 is to ensure that we are not creating any particular problems with the current drafting of the legislation. I draw members' attention to clause 20(2) which provides:

> A person must not employ another person as a teacher, principal or director at a school or recognised kindergarten unless the other person is a registered teacher.

Subclause (3) provides:

> A person must not employ another person in the course of a business to provide primary or secondary education unless the other person is a registered teacher.

The issue I want to raise is one of tuition. As it has been explained to me, subclause (2) is the converse of subclause (1)(a) which provides:

> A person must not undertake employment as a teacher, principal or director at a school or recognised kindergarten. . . unless the person is a registered teacher.

Therefore, if an individual employee undertakes employment as a teacher, for example, that person is committing an offence if they are not a registered teacher. Subclause (2) then provides:

> A person must not employ another person as a teacher, principal or director at a school or recognised kindergarten unless the other person is a registered teacher.

That makes it an offence for the employer in those circumstances. So, as I read this, and as it has been explained to me, if there is an unregistered teacher in a school subclause (1)(a) means that it is an offence for the individual employee and subclause (2) means that the school (for example) has also committed an offence.

The question I ask the minister to clarify is this: what are the circumstances in relation to a person employing another person as a tutor? This, for example, occurs in many circumstances in homes or in institutions away from the school environment. Let us take the home environment, where there is a number of examples of registered teachers providing tuition in homes for a fee, and you can do that either through a private arrangement with a registered teacher or through a number of businesses that operate providing private tuition. But there are also examples where, for a fee, university-aged students who are not registered teachers provide tuition for primary and secondary students. Personally, I am aware of a number of arrangements where university-level students provide tuition to primary and secondary students—for a fee, obviously—in a home.

I want to know the impact of clause 20 on those circumstances. First, does this clause in any way make it an offence for a non-registered teacher to provide primary or secondary tuition for a fee in a non-school or kindergarten environment? Secondly, there is the issue of tuition colleges. Again, anyone with children going through secondary school in particular will know that that is an extraordinarily big business at the moment. Obviously, that is a different set of circumstances and my understanding is that all of those tuition colleges use registered teachers. I want to be assured that there is nothing in this that would prevent their continued operation. I do not read it to mean that there is any issue, other than they will have to employ registered teachers in their business.

I also want to be assured—and I hasten to say I do not read it as a problem, but I seek the minister's assurance explicitly—that those people currently who are non-registered teachers who run a business of employing registered teachers for temporary relieving teacher work will still be able to continue to operate their businesses without committing an offence under this provision. I give the example that, when a teacher rings in sick at 8 o'clock in the morning, an option for a principal in a school is to work through a list of 20 teachers available for relief teaching to find out who can get to the school by 8.30 a.m. or 8.45 a.m. to fill in the gap in the school's program. Also, there are a number of businesses that operate where people put together a package of 20 or 30 teachers and provide that option to a school: the school rings the business and says, 'I need a teacher at 8.30 a.m.' and that business organises a temporary relieving teacher for the day at that particular school.

I want to be assured—and, again, I am not suggesting otherwise—that there is nothing in the provisions of the bill that would impede those circumstances and would prevent a non-registered teacher coordinating the activities of a business but does not provide any teaching himself or herself. Again, I do not read it to be a requirement that that is the case, but I seek an assurance from the minister. I do not believe there is a problem with the last two or three examples, but I seek an assurance. I understand there might be an issue in relation to home tuition, and I therefore seek an assurance from the minister that there is no unintended consequence in respect of this provision.

There are a number of other issues in relation to other clauses but, as I said, they can be left for the committee stage. I just wanted to flag that handful of issues at the second reading. I repeat that I invite the minister representing the minister on the bill to provide a detailed response when he closes the second reading debate and, subject to the answers, we will determine whether amendments are required or whether we are entirely satisfied by the minister's responses to the questions that we have raised.

The Hon. A.J. REDFORD: I wish to raise one issue arising from a matter that occurred in a rural private school which might assist members in understanding the well-balanced contribution made by the Hon. Robert Lucas about how we deal with some very difficult issues arising from the conduct of teachers in the course of their duties. I, as did the Hon. Kate Reynolds, received correspondence from two constituents in relation to an incident that occurred in a private school on the June long weekend of 2002 involving a particular teacher. I do not propose to identify the school, the teacher or the students, for a number of reasons.

Suffice to say that some of the parents were very concerned about what transpired in relation to those children. They wrote letters to the Deputy Premier (Hon. Kevin Foley), the Minister for Health (Hon. Lea Stevens), the Premier (Hon. Mike Rann) and the Hon. Rory McEwen in addition to correspondence to the Hon. Kate Reynolds and me. They also made a complaint in relation to the sexual abuse inquiry currently being conducted by the Legislative Review Committee, under the able chairmanship of the Hon. John Gazzola, and I do not propose to touch at all upon the evidence that was given before that committee because the committee is still considering the issues.

However, from the correspondence that I received it is quite clear that what happened in this case is that complaints were first made to the school, to the police and to Family and Youth Services. Unfortunately, no complaint was made to the Teachers Registration Board. The constituents have raised some concerns about the way in which this matter was investigated by those authorities and about the adequacy of that investigation: they are particularly angry about what happened in relation to those investigations. They are very concerned that no detailed reason has ever been provided to these parents as to why, it would appear on the face of it, no action was taken as a consequence of the complaints made by the parents.

It might be said that there was no basis upon which action could be taken, either in a criminal context or in an employment context, which is the context in which this bill is before this place, either because there was insufficient evidence, it did not happen, or for some other reason, but these parents genuinely believe that these incidents occurred and they genuinely believe that a particular teacher behaved in an inappropriate manner, and I must say that I agree with them. They have formed the view that from June 2002, when this matter first occurred, they have been serially and repeatedly fobbed off. The matter reached the Teachers Registration Board when a complaint was made to that board. Unfortunately, that complaint was made some considerable time after complaints were made to the police and to Family and Youth Services.

It seems to me that the matter would have been better dealt with if the complaints had been made to the Teachers Registration Board at the same time as complaints made to the police and Family and Youth Services. I understand that the Hon. Kate Reynolds has some information on this matter that she will convey to this chamber. The Teachers Registration Board dealt with the complaint, and I am not in any position to make any comment one way or another as to whether the complaint was dealt with appropriately or not, and I will explain why. First, the process took a considerable period of time, about 18 months. Secondly, the parents received a letter from the Teachers Registration Board of South Australia dated 16 November 2004 in which the complaint is referred to, and the letter then reads:

> As you are aware, this matter has been the subject of a lengthy and detailed inquiry by the board, pursuant to section 65 of the Education Act 1972 as amended. The inquiry was completed this afternoon. After careful consideration of the evidence placed before it, the board determined not to remove [the teacher's name] from the Register of Teachers. I acknowledge that this matter has been somewhat protracted and I thank you for your assistance.

That is the only advice that these parents have had in relation to this matter. They do not receive a copy of any of the reasons as to why their complaints were, I assume, dismissed. They do not receive any sit-down briefings as to why that occurred. They do not receive a copy of the transcript of evidence. In fact, they receive nothing other than that letter. That is a recipe for continual and continued frustration about how the system operates.

We run an open system of law and justice under which, if a person is prosecuted in a court, it is done openly so that the world can see it and so that we can see that the processes being adopted are fair and that the evidence that is being put and weighed up is considered appropriately and dealt with in a fair and reason reasoned manner. Where it is done in a secretive fashion—and I am not saying that the Teachers Registration Board is deliberately acting in a secret fashion, but the perception on the part of the parents is that they are—in my respectful view, that is wrong. There needs to be some greater openness about how these matters are dealt with, in the interests of fairness.

At the end of the day, particularly in my experience as a legal practitioner (and we have all seen it in our time as members of parliament), if people are continuously having doors shut in their faces and if they are continuously treated in a manner where they are not provided information or anything of that nature, then those people become more and more bitter and more and more frustrated and their confidence in the system becomes increasingly diminished. That is something that should not occur.

This is not my bill, but I would hope that when members look at this bill they look at a process (and I will be interested to hear what the government says about this) whereby parents can be fully informed about why decisions are made, and they can be appraised of the evidence. It may well be that, once they are given the evidence, they accept the decision of the Teachers Registration Board that there was no evidence which could lead to the deregistration of a teacher. That may well be the outcome. In my view, that is a terribly important outcome, and one which we should all seek to achieve. With those words, I urge members to look at this whole process of ensuring that the system of registration and deregistration of teachers, and complaints dealing with teachers, is dealt with in a more transparent fashion than the way in which my constituents were dealt with in relation to these complaints.

The Hon. KATE REYNOLDS: At the outset, I indicate that the Democrats expect to be able to support this bill. We believe that it will provide some additional assurances for parents and the teaching profession about the appropriateness and fitness of persons to be in schools with vulnerable children, educating them and having those children in their care for long periods of time. We provided the minister with a number of questions during a briefing we had with the minister and her advisers, and I understand that those questions will be answered in the minister's second reading speech and during the committee stage. I appreciate that, and I look forward to it.

I am still a little unclear about whether this bill is primarily about trying to tick off another box in the Keeping Them Safe program the government has undertaken as part of its child protection strategy. It is not a bad thing if it is. However, from what I understand, the Teachers Registration Board did not, in fact, seek many of these changes. So, I think we need to proceed very carefully. I take note of a number of the questions raised by the Hon. Rob Lucas, and I look forward to the answers to those questions. I am not sure that we would agree that all of them are issues that should be progressed in this bill; it may not be appropriate. In particular, I am not sure that it is appropriate that screening processes for non-teaching employees in schools is dealt with in this bill. I understand that that matter will be dealt with during the committee stage, and I particularly look forward to that.

I note that the Minister for Education and Children's Services in the other place said that the Minister for Families and Communities is developing a new child protection act, and I am very relieved and pleased to hear that. However, given that I still have a number of concerns about the lack of screening for non-registered teaching staff in schools, I would appreciate the minister in this place placing on the record some information about the time line for that new child

protection act, which the minister in the other place has said will address those issues of screening.

It is now almost two years since the Layton report was tabled. There were a number of recommendations in that report, and a number of the 206 recommendations addressed screening for people who work with children and vulnerable young people. Clearly, our state schools and all private and independent schools are places where vulnerable children and young people are found, so I would appreciate some detail about when we can expect amendments to the Child Protection Act.

I am very pleased to hear that an additional $700 000 will be provided for police checks. While I have some concerns about the usefulness of police checks in terms of screening, I am pleased to hear that schools will not be expected to bear the burden of those police checks from their own budgets. Clearly, they could not manage that when many of them cannot even manage to maintain their schools or provide new books, repair computers, or employ SSOs. That $700 000 commitment is welcome, but I would be interested to know whether the department is anticipating any other strategies that will incur costs and, if so, how the schools will meet those costs. I am pleased that an amendment was passed in the other place that addressed our concern about the number of practising teachers on the board. I have not had time to look in detail at the *Hansard*, but I hope that that has also addressed the issue of the number of practising teachers on committees.

I think that covers most of my general comments. However, I will refer to the matter raised by the Hon. Angus Redford in relation to a recent investigation conducted by the Teachers Registration Board. Like a number of other MPs, I think, I registered an interest in that initial inquiry and investigation process. We have been contacted by a number of constituents who (as outlined by the Hon. Angus Redford) had been through a most frustrating, drawn out, painful and distressing experience, as they attempted to have their concerns about a particular teacher's behaviour and the schools response dealt with. Certainly, I suspect their experiences of dealing with FAYS and the police, and so on, did not help any of those individual families manage that experience more easily. I do not want to comment on whether or not FAYS or SAPOL handled it appropriately.

Once the matter reached the Teachers Registration Board, I took on good faith that the board would ensure that recommendations were made if it felt that those other bodies had not dealt appropriately with those concerns. I put on the record that I contacted SAPOL and some of the other agencies many months ago in an attempt to find out how this complaint was being dealt with. I was informed either late last week or early this week that the Teachers Registration Board had come to a decision. In fact, one of the parents contacted me to express again his frustration that he not been notified by me, as we had promised, of the Teachers Registration Board decision. Staff in my office let him know that we could not have notified him because we did not know that it had made a decision. As the Hon. Angus Redford put on the record, the parents have now been notified.

One of my staff members contacted the Teachers Registration Board by telephone and we asked for something in writing. What we received was a timely email from the Registrar indicating that the Teachers Registration Board had conducted that inquiry, that the matter was heard by the board over seven days, and after considering all the evidence it determined not to cancel the registration of this particular teacher. The email then went through in a bit of detail the process for advising the immediate parties, that is, the teacher, and then the parents were also advised in writing by the board. The Registrar rightly says that it is fair to say that they were not satisfied with the outcome.

The Registrar said that written reasons for the decision are compiled by the chairperson of the board and are later formally adopted by the board—she does not say 'later', but in further emails that is explained. She said that it is not the board's policy to release this document other than to the immediate parties, but those immediate parties do not include the people who made the complaint. Because I had registered as an interested person, I asked by email if it were possible for an interested person to access a summary of the board's decisions, and by reply email the Registrar informed me that it is not the board's policy to release written reasons for key decisions.

In a follow-up email received this morning—and I can tell members that the Registrar was at work very early today—the Registrar commented on the Teachers Registration and Standards Bill in relation to this particular complaint and the parents' experience. I think it would be useful to have that on the record. In her email to me, the Registrar stated:

> The proposed Teachers Registration and Standards Bill 2004 should address a number of issues raised in the matter of—

and she names the teacher, which I do not intend to do. She continued:

> There may not have been a different outcome but the matter would have been brought to the attention of the board by the school or the teacher at the time of the alleged incidents rather than by parents after (in their view) they had exhausted all other avenues and were frustrated and angry with the results of their efforts and expected the teacher to be deregistered as a matter of course. The obligation to report to the Board, the range of penalties, the term unprofessional conduct etc (Part 7) will greatly assist the Board to deal with such matters quickly.

It is not just for this particular case but for this set of reasons that I am happy to support the passage of this bill. I know that a number of parents and other community members have had similar experiences over the years attempting to have their concerns dealt with.

I note also the comments by the Hon. Rob Lucas about malicious complaints, and so on. I am not a lawyer. I have had some experience with these things from the perspective of a community worker but I believe that the process needs to be made easier, so I would ask if there is any opportunity for the minister—and she may be able to use her new powers if this bill passes—to suggest to the Teachers Registration Board that it investigate ways to report a summary, perhaps, of its decision to people lodging a formal complaint that results in either an investigation or the complete inquiry process. I do not know how this compares to the policies and practices of other registering bodies when a complaint is made. If the minister knows that, he might be able to explain it in the committee stage, but I do think that reform is needed as to how a decision or a summary of a decision is conveyed to people. These parents have been through a frustrating, painful and distressing experience over what is, I think, nearly two years.

I am not sure whether the Hon. Rob Lucas raised in his contribution the question of student teachers, but I understand that the minister is going to address later the question of student teachers and how this bill applies to them. I have spoken to some teaching students in the last couple of days and they are very concerned, but hopefully we can have that

detail put on the record, as well. That covers the comments I wish to make before we proceed to committee.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I do not think I have heard so many questions being put on notice in the lead-up to a bill for a long time. As I clearly outlined in my second reading speech, the object of this bill is to establish a system of teacher registration that will safeguard the public interest by ensuring our teaching profession is of high quality and that its members are both competent educators and fit and proper persons to have the care of children. This forms a significant part of the government's Keeping Them Safe child protection reforms. It supports the protection of children and recognises the professionalism of South Australian teachers who work with children and young people in our government schools, preschools and non-government schools.

The Teachers Registration and Standards Bill will establish the Teachers Registration Board in the state as an independent body under its own legislation. The key role of the board will be to promote and regulate our teaching profession. As a result of the consultation, the Minister for Education and Children's Services firmly believes that this bill strikes the best balance between ensuring the rigorous protection of children and procedural fairness in the treatment of individual teachers. In addition, because the provisions in the bill have taken into account the differing practices of screening undertaken in each school sector, this legislation will set a firm foundation for alignment and consistency between Catholic, independent and government schools.

This is a sound piece of legislation that progresses the work left languishing by the previous government. In 1997, under the previous government, the board introduced police checks for new teachers and those whose registrations had lapsed. While this government is confident that the majority of our teachers are exemplary in their work with children, we understand that the community demands that teachers who work with children are of the highest standard and do not pose a risk to them. This bill remedies the previous government's failure to ensure that the board could update checks on renewal of registration. It will enable the two-thirds of the current register of all South Australian teachers who have never been screened to have criminal record checks undertaken at no cost. The screening of the whole teaching register is a cornerstone of this legislation.

The government's commitment to ensuring a strong foundation on which to build this legislation is demonstrated by its allocation of $700 000 provided to fund the retrospective screening. The bill makes sure that critical information about teachers can be shared among the board and employers in all schooling sectors, the police and the boards in other states to stop movement of child abusers between schools and across states. This bill accords significant and appropriate control to the Teachers Registration Board. It also recognises the expertise of its membership, at least half of whom will be registered teachers. The board has undertaken over 11 000 criminal history checks since 1997 pursuant to a memorandum of understanding with South Australia Police. Over time strict protocols and procedures have been determined and a higher degree of expertise, uniformity and consistency has been achieved. These established standards are supporting the government's progressive screening of all those who work with children to ensure that they have been appropriately vetted.

Through agreements between the chief executives and schooling sector, employer bodies, the universities and SAPOL, the screening of all student teachers has commenced. This is to ensure that any school accepting a student teacher from practicum training can be sure that the student has had a satisfactory police check. I am informed that the checking of all current and new student teachers before 2005 will be at no charge to the students as per the existing arrangements with SAPOL. Under the auspices of the government, DECS, Catholic Education SA and the Association of Independent Schools SA formed an agreement in late 2003 to work collaboratively on child protection initiatives to ensure consistency of child protection standards. This work has supported the development of this bill and will continue.

I understand that the scope of the requirement to be registered has been much discussed both during the public consultation of the bill and in another place. I know that the Hon. Nick Xenophon has had discussions with the Executive Director of the Association of Independent Schools on this issue. Given that, I understand that Mr Le Duff has been extensively briefed. He would have been able to confirm what I can now categorically indicate to this council. The scope of the requirement to be registered under the proposed legislation is no different from the current provisions within the Education Act 1972 (see attached comparison Table 1, if required). What is different is that, at the request of the Teachers Registration Board, Catholic Education SA and the Association of Independent Schools SA, a clause 20(3) has been inserted to cover situations in the private sector where schools may not directly employ a teacher but may do so through another business. This requirement precludes the business from employing a person to teach unless that person is registered but in no way requires any business to register with the board themselves.

While the provisions under clauses 20 and 30 of this bill are drafted in accordance with current legislative drafting conventions, they maintain the existing requirement that, if the person is employed as a teacher or offering their services as a teacher of primary or secondary education, clause 20 requires that they must be registered or, if they do not meet the educational qualification requirements for registration, they may seek a special authority. Our community demands that this is as it should be, with those directly providing education must be competent, fit and proper persons.

The bill provides an appropriate board membership to undertake the enhanced roles of screening, monitoring and advancement of the profession. Following extensive consideration of this bill in another place the government was pleased to support one amendment to the bill concerning the process of appointment of the new Teachers Registration Board. This was proposed by the member for Mitchell and developed in consultation with the minister and opposition spokesperson. The government is confident that the changes will be supported by stakeholders and the community, particularly the specification that the community representative be a parent, that a minimum of half the board must be registered teachers, and that there be a minimum of five practising teachers on the board in addition to the other educational experts. The act will be the responsibility of the minister and, therefore, a limited power to direct the board, when it is in the public interest, is a required feature of this bill.

The bill precludes the minister from giving a direction concerning individual cases and inquiring into the conduct of teachers and the requirements for registration. The minister must also consult with the board prior to giving a direction

and table any directive in parliament within three sitting days. With the work currently progressing nationally in this area, and the intent of the bill, it is possible that the minister could give a direction regarding the information exchange provisions and the promotion of the profession and direct the board to participate in collaborative work to advance professional standards nationally. In most cases, the board will act of its own volition. However, this direction provides a safeguard for the public interest should it be required. This is in line with comparable boards within South Australia and all other registration boards in other states.

Better information exchange arrangements and requirements have been included in the bill. These will be between the board and the employer representatives, SAPOL, the DPP and the registration bodies interstate. It will also be a condition of every registration that, if a person is charged or convicted of an offence specified in the condition, that person must give notice to the board. To ensure that teachers are able to fulfil their responsibilities under the legislation, the bill requires that the board provide information to applicants about the nature of notifiable offences they will have to report to the board. Rather than tinkering around the edges, this government's approach to legislative change, as demonstrated by the bill, encompasses the sometimes disparate views of stakeholders and achieves a balance that places the interests of children at the forefront, without negating the legitimate interests of those who work with and provide services to them. Having a discrete act sends a clear message about the significance of teacher registration and standards. It is consistent with all other states and is in line with current practice for other qualified professional groups, such as nurses and medical practitioners.

This act will simply not be one of registration and compliance (through punitive measures) but one of improvement, advancement and professional recognition. Along with other members, I commend the current Teachers Registration Board for recognising the need for change in registration processes, professional standards and the fitness of teachers and their propriety, and for wholeheartedly supporting the process of legislative change. South Australians should be proud of their teaching work force. This legislation is an important step towards enhancing the public profile and standing of the teaching profession, as well as ensuring that it attains nationally agreed standards.

The clear statement today is that the protection of our children in the school environment is of paramount importance to the education sector and to this government. A comprehensive communication strategy will be implemented once the legislation is enacted. The current board will have a pivotal role in providing public information about the changes, particularly the requirements for registration, the notification requirements and the criteria used to assess the criminal histories of prospective and existing teachers in order to ensure their fitness and propriety.

Once passed, this new act will add to other child protection measures already in place in our schools. It will ensure that these existing strategies are enhanced and not duplicated. This important legislative change, coupled with a significant investment by the government, will help the police, education authorities, teachers and school communities to work closely together to ensure the safety of students. I again encourage all members to support this important measure so that South Australians can have the utmost confidence in the 'fitness', quality and professionalism of the state's teachers and those who provide education in all schooling sectors. I am confident that members will support the enactment of this bill to repeal the outdated part 4 of the Education Act 1972, which no longer meets community expectations or the required national standard for teacher registration.

Staff from minister Weatherill's office have agreed to meet with the Hon. Kate Reynolds to provide her with an update on the progress of the new child protection legislation. As to the example referred to by the Hons Angus Redford and Kate Reynolds, if the legislation we propose had been in place, a number of things could have occurred, as indicated by the Hon. Kate Reynolds in her contribution, as follows:

- the school would have to have notified the board when the person resigned or was dismissed following the allegations; and
- unlike the present circumstances, where the board can only de-register a person, the board might have reprimanded, fined, placed conditions on or suspended the individual's registration under the new legislation.

Bill read a second time.

INDUSTRIAL LAW REFORM (ENTERPRISE AND ECONOMIC DEVELOPMENT—LABOUR MARKET RELATIONS) BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 827.)

The Hon. T.J. STEPHENS: I rise to indicate not only my opposition to this bill, but also my total and utter disgust with it. I have stated my interest and background in small business many times and I consider small business to be a crucial component to economic expansion, the basis for wealth creation amongst many South Australian families and a vital Liberal constituency.

When I saw this legislation I did not know what to do at first. I felt like laughing, because the bill is an absolute gift to the Liberal Party in electoral terms, but I bewail the bill's introduction because I am acutely aware of the savage impact it will have on the economy, and it is clear to me that the government is also concerned about the impact this bill may have. The first draft bill was significantly different from the one the house debated last sitting week. I think evidence of the angst that the original bill generated was at a function I attended earlier this year, where over 100 business people from small, medium and large enterprises attended and were unanimous in their opposition to the bill.

As has been stated by others, this bill is the most directly negative, the most anti-business and anti-employment legislation that any government in this state has ever sought to foist upon the people. The reach of this bill is truly Orwellian. It seeks to not only impose upon the rights of employees and employers to come to mutual agreements of working conditions but it also seeks to impose upon people who have their own businesses and volunteers. If this government had any understanding of business it would understand that the one thing that allows business to grow, that creates employment and more money in the economy, is certainty. It allows a business to plan, to take calculated risks, to expand and so to allow for the benefits to be realised.

This legislation removes certainty from business in its entirety. EBAs will be able to be altered midway through their term; the Industrial Relations Commission will be able to alter them. In fact, the IRC must take into consideration the conventions of international labour standards. This is a preposterous provision which binds Australian workers in an

advanced industrialised economy to the same conditions as people in developing nations.

The bill also clearly identifies full-time employment as a more desirable form of employment and seeks to push people in this direction. It does not necessarily suit everyone. I respect that some people would have this view, but I also respect that some people actually prefer part-time employment. There are those who enjoy the benefits of part-time employment, who actually appreciate their higher wages, and they appreciate the flexibility they have. It is natural that the union movement would demonise an employment condition that, by definition, does not fall into a particular union. Many casuals are, in fact, non-union and even anti-union specifically because unions seek to turn their part-time job into a full-time one, and when the business cannot afford the change the person is no longer asked to turn up for work. How does the union help the workers in cases like that? Members would be aware of the fact that the Premier owes much to the union movement. Without it he would not now hold the office he does.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! I am having difficulty hearing the member on his feet, and he does not need any assistance from those on my left.

The Hon. T.J. STEPHENS: Thank you for that much needed protection, Mr Acting President. The Premier is, in fact, a wolf in sheep's clothing. Since the installation of this Premier and his government, he has acted like a sheep by pretending to be tough on crime, by chanting about economic management, and by occasionally picking fights with the legal profession to make up for the fact that he has not done much about the real criminals in the suburbs. But now the wolf is emerging. All the debts that the Premier and the government owe to the union movement have been called in. I wonder whether there are any members of the government who do not owe their current positions to the union movement, which gives you an indication of why the unions and the Labor government sound so alike in the discussions over this bill.

I often hear Labor members complain about the undue influence sectional interests play in politics, and this argument normally turns into a discussion about how the Liberal Party is beholden to business and that this is somehow different from the chaste Labor Party. The fact is that this bill is evidence of the undue influence that the union movement has on Labor governments. It is my understanding that the Labor Party is bound by the policy resolutions of its party delegates. The union movement directly controls exactly half the delegates at the ALP conferences and the other half are all members of the union movement—in fact, you cannot even attend unless you are a member of a union. So any Labor government is bound by the wishes of the unions. This regime is then imposed upon the 80 per cent of people who do not belong, and do not want to belong, to a union. How is that at all fair?

I am very pleased that the opposition's policy is to immediately repeal this bill in 2006 when we assume office as a result of this bill. I say that because at the moment there seems to be a lack of representation from the peak business groups who allegedly speak for the small businessman. I notice that many of the advertisements in the papers and the like say that the parliament is seeking to impose this legislation. Let me assure the council—

Members interjecting:

The ACTING PRESIDENT: Order! There are too many audible interjections. The Hon. Terry Stephens has the call and other contributions are out of order.

The Hon. T.J. STEPHENS: —and the community by saying that the parliament is divided on this issue. It is only the government that seeks to cripple business in such a way. The Liberal Party has opposed the bill from start to finish, and I hope that in future the advertisements accurately reflect the fact that it is the Labor Party and Premier Rann who have championed this garbage. It is with interest that I note that the bill identifies only two peak bodies: the United Trades and Labor Council and Business SA. It is little wonder business cannot tell where the bullets are coming from. I cannot support this bill.

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

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

A quorum having been formed:

JOINT COMMITTEE ON A CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

Adjourned debate on motion of Hon. J.M. Gazzola:

That the report of the joint committee be noted.

(Continued from 27 October. Page 363.)

The Hon. R.D. LAWSON: I rise to speak in favour of the motion moved by the Hon. John Gazzola, namely, that the report of the Joint Committee on a Code of Conduct for Members of Parliament be noted. The Hon. John Gazzola was the distinguished chair of the joint committee which was appointed pursuant to resolutions of both houses to inquire into the adoption of a code of conduct for members of parliament. I had the privilege to serve on that committee with the Hon. Nick Xenophon from this place; as well as the Hon. Bob Such, Ms Vicki Chapman and Mr John Rau, members of parliament in another place.

The committee met on 15 occasions and had detailed discussions on the subject matter of the report. It was noted in the report that most Australian parliaments have some form of code of conduct. It was noted also that the Legislative Review Committee of this parliament, in April 1996, published a discussion paper on the subject of a code of conduct for members of parliament. That reference to the Legislative Review Committee arose from a motion moved by the Hon. Chris Sumner, a former member of this parliament. I was presiding member of the Legislative Review Committee at the time of the publication of that discussion paper, and I think it is fair to say that, although members from all parties on the committee were relatively enthusiastic about the adoption of a code of conduct at that time, there was insufficient enthusiasm amongst other members of both houses.

This particular committee, however, has struggled with the notion of a code of conduct and ultimately decided that it was not appropriate to call any document on this topic a code of conduct. It is, in a sense, not a code at all as a code connotes the idea that a document represents a comprehensible and all-encompassing statement of the duties, responsibilities and obligations of members of parliament. The committee did not agree that it was appropriate to create the impression that any document produced by the parliament represents a compre-

hensive statement of all that a member must do or must not do.

Accordingly, the committee recommended the adoption of a statement of principles. The statement of principles, which appears as appendix B to the report of the committee, is a one-page document setting out a number of important matters which we believe it is appropriate to be recorded. I think it is worth reminding members in the political context that this motion had its genesis in an announcement and a press release of the current Premier, who was keen to create the impression that he led a government which was anxious to clean up the conduct of members of parliament.

I think it was at that time a singularly cynical public relations exercise on his part and on the part of the government and, when one looks at the performance of this government and some of its ministers, one would have to say that what began as a cynical exercise is looking a little politically hypocritical at this juncture. It is all very well to have high-sounding aspirations for us as members of parliament, but the government especially will be judged by its performance and what it actually does in relation to its duties rather than what it says it proposes to do or claims to be doing.

However, notwithstanding that fact, I do support the motion. There will be a motion subsequently that the statement of principles be adopted. In another place, Mr John Rau has moved for the adoption of the statement. The reason for my supporting this statement is that it does represent a fair statement of the aspirations of members of parliament and does not compromise their independence. I also believe that it is appropriate to have a statement of principles of this kind and that members of parliament submit themselves to the same discipline that they are inclined to impose on others. We as a community impose codes of conduct on ministers, on every level of the Public Service, on local government and, indeed, on many professions and trades in the community. Many activities are governed by codes of conduct. Why should we members of parliament be exempt from that discipline being imposed?

There will be some who say that a statement of principles of this kind is meaningless or toothless without sanctions being applied. However, sanctions are not an essential element of statements of ethical standards. The Ten Commandments should not be dismissed merely on the ground that there are not immediate remedies or sanctions proposed in them for not complying, for example, with the obligation to honour one's parents. No doubt in the Ten Commandments there was a heavenly sanction, but the fact that there was no immediate sanction did not mean that it was a worthless exercise to state the principles with which the deity, in that case, expected citizens to comply.

The committee in this case was guided not by much pressure from outside the parliament. Indeed, it was remarkable that few individuals or organisations chose to make any submission to the inquiry. Perhaps this is not surprising: perhaps it is a reflection of the cynicism that many people in the community hold in relation to members of parliament. However, because the route is now well trodden and because other parliaments have adopted similar statements, the committee was able to embark upon its task without reinventing the wheel. I do believe that we have many improvements on the language that has been adopted elsewhere.

I was pleased to see that the statement of principles adopted, and I certainly supported the adoption of, a statement that political parties and political activities are a part of the democratic process and that participation in political parties and political activities is within the legitimate activities of members of parliament. The reason why it is necessary to make that plain is that there are some who would say that a member of parliament is elected by a particular electorate or constituency and that the only obligation of the honourable member is to comply with the particular requests, desires or submissions that might emanate from that particular constituency.

Political reality is that, in our community, political parties play an important role in bringing together those who want to participate in the political process and we ought not to be ashamed of putting right at the front of our statement of principles a statement to that effect. It in no way denigrates those members who are independent or not affiliated with any particular political party, but it is an important recognition of something that too often is forgotten in our community.

There was some discussion about whether the statement of principles should include reference to all the laws that members of parliament are required to comply with, all the provisions of the criminal law, all the provisions of things such as privacy codes and the like, and it was decided that it was unnecessary to state those things. Members of parliament, like every other citizen, are obliged to comply with the general laws of the land and there is nothing to be gained by seeking to restate those matters in a statement of principles of this kind. There was also discussion—and there usually is in consideration of these questions—on the question of members of parliament so-called misusing parliamentary privilege, a much misunderstood concept. In the statement of principles adopted by the committee, the language is:

> Members of parliament should always be mindful of their responsibility to accord due respect to their right of freedom of speech within parliament and not to misuse this right, consciously avoiding undeserved harm to any individual.

That, I think, is a fair and proper statement. It does not seek to limit the right and, indeed, the obligation that members of parliament have to freely state before parliament their concerns, fears, facts, complaints and the like. We were anxious that that freedom is not inappropriately restricted. Accordingly, I indicate support for the motion to note the report. In the fullness of time, I hope that both houses will formally adopt the principles and that there will be a mechanism (as indeed is recommended in the report) for disseminating the statement of principles to the public.

The committee recommended that the statement of principles be incorporated into the education program for newly elected members of parliament, and that is a worthy initiative. When I joined this parliament (which is not all that long ago), there was no education program for newly elected members. It has been a good innovation that those who are inducted into this place, into either house, receive a degree of education. I believe the statement of principles will serve a useful, educative function in drawing to the attention of members at least the issues which ought be considered. I support the motion.

Motion carried.

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

GENETICALLY MODIFIED CROPS

A petition signed by 67 residents of South Australia, concerning the Genetically Modified Crops Management Act 2004 and praying that the council will amend the Genetically

Modified Crops Management Act 2004 to remove section 6 of that act, was presented by the Hon. Ian Gilfillan.

Petition received.

ABORTION

A petition signed by 216 residents of South Australia, concerning abortions in South Australia and praying that the council will do all in its power to ensure that abortions in South Australia continue to be safe, affordable, accessible and legal, was presented by the Hon. Sandra Kanck.

Petition received.

STATUTES AMENDMENT (RELATIONSHIPS) BILL

A petition signed by 158 residents of South Australia, concerning the Statutes Amendment (Relationships) Bill 2004 and praying that the council will not delay debate on the Statutes Amendment (Relationships) Bill 2004 by referring it to a parliamentary committee for another public inquiry, or, should it choose to do so, ensure that this inquiry is completed by March 2005 to enable sufficient time for debate on this important bill when parliament resumes, was presented by the Hon. Kate Reynolds.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the President—

District Council of Tatiara—Report, 2003-04.

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

Bio Innovation SA Financial Statements, 2003-04.

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

Reports, 2003-04—
- Adelaide Central Community Health Service.
- Eastern Eyre Health and Aged Care Inc.
- Gawler Health Service.
- Loxton Hospital Complex Incorporated.
- Mid North Regional Health Service Inc.
- Murray Bridge Soldiers' Memorial Hospital.
- Northern Adelaide Hills Health Service Inc.
- Public and Environmental Health Act.
- Renmark Paringa District Hospital Inc.
- Riverland Regional Health Service Inc.
- South Australian Soil Conservation Boards. (Ordered to be printed, Paper No. 126A)
- St. Margaret's Rehabilitation Hospital Incorporated.
- South Australian Youth Action Plan, Part 1—2005-10.

CITIZEN'S RIGHT OF REPLY

The PRESIDENT: I have to make a statement in respect of a matter that has been brought to my attention regarding the sessional order of 15 September concerning a citizen's right of reply. I received this information late last night and was made aware of it only this morning. The request is as follows:

Dear sir,

On 24 November, in the Question Time, three members of the Legislative Council (the Hons Redford, Lawson and Lucas respectively), asked questions of the Hon. T.G. Roberts (Minister for Correctional Services) under the topics of Parole Board and Political Appointments. I was named in those questions. The questions were about my appointment by the Minister, pursuant to the Correctional Services Act 1982, to the position of Deputy Presiding Member of the Parole Board of South Australia.

Certain inferences which inevitably follow from the questions asked about my appointment have a significant potential to not only adversely affect my reputation but to cause me injury in both my profession and as appointee to the position of Deputy Presiding Member of the board. The questions are also likely to undermine public confidence in the Parole Board. For that reason I ask that the attached response be incorporated in the *Hansard*.

I have studied the sessional order and I have had, as is required, some conferences with the members concerned. Following that it has been brought to my attention that there is not one clear day before the matter is tabled. It will be my intention to allow the statement to be incorporated in the *Hansard*, but that will not occur until the next day of sitting.

The Hon. R.I. Lucas: You haven't spoken to me.

The PRESIDENT: I sent correspondence to your office and I left messages with your office for you to come to see me.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: I have conferred with you. I have consulted with you.

The Hon. R.I. Lucas: You haven't conferred with me.

The PRESIDENT: The clarification needs to be put, I think. I said that I have had some preliminary conferences with the members concerned and I have accepted the point made by one of those members that there has not been a full clear day for the right of reply to be consulted with the members concerned. Because an objection has been raised, I am pointing out that I will not be allowing this matter to be printed until two months' time.

The Hon. R.D. LAWSON: On a point of clarification, Mr President; did I understand you correctly when you said that you have decided that the matter will be incorporated in *Hansard* when we resume after the expiration of one day? It is my understanding of the rule that you are required to confer with all members involved. I would submit that conferring with the members means having a discussion with them about the matter and all parties approaching those conferences with an open mind, not in the light of a decision already having been taken that something will be published.

The Hon. R.I. Lucas: Hear, hear!

The PRESIDENT: The level of consultation is not spelt out. The process of the citizens' right of reply should be treated as a shield for citizens, not as a sword for those who want to disagree with the point of view made by the person seeking to have his right of reply. No consultation takes place with the member so affected, and it is not my view that members' right to be consulted and to challenge should mean they have the right to vet or debate the issue. In fact, if one reads the rules with respect to this matter, there is to be no debate on the right of reply. So, as in all other cases, I have treated the matter seriously in what I believe was the spirit of the proposal in the first place, which was to give citizens who feel—whether they are right or wrong—that their reputation, integrity or professionalism has been tasked the right to request to put their point of view. I have considered that. I believe that was the intention of this parliament when it introduced this procedure in the form of a sessional standing order.

I believe that I have acted in the spirit and the letter of the procedure. I believe it is a course of natural justice and I think it would be wise of us all if, when confronted with these situations, we allow the intention of the resolution to take place. However, I take the point that one full day has not elapsed since this matter was brought to my attention, and I

shall consider whether further consultation or further advice is needed. I have provided to the three members concerned a copy of the letter from Mr Tim Bourne for their information, which, I understand, has not been done in the past. But, in the spirit of consultation and cooperation and in trying to provide natural justice for a citizen of South Australia, whether he be right or wrong, that is the decision that I have come to. The matter will not be laid on the table until the expiration of two months when we resume.

PRINTING COMMITTEE

The Hon. R.K. SNEATH: I bring up the first report of the committee and move:

That the report be adopted.

Motion carried.

SOUTH AUSTRALIAN SOIL CONSERVATION BOARD

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table the report of the board 1 July 2003 to 30 July 2004.

Report received and ordered to be printed.

BUSHFIRE ARSONISTS

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a ministerial statement relating to a reward to catch bushfire arsonists made today by the Premier.

UNEMPLOYMENT

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a ministerial statement relating to South Australian unemployment figures dropping below the national rate made today by the Premier.

VON EINEM, Mr B.S.

The Hon. T.G. ROBERTS (Minister for Correctional Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. T.G. ROBERTS: Yesterday, the opposition in both houses of parliament read out excerpts of a letter, allegedly written by an anonymous prisoner, which made a number of claims concerning Bevan Spencer von Einem, a prisoner at Yatala Labour Prison. This letter was released to the media as an unsigned, rewritten manuscript of the purported original before it was even raised with me as the minister. The claims in the letter are not only absurd but simply not true. As I told parliament yesterday afternoon, the Department for Correctional Services dealt with the matter of an unauthorised item of clothing (an apron) brought into the prison in October 2003. A prison officer was disciplined over that matter. Accusations of any special privileges being afforded this prisoner are wrong.

The opposition claimed yesterday that this prisoner can simply do as he pleases. That, too, is just wrong. Prisoner von Einem has been held in high security ever since he began his sentence at Yatala some 20 years ago. For a long time, he has been subjected to a very restricted regime. The baseless, unchecked claims raised by the opposition yesterday, and in the media today, were not just embarrassing for the Liberal Party but also showed a reckless and callous disregard for the relatives of victims.

Members interjecting:

The PRESIDENT: Order! I cannot hear the minister.

The Hon. T.G. ROBERTS: Thank you, Mr President. I ask honourable members opposite to consider the trauma these sorts of issues cause the victims' relatives when these matters are raised. I am more than willing to investigate any such claims brought to me privately if, in fact, the primary aim of the claims is to check their truth.

Members interjecting:

The Hon. T.G. ROBERTS: If you want to check the truth, ring them privately. Clearly, these claims were made in the way they were yesterday for cheap political purposes. Given that, I suggest the members—

Members interjecting:

The PRESIDENT: Order! Members on my left will come to order, and members on my right will also come to order.

The Hon. T.G. ROBERTS: I am more than willing to investigate any such claims brought to me privately if, in fact, the primary aim of the claims is to check their truth and validity. Clearly, these claims were made in the way they were yesterday for a cheap political purpose and, given that, I suggest that members opposite write to the relatives of victim and apologise for causing such unnecessary hurt.

QUESTION TIME

VON EINEM, Mr B.S.

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about Bevan Spencer von Einem.

Leave granted.

The Hon. R.D. LAWSON: Was the item of clothing which a prison officer took to Bevan Spencer von Einem the dress that the minister referred to yesterday, the apron that he informed *The Advertiser* was the subject, or the smock which the minister himself said this morning on ABC Radio was the item of clothing?

Members interjecting:

The PRESIDENT: Order! This matter could change the course of South Australian history!

The Hon. T.G. ROBERTS (Minister for Correctional Services): The question itself, as a part of a lot of other unsubstantiated claims, is not of importance. The importance is that there was an unauthorised item of clothing brought in.

An honourable member interjecting:

The Hon. T.G. ROBERTS: I am told that it was an apron.

An honourable member interjecting:

The Hon. T.G. ROBERTS: Well, being an uninformed male, perhaps I cannot tell the difference. I do not see the relevance of the question in relation to the seriousness of the matter.

INTERNATIONAL FINANCIAL REPORTING STANDARDS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the minister representing the Treasurer a question about International Financial Reporting Standards.

Leave granted.

The Hon. R.I. LUCAS: Australia is adopting International Financial Reporting Standards (IFRS) for reporting periods commencing on or after 1 January 2005. The Australian IFRS must be applied for reporting periods beginning on or after 1 January 2005. There is, however, an additional requirement that comparative figures for reporting periods beginning on or after 1 January 2004 must also be based on IFRS. For agencies with financial years ending on 30 June, this means that these accounting standards will be applied from 1 July 2005. However, in the financial statements for the year 2005-06 the agency must also present comparative figures based on those accounting standards for the financial year 2004-05.

In the discussions that the opposition has had with persons expert in this area, and also some contacts within Treasury, we have been advised that South Australia's preparation for the implementation of the international accounting standards trails significantly behind other states. When one looks at the state Treasury web site in South Australia, and other web sites in other states, there is a significant degree of more information provided by the other state treasuries. For example, other state treasuries are providing implementation training and workshops with a considerable level of detail for departments and agencies, including standard IFRS implementation methodology and guides, issue management systems, reporting tools, checklists and templates for following by agencies, and online IFRS information forums that allow government agencies to share information with each other.

Our review of the South Australian web site, as I said, only recently had brief reference to the posting of six draft accounting policy framework statements which, as I said, are still in draft form. As I said, they are still in draft form, and agencies have until 16 December to provide comment before some final decision is taken in relation to them. The opposition has been advised that there has been no implementation or rollout plan developed with time lines and no evidence to suggest that there will be a consistent rollout of these accounting standards across departments and agencies. My questions are:

1. Does the Treasurer concede that the level of preparation in South Australia for the implementation of these standards trails significantly the level of preparation in most other states of Australia?

2. Will the Treasurer assure the parliament that all government departments and agencies will be appropriately trained and prepared so that all budget papers and accounts for 2005-06 will be prepared in strict accordance with the new international guidelines?

3. Will the Treasurer outline what he proposes in relation to monitoring and keeping track of how agencies are progressing with the implementation of these guidelines, and what formal reporting mechanisms does he already have in place in relation to a monitoring program to ensure that the agencies meet the particular strict financial and accounting requirements?

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

OUTER HARBOR

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about the Outer Harbor development.

Leave granted.

The Hon. CAROLINE SCHAEFER: In his press release of 24 November, the minister confirmed that the completion date for the state's Outer Harbor development has been delayed by a further 12 months and is not due to be operational until at least late 2007. My questions to the minister are:

1. Will he confirm that this delay will result in Outer Harbor falling behind the Port Melbourne development, thereby costing South Australia millions of dollars in outward freight?

2. Will he further confirm that a levy will be charged on those using the facilities to pay for an opening bridge?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The shadow minister for primary industries is obviously referring to an article that was in today's *Stock Journal*. Sadly, the objectivity of that publication sometimes leaves a lot to be desired. I certainly made a statement a couple of weeks ago that indicated that the completion date for the Port Adelaide development was the early part of 2007. I think they are the words I used. It is not correct to suggest that there is a 12 months delay. If the honourable member reads page three of today's *Stock Journal*, she will see that that part of it refers to what the department of trade and industry confirms—that is, that the rail bridge will be completed by late 2006 to coincide with the opening of the grain terminal, and the road bridge will be completed in the first part of 2007. As I understand it, that is the latest information but, obviously, that is a matter for my colleague the Minister for Infrastructure, and I will get that information and the answer to the other question about levies from him. I will refer the question to the minister in another place.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. Does the minister agree that 2007, whether early or late, is, indeed, after the time when the Port Melbourne development will be opened, which is 2006?

The Hon. P. HOLLOWAY: I do not know what time Port Melbourne is being—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No, I do not. Does the Leader of the Opposition know when Port Melbourne is being opened? I have not seen the latest report and I am not responsible for what happens in the Victorian government. I have no idea what the latest is.

The Hon. A.J. Redford: You should keep an eye on the competition.

The Hon. P. HOLLOWAY: It is not actually my portfolio, Angus. As I have just indicated, my understanding is that the rail bridge, or the rail part of it, which is after all how most of the grain will go to the port, will be completed by the end of 2006. Perhaps the more important point to make is that, under this government, we have proceeded with that plan to develop the port. We have given a commitment to it.

Members interjecting:

The Hon. P. HOLLOWAY: How long does it take? My understanding is that part of the reason has been that, because of the recent federal election, there have been some delays in the negotiation with the commonwealth government over the funding for it. Members opposite should well know that the commonwealth government in its original transport plan did not have any funding whatsoever for the projects, and there have been negotiations with the commonwealth government. It is my understanding that the reason, essentially, is that it

has been delayed for several months because of the federal election. I will have that confirmed by the Minister for Infrastructure, who has been negotiating, but that is my understanding. If there is any delay, that has been the reason for it. It has been out of the hands of the government.

WILSON, JOY

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about initiatives by the Department of Correctional Services.

Leave granted.

The Hon. J. GAZZOLA: Joy Wilson, 'Aunty Joy', passed away on 16 August 2004. She was widely recognised as an outstanding advocate for Aboriginal and non-Aboriginal offenders. Among her many volunteer activities, Joy dedicated many unpaid hours to helping unemployed youth in the Salisbury area, assisting students with personal difficulties that may have impeded their progress through TAFE training courses at the Salisbury campus. In recognition of her work, I understand that the staff and Aboriginal prisoners of Port Augusta Prison have proposed that the visitor centre at Port Augusta Prison be named in her honour and that a Joy Wilson training prize be established. Can the minister provide the chamber with details about this splendid initiative?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Joy Wilson passed away on 16 August 2004 and, like many Aboriginal people, died quite young, in relative terms. She would have been in her early to mid-fifties. As the Hon. Angus Redford would know, Joy was from a family of Wilsons in the Millicent area. She grew up locally, moved to Adelaide to help with correctional services and worked with correctional services for a long time. She worked trying to rehabilitate alcohol and drug-affected Aboriginal women, and had a lot of support and recognition within her community. She was available to all those who needed her help, and her work with Aboriginal youth in the streets of Adelaide in the 1980s and her efforts as one of the original members of the Youth Support Group, when it was established in 1988, are widely acknowledged.

For Aboriginal people, it is not just a matter of a career path or a job; it is total dedication 24 hours a day, seven days a week. In 1999 Joy was awarded a commendation from the Premier in the Australia Day awards. In 2003 she was awarded the Aboriginal and Torres Strait Islanders Mrs NAIDOC of the Year award for outstanding commitment and achievement to the betterment of Aboriginal people. In 2004 she was nominated by her peers and selected by the Department of Correctional Services' Aboriginal Services Unit for a special departmental award for her lifetime commitment to Aboriginal people in the criminal justice system.

In recognition of the outstanding work Joy undertook with Aboriginal and non-Aboriginal prisoners in South Australia, the visitor centre at Port Augusta Prison will now be named the Joy Wilson Memorial Visitor Centre. A formal opening ceremony is scheduled for February 2005. The Department for Correctional Services has also decided to establish a training scholarship, which will be referred to as the Joy Wilson Training Prize. The annual scholarship will enable Aboriginal staff who have demonstrated outstanding achievements in working with offenders/prisoners and who are employed by the Department for Correctional Services the opportunity to undertake specialised training.

Aunty Joy was an inspiration to us all, and I support the department's endeavours to respect and remember her lifelong achievements in assisting all those who needed her. Joy belonged to a circle of friends with whom I grew up, and she was a pleasure to know. The whole family is a model in the South-East, and she still has sisters and a brother, as well as her mother, living in Millicent.

FOSTER CARERS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Families and Communities, a question about foster carers of children with special needs.

Leave granted.

The Hon. KATE REYNOLDS: I received a copy of a letter from independent foster carer advocate Nina Weston earlier this week. It was sent to the minister and it outlines concerns in relation to special needs training and support for foster carers. Ms Weston's letter raises issues about the Statewide Disability Support Service, which the minister has previously described as linking carers with required disability services. This service seems to have disappeared after tenders were called and received, and Anglicare, which previously held the contract, was not successful in winning the tender. Foster carers are unsure as to who is now responsible for providing this service. It was at first believed to have become the responsibility of the Exceptional Needs Service in the DHS and then passed on to IDSC. What we do know now is that the service is no longer being provided to foster carers.

Ms Weston is concerned that the minister has not consulted with the foster carers who used and benefited from the Statewide Disability Support Service provided by Anglicare and who found it to be an 'effective way of meeting their needs'. Ms Weston has spoken to several foster carers who care for children with special needs, and they are very concerned about the loss of the Statewide Disability Support Service. In fact, one carer was clearly devastated about what has happened and said that she and many other carers who access the service felt 'severely let down' and that they had 'lost their lifeline and the ones who understood the special needs of our children'.

It was not just referral to other specialist services and training and education that carers accessed from this service: it was the unique and important, valued and specialised professional support that was provided by the workers, and the connections and bonds that were formed between foster carers who attended training, social gatherings and special purpose events with people facing similar challenges. Apparently, these carers have been left with no service at all for the past five months.

I remind members that these are people who provide care and support to some of the most vulnerable and most difficult to care for children in this state and feature repeatedly in recommendations in the Layton report, which the government has now had for nearly two years. The recently released Keeping Them Safe booklet says that the government will give foster carers the support they require to meet the needs of the children in their care. So, my questions are:

1. Can the minister outline what that support will comprise for carers of special needs children, and when will it be available?

2. Will the minister detail the consultation that took place with foster carers of children with special needs?

3. Will the minister explain why one of the best support services for foster carers of children with special needs disappeared either during or shortly after the tender process?

4. Will the minister act immediately to have the service reinstated, preferably with Anglicare, as a matter of urgency so that it can continue to support the minister's own children?

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

VON EINEM, Mr B.S.

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question on the subject of Bevan Spencer von Einem.

Leave granted.

The Hon. R.D. LAWSON: On ABC Radio this morning, the presenter Matt Abraham said in relation to von Einem, 'Sounds like he's having a reasonable time, doesn't it?' The minister responded, 'We're not into punitive issues at the moment in prisons.' Later on Radio 5DN, the respected presenter Ray Fewings, at 11.26 a.m., said:

> Mr Roberts says there is nothing going on in gaol, there is no favourable treatment going on in gaol. A prison guard has just rung off air. He did not want to be identified. . . he's told my producer, and I swear to you this is true, he's told my producer that some prisoners are getting privileges within gaol. He says it is rife, it's done to keep the peace and if the minister is going to look into the von Einem situation he needs to look at the whole prison system. The staff are unhappy about it, they're aghast but they know that if they speak out they will be offending and they simply don't want to rock the boat.

In light of Mr Fewings' presentation—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.D. LAWSON: In light of Mr Fewings' announcement, does the minister stand by his statement that no prisoners in South Australia are receiving privileged treatment?

The Hon. P. Holloway: Yesterday it was a crim; today it is Ray Fewings. You have some great sources of information!

The Hon. R.D. LAWSON: I will put that on the record. Mr Fewings will be very happy to hear—

Members interjecting:

The PRESIDENT: Order! Members on both sides of the chamber will come to order.

The Hon. R.D. LAWSON: Secondly, will the minister refuse to investigate the issues raised by Mr Fewings in the same way he has refused to examine the situation in relation to Bevan Spencer von Einem? Thirdly, does he adhere to his statement that we are not into punitive issues in our prisons?

Members interjecting:

The PRESIDENT: Order! Whilst the question was not heard in absolute silence on both sides of the council, I think the answer ought to be.

The Hon. J.S.L. Dawkins: The leader of the house, particularly.

The PRESIDENT: You were both guilty on the last occasion. This time no-one will be. That includes you, Mr Sneath.

The Hon. T.G. ROBERTS (Minister for Correctional Services): The point I was making was that prison itself is punishment enough, particularly the taking away of someone's freedom, and, in the case of Bevan Spencer von Einem, for 20 years plus. There is a view that we should model our prisons on the Thai system. However, given the size of the state of South Australia and the type of prisons that we run and control, I think the prison officers do quite a good job under difficult circumstances. I think those responsible for prison management do a very good job managing the bricks and mortar and the programs run in prison. We are trying to run rehabilitation programs, which are sorely needed and which have been neglected over the years.

As to the questions that were put by Ray Fewings to me in the lead-up to the interview, I would not engage in any discussion with him on those issues because they are unsubstantiated. They were accusations and they were conspiratorial in nature. What I did say I would do was to get the transcript of the questions that were posed by his various listeners and get prison officers and prison management to look at those questions to make sure that there were replies at some point, but not by me. I am not going to answer every unsubstantiated question, every innuendo, unsigned letters, anonymous callers on talkback radio or shock jocks.

But, if members opposite want to deal in a constructive way with problems within our prisons, I am prepared to deal, as the Hon. Angus Redford did, and as I did in opposition. The situation is that, if there are any sensitive issues that need to be handled away from the glare of publicity, I think that is the way to do it. If, in fact, the opposition does not get satisfaction by taking up issues in that way, by all means use the publicity of the shock jocks and talkback radio to get the points across that they want. However, I would not call the dialogue that we have had in the last couple of days over a number of issues constructive. I thank the Hon. Angus Redford for the way he has gone about his work in visiting prisons, familiarising himself with the issues and asking difficult questions of our prison management. I hope that in future they will be handled more constructively.

The Hon. G.E. Gago interjecting:

The Hon. A.J. REDFORD: I have a supplementary question arising out of the answer. People other than prisoners talk to me, acknowledging the Hon. Gail Gago's interjection. Did the minister make any allegations about Wendy Utting to the manager of Ray Fewings' program this morning?

The Hon. T.G. ROBERTS: No.

The Hon. R.D. LAWSON: I have a supplementary question arising out of the answer. Did any member of the minister's staff or with the minister's knowledge or approval make any disparaging remarks about Ms Utting to Ray Fewings' presenter this morning?

The Hon. T.G. ROBERTS: No; not that I know of.

HOME VISITS PROGRAM

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, questions about the government's home visits scheme.

Leave granted.

The Hon. A.L. EVANS: On 30 October 2004 *The Advertiser* reported on a home visit program that has been operating for the past 12 months. It was reported that under the scheme almost every newborn is visited within two weeks of going home.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.L. EVANS: The aim of the program is twofold. Firstly, the program aims to support families, especially new mums, at a time that is both exciting and daunting. Secondly, the program aims to detect any other medical, social or psychological problems. I note that in the article a spokesman for Child and Youth Health Services said that there are enormous long-term benefits from close monitoring of new parents and young children, as such children are less likely to have problems in future years with schooling. Consequently, these children have greater chances of getting a job. My questions are:

1. Will the minister advise whether the government has had discussions about increasing the number of community nurses employed in the program? If so, how many?

2. Will the minister advise how long funding for the program has been secured for? If so, how long?

3. Will the minister provide details concerning the average visiting time to young mothers in rural and remote areas, including Aboriginal communities?

4. Will the minister make sure that the Hon. Angus Redford's new baby has a visit in the near future? Congratulations, Angus.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I know that the CAFS visits and the support that is provided to the regional communities are part of bipartisan programs which have run for years in South Australia, which are very successful and which are much appreciated, particularly in regional areas, as well as the metropolitan area. I know the government is extending the early support services, as the honourable member has indicated, and I note that he appreciates, as we do, the early intervention to pick up the difficult problems that many of the less privileged people in our community have in just managing with the birth of a newborn into a family circumstance.

Problems are not restricted to class, and people who are more fortunate than others also experience many problems with babies who are born early. These are picked up by early intervention, and that is where I think the targeted support programs have been successful in the past and will be in the future. I will refer those questions to the relevant minister in the other place and bring back a reply.

OFFICE OF THE UPPER SPENCER GULF, FLINDERS RANGES AND OUTBACK

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, a question about the Office of the Upper Spencer Gulf, Flinders Ranges and the Outback.

Leave granted.

The Hon. D.W. RIDGWAY: In September 2003, I asked a question of the Premier about the role and function of and the number of employees in this regional ministerial office. Many months later, I received an answer which, in part, stated:

> There are currently two employees, apart from the Manager, who work within the structure of the Office of the Upper Spencer Gulf, Flinders Ranges and Outback.

The letter then spoke about an administrative officer, their classification of ASO202 and the range of roles and activities that person might undertake. Some of them of particular note are, as follows:

- undertaking relevant purchasing activities;
- arranging venues, accommodation and associated resources for office staff attending meetings and/or conferences, including travel arrangements.

It further states that the person's role includes:

> . . . arranging intrastate, interstate and overseas travel itineraries and associated hospitality services for office staff.

I asked very similar questions in June 2004. However, I guess that the Premier has been far too busy with the media and text messaging to answer them, so I put them again on the record, as follows:

1. Which person or persons from the office staff (given that, in the answer I was given, there are only two office staff and a manager) of the Office of the Upper Spencer Gulf, Flinders Ranges and the Outback travels interstate or overseas?

2. What is the purpose of this travel?

3. Is the travel funded by the government and, if so, by which department or agency?

4. Will the minister define 'hospitality services'?

5. What are the opening hours of the office?

6. Who is the manager of the Office of the Upper Spencer Gulf, Flinders Ranges and the Outback, and what is their role?

7. What is the salary of the manager of the office, and do they have the use of a government-plated vehicle at his or her discretion?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am delighted that the Hon. Mr Ridgway shows such great interest in the services this government provides in regional areas. I will refer those questions to the Premier and bring back a reply.

Members interjecting:

The PRESIDENT: Order! If the Hon. Mr Ridgway wants to have a crack at something, he might reduce the number of questions he asks. There is a standard. If the minister were to try to answer all those questions, he would have no hope. When members seek leave to make a brief explanation before asking a question, they have a responsibility to do just that.

RADIO FREQUENCY IDENTIFICATION

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

Leave granted.

The Hon. CARMEL ZOLLO: Radio frequency identification is the fastest growing technology in the automatic data collection industry. It is being considered for use by some Australian companies, mainly in order to track goods through their supply chain. My question to the minister is: what are the potential benefits of the use of this technology?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): As the honourable member says, radio frequency identification (RFID) is becoming the fastest growing technology in the automatic data collection industry. This morning I opened a Department of Trade and Economic Development supply chain and logistics conference on the subject of radio frequency identification. This conference was actually the 11th event in a series that the Department of Trade and Economic Development ran in 2004, all of which, I am pleased to say, have been very well attended. Conferences such as this are very important; they provide the opportunity for potential users to hear about the latest developments and how they can be utilised. Today's conference, for example, would have been of interest to

manufacturers, large retailers and warehousing distribution logistics providers who want to keep up with the latest technology.

It is claimed that using RFID in the supply chain will streamline inventory management and improve market control by allowing for the more efficient tracking of products. Some of the supply chain benefits that can potentially be achieved are: reducing out-of-stocks; reducing inventory; speeding up delivery; checking freshness; tracking and tracing products; producing to demand; identifying counterfeiting, in drugs, for example; and it even has uses in theft prediction. Increased profitability would be expected to result. Naturally, benefits to consumers would also potentially flow out of this. There is the potential to make goods cheaper by improving efficiencies in the supply chains and, as a result, passing savings on to the consumer.

In some European jurisdictions so-called paddock to supermarket facilities are also being investigated as a means of dealing with public health concerns arising from animal disease outbreaks. The environment can also benefit from this, as it has the potential to assist with product recycling and waste management by correctly sorting discarded items through RFID tags, and allocating the cost of disposal to the original producer or supplier. Some Australian companies are already utilising RFID systems to track goods through their supply chain. While the adoption of this technology into the mainstream of the supply chain appears to be inevitable, there are still many issues to be dealt with before it comes into general use.

A key to the success to be achieved with RFID is clever implementation, knowing the capabilities and limitations of the technology, and making the best fit of these capabilities within an operation. RFID tags have great potential: they can help companies greatly improve the way they manage the supply of the products and so save consumers considerable money, but they also have the potential to invade personal privacy if wrongly deployed. The introduction of RFID in some overseas markets has been a lesson in how not to introduce such technology. Ignorance of consumer issues has seen some companies face a consumer backlash. Companies need to take special care about what the consumer wants. For example, you could have the situation where a person purchased something in the shop that may use RFID, and the technology could not only track what they are buying but it is also potentially able to track them from shop to shop.

I understand that EAN Australia and the Australian Retailers' Association have established the world's first code of practice for the use of radio frequency identification in the retail environment. This is an excellent start, but we also need to ensure that consumers are aware of the issues up front. Organisations that want to use these types of technology need to make sure that they are telling the consumer that they are using it and what they are going to do with it. Designers and users of RFID tags risk alienating customers if they do not take these privacy principles seriously. I was pleased to see an impressive list of speakers at today's RFID conference and that, throughout today, they will be addressing many of these important and sometimes delicate issues. One of those speakers is Professor Peter Cole from the University of Adelaide who, apart from being a former lecturer of mine in electronic engineering, is also the Professor of RFID systems.

This morning at the conference it was also my pleasure to assist the Vice-Chancellor of the University of Adelaide, Professor James McWha, in opening the RFID Automation. The introduction of RFID needs careful and considered discussion to ensure that we do get it right from the start. It is certainly a technology with a great deal of potential if used wisely. It is for that reason that the Department of Trade and Economic Development, through its supply chain logistics conferences, is intending to ensure that supply and logistics chain managers and CEOs of transport and other companies are kept fully informed of the issues involved with this new technology.

WESTERN MINING CORPORATION

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question concerning the transportation of uranium ore in South Australia.

Leave granted.

The Hon. SANDRA KANCK: WMC Resources has announced that it will approach the Rann government for permission to truck uranium from its Olympic Dam mine to Adelaide to be loaded on Adelaide-to-Darwin freight trains at Islington in Adelaide's inner northern suburbs. In November 2000 I asked the then minister for transport (Diana Laidlaw) to initiate a feasibility study of building a spur line from the Olympic Dam mine to Pimba to connect with the existing rail network. The minister indicated that WMC had reviewed constructing such a line but it was not considered economically feasible at that time.

Circumstances have changed considerably since that answer was given. The Adelaide to Darwin line has been completed, and WMC has identified a 29 per cent increase in the known mineral resource for Olympic Dam and is investigating a massive increase in the productive capacity of the mine, which would mean more trucks coming into Adelaide. This could see current production rise from 235 000 tonnes per annum to 500 000 tonnes per annum as part of a $4 billion investment. The economics of constructing the line must also have shifted markedly, as have the risks associated with trucking the ore through metropolitan Adelaide. My questions to the minister are:

1. How many trucks of Olympic Dam ore travel through metropolitan Adelaide each month?

2. Will the minister initiate a feasibility study of constructing a rail line between Olympic Dam and Pimba, including an analysis of greenhouse gas savings able to be made by not trucking the ore down to Adelaide?

3. If no, how does the minister reconcile her refusal to investigate a proposal that will eliminate the transport of radioactive ore through suburban Adelaide with her opposition to the location of a national low-level radioactive waste facility in the north of South Australia?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Western Mining Corporation has approached the government in relation to conducting a three month trial of the shipment of uranium oxide concentrate through the port of Darwin. Of course, uranium is already exported through the port of Darwin from the mine in the Northern Territory. The reason they are doing that, as I understand it, is that there are issues in relation to shipping availability. But, also, it needs to be understood that rail is inherently about five times less risky than road transport, so it would therefore make sense to use rail for the transport of all hazardous goods. Let me point out at this stage that, while uranium oxide concentrate is a hazardous good, it is important to ensure that it is properly tracked by the Australian Safeguards and Non-proliferation (ASNO) office requirements. Nevertheless, it

would be considerably less hazardous than many other materials that are driven around the streets of Adelaide every day. A fully laden petrol tanker, for example, would arguably represent a much greater danger to the public than would a container full of yellow cake.

The honourable member has asked me how many trucks are used, and I will see whether that information is available. I do know that uranium oxide concentrate has been trucked through the port of Adelaide now for something like 15 years or more, and there has not been an incident during that time. In relation to the second part of the honourable member's question, the export of uranium oxide concentrate, as has been taking place in this state for 15 years or more, is really quite different from the issue of the importation of hazardous waste—radioactive or other—into this state.

This government's position has always been that we are prepared to deal with the nuclear waste generated within this state, for example, through things such as smoke detectors and radioactive materials that come from the nuclear medicine industry. As a state we are prepared to dispose of those items within this state. However, this government has expressed the view, unlike some opposite, that we should not be the repository for the waste of other states; that they should be responsible for their own waste. I do not really see the connection with the export of uranium oxide concentrate. After all, those countries that import uranium oxide concentrate take responsibility for that uranium through the supply chain. That is monitored through the National Safeguards Office by the commonwealth government. I believe that adequately answers the questions asked by the honourable member. If she has any further questions, I am sure she will ask them.

ROYAL FLYING DOCTOR SERVICE

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Leader of the Government, representing the Premier, a question about the Royal Flying Doctor Service.

Leave granted.

The Hon. A.J. REDFORD: Recently, I was approached by well-respected members of the community regarding governance and other issues concerning the Royal Flying Doctor Service. It is clear that the relationship between the board, management, staff and stakeholders is now bordering on acrimonious, and I will give some examples. First, the recent board elections were conducted in a manner that has left a nasty taste in the mouths of many stakeholders. Briefly, during the recent board elections the board called an unprecedented and unscheduled board meeting in which further members were admitted.

Names or numbers of those members were not actually supplied at that board meeting. It turns out that some 280 members were admitted, previously unheard of in those parts. All those new members were eligible to vote or give a proxy to the chair in the forthcoming elections, and I am told that most of them did the latter. A second example is a letter from the Royal Flying Doctor Service to all members, dated 23 November 2004. That letter makes a number of assertions, which I quote as follows:

> In South Australia, given the continued increasing demands that were being placed on our resources without commensurate increases in our financial resources, various submissions were made to the state government with regard to our impending predicament. The government rejected our funding requests, necessitating the need to find internal efficiencies. . . Whilst we have already received additional commonwealth funding to support us, we are awaiting advice from the state government with regard to further funding submissions whilst we look forward to the publicly stated support from the Port Augusta Council with regard to our new infrastructure in that city.
>
> Unfortunately, since early in the year rumours were articulated and gathered momentum suggesting that the RFDS was going to close its Port Augusta base. This position was never considered an option by the board. . . Despite this outcome, over the past few months a group calling themselves Friends and Supporters of the RFDS have sought to undermine the board and management, and in doing this the organisation has suffered greatly. . . The validity and conduct of the election process was called into question by 19 of our members who issued a Requisition for a Special General Meeting to the board, which was received at the RFDS office in Adelaide on 10 November 2004.
>
> The requisition also referred to alleged voting irregularities and the admission of members at a board meeting on 6 October 2004. . . On the basis of legal advice received, the board considers that the requisition is legally bad (or improper) and, even if the Special General Meeting was otherwise convened by the board, it could not properly deal with the business specified in the Requisition.

In other words, they refused to call a meeting, despite a requisition by members. The letter also states:

> The board remains steadfast in its commitment to the RFDS. The continued denigration of the RFDS cannot and will not be tolerated any longer. Continued abuse or misuse of the services' name (and its associated goodwill) may necessitate legal action being taken for the financial damage caused.

I know some of the people involved in this whole issue, and they are people of goodwill, with good records in their community of service to the Royal Flying Doctor Service and to other organisations.

It is particularly concerning to see that well respected people such as medical practitioner and former board member for 25 years Dr Vincent O'Brien was so frustrated that he had, in his mind, no alternative but to approach me so that I could raise the issue in this place. It is also concerning to see longstanding, highly regarded board members, such as local magistrate Mr Clive Kitchen resigning. I understand that he resigned last week. My questions are:

1. Given the very substantial sum of South Australian taxpayers' funds involved, is the Premier concerned about the enormous damage being done to the reputation of the RFDS following allegations on ABC Radio and in the local media concerning alleged improper and oppressive behaviour by the incumbent board and CEO at the recent board elections?

2. Will the Premier undertake to investigate these allegations as a matter of urgency so that people of the Far North, and indeed the rest of this state, can have their faith restored in the service that has served them so well for so many years?

3. Does the Premier think it is appropriate for a taxpayer-funded body to issue general threats of legal action against critics?

4. Does the Premier acknowledge that the catalyst for these problems has been the state government's rejection of funding requests necessitating the need to fund internal efficiencies?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the relevant minister and bring back a reply.

INDIGENOUS MINING VENTURE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development questions about indigenous mining contractors.

Leave granted.

The Hon. J.S.L. DAWKINS: A newly formed private indigenous mining contracting company know as Walga is based near Port Pirie, as you, sir, may well know, and it contracts itself to OneSteel at the Iron Duke Mine near Whyalla. Employing eight indigenous people, the company has started its operations by subcontracting services for the loading of material into a hopper. Walga is now negotiating for training programs so that it can support its employees to pursue professional mining jobs. My questions are:

1. What contact, if any, has the PIRSA Mineral Resources Group had with Walga?

2. Will the minister or the Mineral Resources Group assist the company in negotiating with relevant agencies to provide training programs for its employees in the mining sector?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): The Department of Primary Industries and Resources has been particularly keen to develop indigenous involvement within the mining industry. Indeed, under the PACE initiative, a significant amount of money is being provided, in particular, for work in the APY lands in relation to training for indigenous people within the mining industry. As I have informed the council on previous occasions, the Department of Primary Industries and Resources has encouraged and supported indigenous leaders to investigate what happens in other parts of Australia, particularly in the Pilbara and Kimberley regions in Western Australia, as well as in the Northern Territory, to see how indigenous people have been involved in those operations and to see what benefit it is for indigenous communities.

From my discussions with Jim White from OneSteel, I am certainly aware that OneSteel has taken the initiative in relation to supporting indigenous employment through the contracting to which the honourable member referred. I will have to take on notice specifically the involvement the Department of Primary Industries and Resources has, if any, with this company. However, I can say that this company's involvement certainly fits in very well with the approach that is taken by my department and I am sure by my colleague the Minister for Aboriginal Affairs and Reconciliation.

Obviously, the more indigenous communities we can get involved by setting up their own contracting companies, the better, because it is an excellent way in which they can share in the wealth that is generated by mining activity. So I welcome the further development of this, as indeed has been the case in some other states. We are encouraging not just OneSteel but many other companies—all other mining companies—to increase the involvement of indigenous communities to share in the benefit of the mining industry, either directly through providing employment in the industry or through the involvement of indigenous companies in that activity.

As I say, some general funds are provided under the PACE program to assist training programs of indigenous people. I am not sure whether this particular company has either applied or is eligible for that, but I will have that investigated and bring back a response for the honourable member.

LAND TAX

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question regarding land tax.

Leave granted.

The Hon. T.J. STEPHENS: Earlier this week, in answer to a question I asked him on land tax, the minister stated that any additional land tax, regardless of percentages, would be far less than the increase in the value of the property over that year. My questions are:

1. Is the minister suggesting that, in order to pay their land tax bill, people should have to sell their properties?

2. Is the minister suggesting speculative selling, therefore contradicting the reason land tax was introduced?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The question that the Hon. Terry Stephens and other members of the opposition have to ask is: if they do not believe windfall gains should be taxed, how else do they believe that the operations of the state should be funded? Alternatively, whose services are they proposing should be cut to fund state operations?

The Hon. T.J. STEPHENS: I have a supplementary question arising from the answer. Has the minister ever tried to spend a capital gain that has not been cashed?

The Hon. R.K. Sneath: Borrow on it and spend it.

The Hon. P. HOLLOWAY: I will just recognise the interjection of the Hon. Bob Sneath. The commonwealth government requires that through Centrelink.

The Hon. J.F. STEFANI: I seek leave to make—

Members interjecting:

The PRESIDENT: Order! Mr Stefani has the call and I cannot hear him.

The Hon. J.F. STEFANI: —a brief explanation before asking the Minister for Industry and Trade, representing the Treasurer, a question regarding land tax charges.

Leave granted.

The Hon. J.F. STEFANI: On 25 June 2004 I asked a series of questions regarding the collection of land tax by the state government since 2002. In a reply provided to me by the Treasurer, it seems that private taxpayers have been charged a massive increase in land tax over two years. By way of example, the total amount collected from private taxpayers for the year 2001-02 was $76.1 million whilst the amount collected for 2002-03 was $90.7 million. In the year 2003-04, the Treasurer estimated that the government would be collecting $121.7 million. These figures represent an increase in land tax collection of 59.92 per cent over a two-year period. In his reply to my question, the Treasurer also confirmed that government entities were responsible for paying land tax, and the amount collected was as follows: for the year 2001-02, $63.8 million; 2002-03, $66.7 million—

Members interjecting:

The PRESIDENT: Order! There is too much interjection across the chamber. The honourable member is doing his best to ask his question, and he deserves to be heard.

The Hon. J.F. STEFANI: Thank you for your protection, sir. It continues: in 2002-03, $66.7 million; and in 2003-04, $81.3 million, which represents an increase of 27.42 per cent over a two-year period. In view of the differences in the amount of land tax collected between private land tax payers and the government entities, my questions are:

1. Will the Treasurer confirm the total amount of land tax collected from private taxpayers for the year ended 30 June 2004?

2. Will the Treasurer provide details of the total land tax charged to private taxpayers on residential properties for 2001-02, 2002-03, 2003-04, and will he provide details of the

total site valuations of the private residential properties upon which land tax was charged for each of those years?

3. Will the Treasurer provide details of the total land tax charged to private taxpayers on commercial properties for 2001-02, 2002-03, 2003-04, and also provide details of the total site valuations of the private commercial properties upon which land tax was charged for each of those years?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Treasurer, but I would have thought the latter question is an incredibly onerous task given that there are literally hundreds of thousands of properties to which those figures might apply. I will refer the question to the Treasurer and see what information he can provide.

VON EINEM, Mr B.S.

The Hon. R.D. LAWSON: I seek leave to make a personal explanation.

Leave granted.

The Hon. R.D. LAWSON: In a ministerial statement given by the Minister for Correctional Services today in relation to the matter of von Einem, the minister said, 'I suggest that members opposite should write to the families of victims and apologise for causing such unnecessary hurt.' I wish to inform the council that prior to raising this matter yesterday in parliament the families of victims were consulted and advised, and any ire they may have in relation to this matter having been raised will not be directed at the opposition.

The Hon. R.I. Lucas: Scrambled or poached on your face, Tel?

The PRESIDENT: Order! When the honourable member rises to make a personal explanation he should refrain from using the term 'we on this side of the council', because then it is not personal.

TEACHERS REGISTRATION AND STANDARDS BILL

In committee.

(Continued from page 839.)

Clause 1.

The Hon. R.I. LUCAS: I am in the minister's hands: does he intend to reply to my questions as we deal with each individual clause of the bill, or does he intend to make an opening statement on clause 1?

The Hon. T.G. ROBERTS: I think that the best way to proceed is to ask questions on each clause as we proceed. I have an answer to a question asked earlier relating to the number of special authorities granted in 2004. Some of those figures will have to be supplied after the bill has been debated in this place. However, I am advised that the board has granted authorities to TAFE lecturers and music teachers in rural schools, for example, who do not meet the educational qualifications required for registration, where they could not recruit a teacher in a particular curriculum area, so they must have been required urgently.

The Hon. R.I. Lucas: How many?

The Hon. T.G. ROBERTS: The figures have not yet been collected, but they will be supplied as we progress. If that is not acceptable—

The Hon. R.I. Lucas: A ballpark figure?

The Hon. T.G. ROBERTS: Less than 100.

The Hon. R.I. LUCAS: I will return to that issue when we debate clauses 20 and 30. At clause 19, I will ask what information is currently provided under the annual report provisions, because I think it will be an important issue in terms of the requirements. However, I will ask my questions under the individual clauses, if that is the preferred course of the minister.

Clause passed.

Clause 2.

The Hon. A.J. REDFORD: When does the minister believe that this act will come into operation?

The Hon. T.G. ROBERTS: The act will come into operation on 31 March 2005.

The Hon. R.I. LUCAS: As it will not come into operation until then, what is the requirement for the parliament to rush this legislation through this afternoon, given that parliament will be reconvening in the early part of February—almost two months prior to 31 March?

The Hon. T.G. ROBERTS: It is to enable the board to be established and the regulations to be fixed.

The Hon. R.I. LUCAS: Is it not possible for the regulations, for example, to be drafted and prepared during the period between now and the first or second week of February?

The Hon. T.G. ROBERTS: It may be possible to do that, but the board could not be established sooner.

The Hon. R.I. LUCAS: If the legislation were able to be rushed through the parliament this afternoon, when would he intend to appoint the board? I presume he is indicating that the board will be appointed prior to Christmas.

The Hon. T.G. ROBERTS: This a chronological rundown of anticipated dates for actions to take place: 14 March 2005, the cabinet consideration for board nominees and registrar—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Yes; but the board will not be set up in the time frames that you have indicated. It is possible to start setting up the regulations. Seeking nominations for the board will take time. I guess it will be the three months over the Christmas period. Second nominations then have to put in place the elections for the board; that will take that time.

Clause passed.

Clause 3.

The Hon. A.J. REDFORD: I draw the minister's attention to the definition provisions and, in particular, that which relates to unprofessional conduct. I know the minister listened intently to my contribution about this issue before lunch, and I know the minister was not in a position to have any prepared material with which to respond to the material that I raised when he closed the debate at the second reading stage of this bill. At the risk of repeating myself, I think it is important that we do have a transparent process and a great deal more transparency in relation to what happens at the Teacher Registration Board, so that the public have confidence in what it does. I note that we have a definition of unprofessional conduct which is similar to that which applies to the legal profession.

For those avid readers of *Hansard*, unprofessional conduct includes a contravention of the act or a contravention of a

condition of registration or incompetence, or disgraceful or improper conduct. Incompetence, disgraceful and improper conduct are broad terms. Are decisions published which would enable teachers or other advisers, such as lawyers, to determine what views or how the definition of incompetence, disgraceful or improper will be applied in relation to the conduct of teachers?

The Hon. T.G. ROBERTS: The board has to match the complaint against the unprofessional conduct definition, which includes incompetence or disgraceful or improper conduct, which is probably lifted out of the act.

The Hon. A.J. REDFORD: I will explain what I am alluding to. With the legal profession, every time there is a case about unprofessional conduct it is a published case and you can put it in your folder; and when you read all the cases you can get a bit of a feel about what is professional or unprofessional, what is proper and what is not, and what is competent and what is incompetent. The published cases are on the record, and the legal profession and the courts are used to doing that. I am interested to know whether there is an equivalent mechanism in relation to decisions relating to teachers.

I think the teaching profession will change quite dramatically over the next 20 years. I think that teachers have not been held in as high regard as they should have been in the past 20 years, and I think that is improving out of sight. I also think that we will see a huge explosion in terms of the skill sets that teachers bring to our communities and a huge explosion in demand for their services and respect from the community. I think we will see teachers earning incomes and being rewarded up there with, dare I say it, lawyers and other professions. I think we will see a real sea change in the next 25 years, and I think these are issues we will have to grapple with.

The Hon. T.G. ROBERTS: I thank the honourable member for his confidence in the teaching profession. I can give a clearer position in relation to how to match your understanding of what you might want to match if you are defending somebody in a legal sense. In relation to improper conduct, common law establishes that improper conduct is behaviour which, in the circumstances of a case, is an inappropriate or incorrect way of discharging duties, obligations or responsibilities. In determining improper conduct for the purposes of teachers' registration, the board's representation will express community standards as to what the board determines to be disgraceful or improper conduct.

Incapacity does not need to be defined in regulations. It is specifically prescribed in clause 38 to include a teacher who is seriously impaired by illness or a disability affecting the person's behaviour and competence as a teacher. In relation to incompetence in employment, incompetence is the inability to do the required work from an employee's lacking or failing to exercise the skills necessary for the job.

The Hon. A.J. REDFORD: Will the decisions be published?

The Hon. T.G. ROBERTS: They publish the outcome.

The Hon. A.J. REDFORD: The Teachers Registration Board will be sitting there from time to time hearing cases and it will say, 'That behaviour falls into the category of incompetence or disgraceful' or 'That behaviour does not fall into the category of incompetence or disgraceful.' And people like me and school teachers can read the decisions and say, 'Yes, I know what I should and should not be doing.' That is what happens in the legal and medical professions. These decisions are published. My question is: are they published and, if they are not, will they be published so that the teaching profession can observe them?

The Hon. T.G. ROBERTS: I am told that that is done now, and appropriate information is provided in the field to assist the teachers.

The Hon. A.J. REDFORD: Are they put on web sites?

The Hon. T.G. ROBERTS: Any information that is generally relevant is posted on the internet.

The Hon. KATE REYNOLDS: Can I just clarify that we are not talking about decisions of the board following an inquiry here, that we are talking about other matters? The Registrar informed me this morning through email that decisions following investigation and inquiry are not published; that it is the board's policy not to publish them. So, the remarks that the minister has made relate only to other decisions of the board?

The Hon. T.G. ROBERTS: Other matters, yes. General matters.

The Hon. A.J. REDFORD: Then why are decisions following inquiries not published or made public?

The Hon. T.G. ROBERTS: They are not disclosed because they are not in the interests of the teacher or the complainant, in most cases, but they will be subject to FOI.

The Hon. R.I. Lucas: What is?

The Hon. T.G. ROBERTS: The decisions.

The Hon. A.J. REDFORD: Is it conceivable, then, that I could FOI every decision that has been made over the last five years and then publish a book on how the Teachers Registration Board is applying these standards to the profession?

The Hon. T.G. ROBERTS: It is possible, I guess. But, again, why would you do that? The intention is to have the board investigate but not to prejudice the complainant or the teacher involved. Publishing probably makes it a public declaration, whereas with FOI you have to have a particular interest, you would think, to search for the information.

The Hon. A.J. REDFORD: There is a broader interest in these things than just the complainant and just the teacher. There is a broader public interest to know what are the standards expected of school teachers in our school communities. It should not be just left to behind closed doors decision-making and potentially—although I am not saying this is happening—arbitrary decisions being made by the Teachers Registration Board that are not the subject of public scrutiny, comment or examination. I know of no other profession where it is done. The medical profession is quite open; the legal profession is quite open. I can understand that there is a requirement to protect in certain cases the anonymity of the person who might have been complained about, that is, a person who is wrongfully accused of child abuse or something like that as a consequence of a malicious complaint.

I have no objection to a person in that category remaining anonymous, because it could ruin their lives. But what the medical and legal professions do is delete the material that would tend to identify the individual concerned, and with that protection to the individual you still can get public scrutiny. When I get the constituents that I have had in the last fortnight, I can pick up the decision and read it and, as a lawyer or an MP, I can take them into my office and say that I believe the Teachers Registration Board did the right thing or, if I believe they did the wrong thing, I can say they did the wrong thing and explain why. But in the absence of any material, I am not in any position to defend the Teachers Registration Board and I do not think that is a good public policy position for anyone to be placed in.

I make those comments understanding that there are occasions on which the identity of complainants and, just as importantly, the identify of teachers, ought to be protected, and they should not be unfairly besmirched in the community or in the media. I would urge the minister to have a look at this. In the current climate, I suspect that we will get more of these sort of complaints, and I think an appropriate response from the government in terms of managing this would be the best way in which to handle it. I am not proposing any amendments, because I do not believe I have the skills or the background to be able to do it. However, it is certainly something the government should take on board.

The Hon. KATE REYNOLDS: I indicate my support for the comments of the Hon. Angus Redford. During the second reading debate I asked the minister to consider suggesting to the Teachers Registration Board that it develop some way of making those decisions known, and I think I even referred to her using her new powers, if this bill is passed. Will the minister advise whether he has had any feedback since that request was made?

The Hon. T.G. ROBERTS: The information I have been given is that the bill does not prevent the board from doing that. We can ask the board to consider providing more information in the future, as it develops its protocols and goes along.

The Hon. KATE REYNOLDS: I accept that this bill does not prevent it, but what I am looking for is a stronger indication than that, otherwise I indicate that, at some point in the future, I may come back with an amendment that would, if passed, require the Teachers Registration Board to find some way of at least making summaries available, without identifying information, for the reasons outlined by the Hon Angus Redford.

The Hon. T.G. ROBERTS: I can give an undertaking that we will do that without the need for an amendment, if that satisfies the honourable member. Under the new registration board, the minister and/or the board have the power to develop those protocols, and we will encourage that to happen.

Clause passed.

Clause 4 passed.

Clause 5.

The Hon. R.I. LUCAS: I think the minister indicated that the new board established under this clause will not be operational until I think mid March 2005. Can I confirm that that will mean that all the new provisions, as they relate to teachers, will not be able to commence until after that date and, therefore, for all intents and purposes all teachers appointed to government and non-government schools for the school year 2005 would be substantially concluded by mid-March 2005 and that, for all intents and purposes, the main body of work for this bill, in terms of teaching, will really be for the school year 2006?

The Hon. T.G. ROBERTS: The honourable member is right: it will be too late for 2005. In 2006, two-thirds of the teachers come up for re-registration. That is the synchronisation of activities, I guess.

The Hon. R.I. LUCAS: Obviously, from our viewpoint, we are intent on seeing how far we can progress with this bill this afternoon. It would seem to be a further reason why there does not appear to be a pressing need to jam this through this afternoon because, as the minister has just indicated, this board will not be established until mid March. Therefore, all the appointments for next year will be made for schools prior to the establishment of this board. Two-thirds of the registrations roll over in 2006. As I said, we will do what we can to give proper consideration to this legislation today, but it would appear to be another reason why there is no pressing urgency in having this bill rushed through this afternoon.

The Hon. T.G. ROBERTS: The pressing need for passing the bill now is to facilitate inquiries that will take place as part of the board's responsibilities. There are issues around child protection and discipline. They have to take place under the terms of the legislation.

Clause passed.

Clause 6.

The Hon. KATE REYNOLDS: I will comment briefly on clauses 6 and 7. I had a briefing with the Australian Education Union, which raised quite a number of concerns with me. I am pleased to say that a number of those concerns were addressed prior to the bill being debated in the other place or during the debate. That is very pleasing. I note that this bill shifts the focus of the Teachers Registration Board from its historical, primary function of teacher entry standards and upholding professional standards to, under clause 7, the welfare and best interests of children.

I find that a little odd given that clause 6 contains paragraphs (a) to (f), which are about the teaching profession and standards, and then up pops this comment about the primary consideration being the welfare and best interests of children. I repeat my earlier comment that this seems to be about making the Keeping Them Safe policy look good rather than ensuring that this is about teaching standards, which must include the welfare and protection of children, but surely should not eclipse the issue of maintaining high standards for our teaching profession.

Clause passed.

Clause 7 passed.

Clause 8.

The Hon. KATE REYNOLDS: Prior to my meeting with the Australian Education Union, and since then, I have been approached by a number of registered practising teachers, including teachers at the school presentation night that I attended yesterday evening, who are very concerned about the powers that the minister may acquire under this bill. When I raised this issue with the minister and her advisers, I confess that they reassured me quite a bit that unprecedented power will not be given to the minister over the Teachers Registration Board by this bill. They provided information to me that compares the powers that the minister would have in this case to the powers that a minister has over other boards in South Australia and also made some comparisons interstate.

Certainly compared to the powers that the minister holds in Tasmania and New South Wales, if I read this correctly, the powers that will be available to the minister, once these amendments pass, are significantly less than in those two states. In Victoria, the equivalent of the Teachers Registration Board in this state must give due regard. I might be a law maker, but I am not a lawyer, and I take that to mean that it must consider but not necessarily comply. In Queensland, there is some additional power but there are conditions attached to that. I am not persuaded that this gives unprecedented power or leaves teacher registration open unnecessarily to political manipulation or corruption.

I do have some concern that there is no right of appeal by the Teachers Registration Board against a direction issued by the minister. I am not sure how that could be addressed, so it is really a matter of taking in good faith that a minister would not wish to have the Teachers Registration Board put offside to an extent that the relationship becomes unworkable,

or that the profession loses faith in the Teachers Registration Board. Whilst at one point I was considering putting up some amendments to that, I am satisfied that this is a reasonable power given to the minister.

The Hon. R.I. LUCAS: I note that the Hon. Kate Reynolds indicated Democrat support for this clause. The Liberal Party is very concerned about this measure. The member for Bragg, the shadow minister, indicated Liberal Party opposition to the powers of direction by the minister and outlined the Liberal Party's reasons for it. As the Hon. Kate Reynolds has indicated, the Australian Education Union and teacher representatives have expressed concern about this clause, even though there have been some changes. Before addressing some questions to the minister, let me say that I acknowledge that the Hon. Kate Reynolds has indicated that the Democrats are supporting the government position on it. Whilst we oppose it, we will not seek to divide on the issue because we clearly will not have the numbers.

In relation to the provisions under subclause (2), the minister may not give a direction that relates to a particular person or a particular application or inquiry. I take it that, therefore, it is envisaged that the minister would be able to give directions to the board in relation to all inquiries, not particular inquiries. If the minister wanted to issue a direction to the board as to how the board should undertake all inquiries—for example, that the Australian Education Union or other employee associations should or should not be part of a particular process—the minister has the power, should she choose to use it, to issue such a direction to the board.

The Hon. T.G. ROBERTS: In relation to the questions put by the Hons Kate Reynolds and Rob Lucas, I will read out the power of the minister's directions, I could draw some comparisons from interstate activities and then answer the questions directly. The minister's power to direct the board under clause 8 of the bill is more restrictive than powers of direction for similar boards in other states. These boards are established under the following legislation: Education and Teacher Registration Act 1988 (Queensland); Victorian Institute of Teaching Act 2001; section 10, Teachers Registration Act 2000 (Tasmania); section 14, Western Australian College of Teaching Act 2004; and section 8, Institute of Teachers Act 2004 (New South Wales).

Additionally, South Australian boards established under the following legislation are subject to broad ministerial powers of direction and control: Water Resources Act 1997, South Australian Motorsport Act 1984, Economic Development Act 1993 and South Australian Tourism Commission Act 1993. Other South Australian boards subject to limited ministerial powers of direction are established under the following legislation: Dental Practice Act 2001, Nurses Act 1999, Country Fires Act 1989, Correctional Services Act 1982 and Veterinary Practice Act 2003. In reply to the Hon. Rob Lucas', the answer is yes.

The Hon. KATE REYNOLDS: I have two brief comments. The first is when I said that I had consulted with the AEU and it had some concerns. It was not sure which of its concerns had been incorporated into the bill that was going to be debated or that was, at that stage, being debated in the lower house. I believe that some of its concerns had been previously addressed. I am not positive that those concerns were still an issue by the time the bill came to us in this council. I just wanted to clarify that.

My second point is that we have just had some discussion about ways that we might encourage the Teachers Registration Board to find some way to publish its decisions because, as the Hon. Angus Redford and I have both argued, we believe that there is a public interest case that can be put for those decisions, or at least a summary of those decisions, to be made available. In fact, if this amendment is passed, the minister has the power to direct the board as a matter of public interest to devise a way to have those decisions published.

I understand and acknowledge that there may still be some concerns about a minister—this minister or any other minister in the future—misusing their powers, but I do not think that this amendment gives them the unfettered ability to do that. I think the fact that we have just been debating a very real and important matter of public interest is argument for supporting this amendment.

The Hon. R.I. LUCAS: I acknowledge that a ministerial power of direction can be used for good or for bad. I acknowledge what the Hon. Kate Reynolds has said. She has given an example where a ministerial power might be used for good purpose but, equally, that same power can be used for bad purpose. There are a number of examples that one could contemplate where a minister in any government—for example, a minister in a Labor government with very close connections to the trade union movement, and in this case the Australian Education Union in particular—in a period leading up to an election may or may not curry favour with a particular union or group of employees and issue a direction that might be seen to be politically advantageous to that particular political party or government.

I acknowledge that a power to direct can be used for good, but it can also be used for bad. As is acknowledged by the minister in response to my question, clearly there is the capacity for a minister to issue directions which might not be supported by a majority in the community, and certainly might not be supported by members of parliament opposed to the minister and the government of the day. As I said, I acknowledge that the numbers are there for this provision, and we will not insist on our opposition.

The Hon. T.G. ROBERTS: In quick reply to the honourable member's position, the consensus was that with the board being an independent body corporate, which would perform statutory functions and have its decisions subject to judicial review, it would be inappropriate for the board to be subject to ministerial control; however, a limited power of direction is appropriate in relation to some of the board's functions. The bill gives the minister the ability to direct the board if it is deemed to be in the public interest. This is not an unfettered power. I guess that, if the power were used, as the honourable member suggests, in a way that was not deemed acceptable, it still can be scrutinised by both the public and the parliament by having a report tabled.

Clause passed.

Clause 9.

The Hon. R.I. LUCAS: This clause took up much of the debate in the other place, but I do not intend to be party to trying to revisit the issue of the structure of the board. In my judgment, as the former minister for education, the board is too big with 14 members—but that is a personal view—and to increase it to 16 members makes it even bigger. Nevertheless, it is a collective agreement arrived at among a number of different parties in the other place, and I do not intend to revisit that issue.

I had discussions this morning with member for Bragg, who had discussions with the Association of Independent Schools of South Australia Inc. I move:

Page 6, lines 39 and 40—Delete 'after the holding of an election in accordance with the regulations'

The point made by the AISSA is that, when one looks at the structure of the board, there are varying categories, if I can put it that way. The two groups of union representatives are elected—that is, the Australian Education Union elects five registered teachers and, under paragraph (f), the Independent Education Union also holds an election. However, when one looks at the two non-government employer bodies, the Catholic Education Office (which is responsible for Catholic teachers) nominates a person, and the Association of Independent Schools, which represents the independent schools, is required to hold an election. Although I think that it is an accident of history, the independent schools have fairly asked why they are required to hold an election but the Catholic Education Office does not.

In order to achieve parity, an alternative would be to require the Catholic Education Office to conduct an election. So, there are two ways to achieve parity, but the preferred course of the member for Bragg and the independent schools is to amend paragraph (d) so that the requirement to hold 'an election in accordance with regulations' is removed and it would be just a nomination of the employer body, as it is with the Catholic Education Office, and that would ensure parity. I would never suggest that rumours are afoot that perhaps the existing requirements of the legislation are not being complied with but, if there were an investigation into whether or not paragraph (d) has always been complied with by the Association of Independent Schools, it might be possible. I think the reality might be that, if we amended this provision, everything would be tidied up, so I commend the amendment to all members.

The Hon. T.G. ROBERTS: We support the amendment.

Amendment carried; clause as amended passed.

Clauses 10 to 18 passed.

Clause 19.

The Hon. R.I. LUCAS: Given the significant changes that have been made to the operation of the Teachers Registration Board, I ask the minister whether it is intended that there be a more comprehensive annual report from the board. In particular, will the board consider providing information on the number of special authorities for unregistered persons to teach, particularly in relation to the various categories, in future annual reports?

The Hon. T.G. ROBERTS: The answer is yes. It has to be published on the register.

The Hon. KATE REYNOLDS: Given the minister's answer, is there a requirement that the number of inquiries, investigations and so on also be published? Is that currently a requirement? If so, I assume that will continue.

The Hon. T.G. ROBERTS: It will continue.

Clause passed.

Clause 20.

The Hon. R.I. LUCAS: Clauses 20 and 30 are the two clauses I addressed in my second reading contribution, and I will address them now, because I think it is important that we understand what is envisaged by the legislation. First, I will address the specific issue I raised this morning and hope that it can be resolved relatively quickly. I might have referred to the wrong subclause this morning, and I apologise for that. I raise the issue of tutoring in homes. Subclause (1)(b) provides that a person must not:

> (b) for a fee or other consideration, personally provide primary or secondary education, or offer to do so. . . unless the person is a registered teacher.

There are many examples of non-registered teachers, particularly university students, who provide tuition for primary and secondary education purposes in non-school locations. I think that when one looks at the minister's explanation of primary and secondary education in the lower house, certainly, a tutor who is providing tuition on primary and secondary education and being paid for it (he or she is not a volunteer) might potentially be caught by (1)(b), so I ask the minister what the government's view is on that. Does the legal advice to the government mean that that is a potential interpretation of (1)(b)?

The Hon. T.G. ROBERTS: I will read out the whole clause rather than just the explanation. Those who are unsure whether they are required to be registered will seek advice from the board, as they do now. Such examples include TAFE lecturers and music teachers, some of whom are deemed to be teaching primary and secondary education and who are required to hold registration or, if they do not meet the qualification requirements, to seek a special authority. Others are deemed to be supporting or assisting education and are not covered by the Education Act, nor will they be covered by this bill.

The Hon. R.I. LUCAS: I think the minister has immediately moved to the more significant issue, which is the issue of TAFE providers, music and sport that I wanted to raise, but I am delighted to see the Hon. Andrew Evans following this section of the debate and, in particular, the issue of chaplains and also religious education providers in schools. Before getting on to that issue, I am actually addressing a separate issue; that is, I just want to be assured that subclause (1)(b), the legal advice available to the government, is that a non-registered teacher who is providing tuition on primary and secondary education for a fee (generally $40 or $50 an hour) in a home is not committing an offence under subclause (1). That is, they are not a registered teacher, they are providing primary and secondary tuition, and they are doing it for a fee. Is the government's advice that they are or are not committing an offence?

The Hon. T.G. ROBERTS: Under this bill, they are deemed to be supporting or assisting education; tutoring is supporting, so they would not be breaching the act, and they would not be charged.

The Hon. R.I. LUCAS: Which provision has them deemed to be supporting? There is no registered teacher with them at all, so the argument the minister used in another place about people not being alone with students does not apply. What provision in this clause or other clause has them deemed to be supporting as opposed to personally providing primary or secondary education?

The Hon. T.G. ROBERTS: The answer that I have been given for that is that they are not supplying curriculum. I guess the question that she would then ask me is: what if they are supplying curriculum? That would be subject to the authority of clause 30.

The Hon. KATE REYNOLDS: Will the minister confirm whether my understanding here is correct? I am not a teacher; I have worked in the TAFE system, and I will come back to that in the moment; but I am a parent of (until tomorrow) a primary school student, and have managed to get through the secondary school system, so I have a little understanding of some of this. Will the minister confirm that the intent is that a person providing tuition who is not able to provide an assessable or accredited course of study is not captured by this bill? So, at the end of a year's tuition on every Friday afternoon with this person in their home, or

wherever it might be, for $50 an hour, or whatever it is, that tutor cannot provide a piece of paper that will be recognised by the Secondary Student Assessment Board of South Australia—I think I have that name right—or by one of the accredited training programs that were formerly accredited by ANTA—I am not sure what the body is at this moment. The bottom line is that that tutor cannot issue a piece of paper to that student saying, 'You've got a certificate in this, or you have met the requirements of that' and, therefore, they are not captured by subclause (1)(b). So, they are not limited in their ability to provide tuition to somebody who might otherwise be enrolled in a primary or secondary school, a TAFE accredited program, or anything like that.

The Hon. T.G. ROBERTS: That is correct.

The Hon. R.I. LUCAS: As I said before, I will get onto the main issues of TAFE, chaplains and sports, and so on. I will repeat the questions that I asked in the second reading to get an answer on the record. I gave the example of the tuition colleges, the Adelaide Tuition Centre and Kumon Maths Schools all about the place providing, they would believe, curriculum teaching and tuition, but the government Teacher's Registration Board might not agree. Whatever it is they are providing, can I get an assurance from the minister that there is nothing in this which prevents their continued operation in the same way as they exist at the moment?

The Hon. T.G. ROBERTS: The advice I am given is that there is absolutely nothing to catch them in this bill.

The Hon. R.I. LUCAS: I will also repeat the question I asked about the business person who was a non-registered teacher and who was employing a posse of registered teachers for temporary relieving teacher work. I seek an assurance from the minister that there is nothing in the bill which would prevent the continued operation of the business along those lines.

The Hon. T.G. ROBERTS: There is nothing in this bill that would catch them. It sounds like it would be a labour hire firm.

The Hon. R.I. LUCAS: The minister is exactly right: it is a labour hire firm, which in many cases is much used by principals and is a much valued service. I do not want to turn to the main issue that the Hon. Kate Reynolds and others have raised—I think the Hon. Mr Xenophon raised it last evening—that is, vocational training and also some of the associated issues. The Hon. Kate Reynolds would perhaps be in a better position than I to talk about community service type subjects within the VET courses, so I will leave that to her.

There is a range of other VET-related courses where, clearly, virtually all of the training—whether it be in a TAFE institute, or whatever they are now called, or a private training provider—is provided by a range of people. I think the point the Hon. Kate Reynolds has made to me (but she will be in a better position to provide the detail) is that it is not like the traditional circumstance where you might have one teacher in front of a classroom.

With the training providers you might have a series of people all working at varying degrees and levels with either the one student or a range of students. As I said, in relation to the Hon. Kate Reynolds' expertise, I will leave that to her to explain but, certainly, in other parts of the TAFE system (certainly in relation to the traditional trades, if you want to put it that way) there are many providers using people with the skill and expertise who do not happen to be registered teachers.

As I understand the debate in the House of Assembly and the minister's reply at the second reading, it appears that the government is saying, 'Okay, that is fine, but these people will be required to have an authority to teach under clause 30.' If that is the case, I think there will be some significant concerns by some members in this place, and probably I think some people in the community as well. I think the minister has indicated that there is a relatively modest number of authorities to teach at the moment and, while some of those might include some TAFE people, I can assure members that there are many more than 100 people associated with VET courses in government and non-government schools at the moment, many of whom are not registered teachers and clearly do not have special authority to teach.

I ask the minister explicitly: is it the government's policy that all of these non-registered teachers in the TAFE institutes, or whatever they are now called, and the private training institutions, who are providing curricula because they are options essentially associated with the South Australian Certificate of Education will now have to get a special authority to teach under clause 30?

The Hon. T.G. ROBERTS: The member reminds me of a very funny episode of *The Office* when he talks about specialist untrained, unskilled teachers. I do not know whether he saw the episode.

The Hon. R.I. LUCAS: You will have to send me a copy of it.

The Hon. T.G. ROBERTS: It was a motivational talk, done in part dress with very loud music. It was very funny. Information has been given to me, and I will include all of it because it covers a lot of what the honourable member has said. It has been asserted that the provisions under clauses 20 and 30 may cause problems in the vocational education and training sector by requiring people such as TAFE lecturers to be registered teachers.

I can give an assurance that there will be no impediment to the provision of this important sector, or any other, including those assisting and supporting the provision of education such as tutors, sports coaches and school support officers. Those in the vocational education and training sector, as they do now, will be required to hold registration or seek special authority only if it is deemed that they are providing primary or secondary education. If they are not deemed to be such as tutors, sports coaches and school support officers, they will not have to either seek registration or a special authority.

Those who are unsure whether they are required to be registered will seek advice from the board as they do now. Such examples include TAFE lecturers and music teachers, some of whom are deemed to be teaching primary and secondary education and are required to hold registration or, if they do not meet the qualification requirement, seek a special authority. Others are deemed to be supporting or assisting education and are not covered by the Education Act, nor will they be covered by this bill. If a particular course or curriculum is supervised by a teacher and the TAFE or music person (to use these examples) is merely supporting the teacher, the board also currently considers that they will continue to do so where the person in question is supervised by a registered teacher.

I am aware that concerns have not been raised about the current provisions under section 63 of the Education Act during the public consultation on this bill. The strong suggestion from the majority of respondents was that the

current scope of registration was appropriate and that it should be neither extended nor limited in the proposed legislation. While the scope will not change, it is anticipated that the board will convene a committee comprised of board members, employers, unions, relevant industry associations and educational experts to provide it with a report on the current range of provisions that may and may not come within the scope of requirements to be registered.

The new board will ratify parameters for how the special authority will continue to operate and ensure that there will be consultation, and that the resulting parameters will be made widely available. This government has given extensive support to schools in terms of measures that focus on education that provide multiple pathways for students, particularly those at risk of disengaging from education. I hope that covers it.

The Hon. KATE REYNOLDS: Thank you, minister. That covers some of it but also just raises other questions. I know none of us wants to prolong this debate beyond where it needs to be taken, but I have a couple of questions and comments. As the Hon. Rob Lucas alluded to, I will give an example from shortly before I came to this place when I was employed at a TAFE institute—one of the smaller rural institutes. There were two campuses. I was based at one campus and the next door campus was 30 or 40 kilometres away. We had community services students studying child care, aged care, youth work, community work, disability work and mental health, and a couple of others that I cannot think of at the moment.

I think in nearly every one of those accredited courses we had from time to time secondary school students who came to our campus, attended our sessions and were involved in both on-the-job and off-the-job training. If we were lucky, we saw the teacher whom the minister has indicated would be known as the supervising teacher at the time that the student applied to do the course; then, if we were very lucky, we might get to see them if the student was doing a placement; or, perhaps if we were very, very lucky, we would see them at the conclusion of their study.

But neither schools nor our community services program had the resources to ensure that we could talk regularly with the teachers who were responsible for that student's learning from the school's perspective. I am particularly interested in the interaction between TAFE and the supervising teacher within the school and then the second relationship which might be between a registered training organisation and the Teachers Registration Board. I will come back to that in a moment. I would be interested to know if, when this bill was made available for consultation, there was any comment sought from registered training organisations, whether private or public, with the specific question asked of them about how this relates to students from secondary schools who are enrolled in tertiary education programs.

I am also interested to know who deems a course of study or study activities to be primary or secondary. In the case of a student who is enrolled in a secondary school undertaking study in a tertiary institution, how is that deemed? The answer may be as simple as: it depends where the student is enrolled. I am not sure that the answer is that simple. I see the adviser nodding. As an example, our students might have been enrolled in Gawler High School but they were also enrolled at Murray Institute of TAFE in the community services program, so they were actually enrolled in two. The registered training organisation that was providing the tertiary training was Murray Institute—we provided the teaching and assessment—but the student was simultaneously enrolled in a high school, so who is actually responsible in terms of ensuring that standards are met?

We can then go on to the further vexed question of conduct and, in particular, checking in relation to criminal conduct and so on. I think it is all starting to get a bit untidy, so I am pleased to hear the minister suggest that there might be a committee established to work through some of these details. The Hon. Rob Lucas and I might have to take on good faith that that will occur and that it will sort out these questions that I think are a little murky. I can tell you that, as a lecturer in that program responsible for secondary school students, I was never, ever asked to apply for a special authority. The Teachers Registration Board is the last place on earth that I would have thought to go if I was unsure about my relationship with that secondary school.

That was not because our program was careless in its relationship or its responsibility. In fact, our program was scrupulous. Our educational managers crossed every 't' and dotted every 'i' that they knew of, but they would be very surprised to hear some of the explanations that have been made in this place and the other. So, I think there is still some work that needs to be done.

The Hon. R.I. Lucas: How many staff would be associated with your students on the two campuses?

The Hon. KATE REYNOLDS: If we look just at the community services program, I will not say permanent staff because there are not any of those in education any more, but if you look at the substantial staff, part-time lecturers and so on, across a year there probably would have been 40, and those people were employed because primarily their skills lay in the sector they were teaching and assessing in. It might have been aged care or youth work. Mine was community development. It might have been mental health nursing, and exactly the same would apply across the other courses that Murray Institute offered, so in viticulture, commercial cookery, business administration and tourism those people were employed to teach and assess because of their expertise in those areas. They would never have considered themselves as registered teachers, because clearly they were not, but the Teachers Registration Board, as I say, would be the last place they would have looked to get yet another authority to carry out their work.

The Hon. R.I. LUCAS: I think members ought to be indebted to the personal experience that the Hon. Kate Reynolds has outlined, because she has indicated just in relation to that aspect of the program some 40 staff in two relatively small campuses for TAFE involved with those students at a near city high school. The point that the opposition has been making, which so far has not hit fertile ground, in my judgment, is that I do not think the government or the minister understand the breadth of what is being suggested in the legislation. That is why I asked the question as to how many special authorities to teach have been issued this year. I suspect it is in tens and the minister has said that it is certainly less than 100.

The minister will be looking at hundreds if not thousands of special authorities to teach, which are all separate applications to the Teachers Registration Board. Each individual applicant has to pay $60, I understand, for a special authority to teach. I am not as trusting as the Hon. Kate Reynolds in relation to 'Don't worry: the minister will establish a committee and she will sort it out.' I think that from the parliament's viewpoint we owe it to have a look at this issue in greater detail than we are at the moment. I would flag that

at some stage we might need to report progress for a while and that I might seek to recommit this clause after discussions with the Hon. Kate Reynolds, and I would need to talk to the member for Bragg and obviously the minister.

One of the suggestions that has been put to me is that we amend subclause (4) of clause 20, which explicitly puts in the new requirement that says that subsections (1), (2) and (3) do not apply, and the current subclause (4) that says that people with a special authority can be put in a new category of persons that might be prescribed by way of regulation, which would cover the range of circumstances that we are talking about. I understand that the government has referred to the regulation-making power under section 60, which says basically that the government can regulate to do anything within the broad understanding of the act, but I am not comfortable with that. That is just a broad regulation-making power.

I wonder whether or not this parliament should at least give a push in the direction—to say to the minister, 'Okay, we can't dot the i's and cross the t's as to how this works, but the majority of members in this parliament believe you should seriously look at this issue.' If you are in the circumstances the Hon. Kate Reynolds has just indicated, it is clear from the government's response that every one of those instructors and teachers would have to get a special authority to teach. Would every one of them have to pay $60 to apply?

The Teachers Registration Board would have to go through a process of issuing a special authority to teach, which would be just an horrendous waste of its resources—and that is just in the example the Hon. Kate Reynolds has talked about. Multiply that by all the schools and TAFE institutes—and that is talking just about the debt option. At some stage, we might have a break to enable each of us to take advice from those from whom we need to take advice. I flag that there may be some amendment to subclause (4) along the lines that have been suggested to me as something that might be worth considering.

I want to raise two or three other areas. One is in relation to the issue of chaplains and religious instruction in schools. This issue was raised in another place, and I refer members to the minister's response. The minister was asked about the issue in relation to persons in religious orders and chaplains, and her response was as follows:

> There are such people as school chaplains who have no capacity to be alone, as I understand it, with children. They do not teach classes alone. They may be in a classroom with a teacher. These sorts of religious people are not classified as teachers. They are volunteers.

As a former minister for education, that is not my experience in relation to school chaplains. I would be indebted to the Hon. Mr Evans, who I think has much more experience with and knowledge of the school chaplaincy project than any other member. My experience with school chaplains, for example, has been that it is a growing program, with a lot of support from parents in the community. The school chaplain might be in a classroom with a registered teacher, but I can assure honourable members that there are many examples where a school chaplain would be, as the minister would indicate, alone with a group of students, undertaking discussions in relation to that aspect of the school curriculum. It might be formal religious instruction (although I am not sure it is called religious instruction any more; study of religion is perhaps a neutral way of putting it), or it might be a pastoral care part of the curriculum program; or it might be drug education or health education—it might be a range of things a school chaplain might be involved in.

So, I do not think the minister has accurately reflected it. I also give the example of some small Catholic schools in some country areas where older nuns or brothers might be semi-retired in those dioceses, but they are (if I can use the phrase) 'trotted out' in the school and are involved in religious instruction.

The Hon. T.G. Roberts: Shepherds.

The Hon. R.I. LUCAS: Shepherds, the minister suggests. Nevertheless, they are involved in religious instruction in schools. Again, the minister said that, if they were teaching religious instruction in a religious school, they would be supervised—they would not be alone with the children. Again, that is not my experience. It might be the case in some circumstances, but in others they would be with a group of children, undertaking the curriculum choice of religious instruction. It would appear that the minister's response to this, then, is, 'Okay, they're not a registered teacher.' Will people in these circumstances be required to have a special authority to teach? They are certainly involved in primary and secondary curriculum; they are certainly involved in a school environment; and they are certainly not always supervised by a registered teacher.

The Hon. T.G. ROBERTS: The simple answer is that, if they are not being paid, they are not covered by the legislation. However, they will be vetted under the legislation, as non-teachers in schools. Pastoral carers (if you want to use that term) being on their own would probably be left to school policy in non-government schools, but in government schools, under the legislation, they are required to be with another teacher. I was brought up in a period when priests and people from religious denominations came in and took classes, but that is no longer the case. As to progressing the bill, I do no think it is as difficult as the honourable member believes; I think we can progress the bill.

The regulations have to relate to exemptions, conditional or unconditional, and be applied under the act. They cannot go outside those broad parameters. So, when the regulations are applied or drafted they cannot go off into regions that are not covered by the bill or the objects of the bill. I am not quite sure whether they have common ground, but I think there should be some sympathy for what is happening out there at the moment. The bill is trying to mop up some of the activities that are going on out there in a sort of topsy way. It is an intervention point that will need some adjustment as we proceed.

The honourable member has pointed out that some experimentation is going on there about how schools within communities relate to each other, how all educational authorities relate to each other, how educational facilities relate to each other and how potential employers relate to education facilities. I guess you have a combination of educators, pastoral care, community concerns and mentors, but the bill specifies the obligations for educators and the education system, public and private, teachers and volunteers. I do not see any real issues that might scare the horses coming out of this bill.

The Hon. A.L. EVANS: Concerning chaplains in schools, generally they are people who have been endorsed by the local ministers fraternal. Most local ministers fraternal involve the churches of all the denominations in an area meeting together on a regular basis, maybe once a month. They have meals together and they take authority for some of these areas, and they financially support the chaplains. They go under pretty good authority.

The Hon. R.I. Lucas: The chaplains are paid?

The Hon. A.L. EVANS: Some of them are, yes. It is not a huge salary, but they do get part salary. They are put through a fairly rigorous process of application, investigation and challenge before they are finally sent out as chaplains. I had not heard of chaplains having to be supervised because it is more than the classroom. It is out in the sports field, out on the footy field, and they gradually develop relationships through this interaction. To have a supervisory teacher following them everywhere they go would totally destroy what they are trying to do. They are trying to build a relationship with these young people so, when they get into trouble and they have difficulties, they feel they have a friend they can talk to. That is how I understand the system works today.

The Hon. KATE REYNOLDS: Adding to the Hon. Mr Evans' comments, it is also the case that in many schools that have chaplains the chaplains provide one-to-one counselling with students, so it is much broader than a teaching of religious education. In fact, I suspect that is probably what most of them do least of; they have a number of other roles instead.

It is important that we return to the comments that were made earlier by the minister and by some speakers in their contributions about the need for processes and structures to provide criminal record checks and other forms of screening for people in positions such as SSOs, volunteers and paid people who work on the grounds and in LAP programs and so on, including chaplains and bus drivers. I acknowledge, as I did previously, that this bill is not the place to build in those structures. That needs to be done through other strategies and we have been told that they will be addressed as part of the reforms undertaken by the Minister for Families and Communities. I asked previously about some time lines, and I have been informed by the minister today that the Minister for Families and Communities will offer me a briefing on that. That is terrific but it does not give me the time lines that I want.

However, I think that we can proceed with debate today. I do not think that we should hold up the passage of this bill. We have a commitment from the minister that a committee will be established to iron out some of those grey areas. I do not believe that this is experimental stuff. I think this is the reality of how teaching and learning occurs in schools and tertiary institutions. This is how accreditation occurs nowadays. This is not experimental. These programs and approaches to learning and training are being driven by both state and federal governments. The reality of how it occurs has to be addressed.

A good start has been made in this bill and, when some of the tangles ensue, the Teachers Registration Board can go back to the minister with recommendations, or it can develop some process whereby it approaches the private and public registered training organisations operating in this state and say, 'We need to devise a way that we can make sure that those people who need to apply for special authorities are assisted to know that and assisted to make those applications.' I do not think it is worth delaying progress now. I think that we can get on with passing the bill but I do note that, if these issues are brought to my attention in the future as not being addressed by government, I will do what I can.

The Hon. T.G. ROBERTS: I thank the honourable member for her contribution. Experimental might not have been the correct word; perhaps developmental is a better word. The reasoning that the honourable member uses is the appropriate one as far as the government is concerned with respect to how we would like to see the bill handled. There will be further consultation and the registered trainers and all other parties will be consulted. I am told that there will be some advertising or some education programs to encourage people to understand what their responsibilities are so that they do not have to go searching for information as in the past. The bill will trip some activities in encouraging people to engage, to find out what it actually means to them in the new climate of organisational structures associated with the bill. I thank the honourable member for her support.

The Hon. R.I. LUCAS: Will the government give an assurance that it will introduce a regulation that will prevent a requirement for blanket provision or for special authorities to teach in the circumstances concerning TAFE provision, which is clearly part of the curriculum, as outlined by the Hon. Kate Reynolds and me?

The Hon. T.G. ROBERTS: If we find it necessary to do that, we will do it.

The Hon. R.I. Lucas: That doesn't tell me anything. You might walk out of here and not find it necessary.

The Hon. T.G. ROBERTS: I am saying that after consultation with all of the stakeholders, and where there is an agreement that that has to happen, it will happen. We do not want to force unnecessary impositions onto stakeholders; we would rather do it through discussion and negotiation, and then, if it is necessary, the government will give an undertaking to do it.

The Hon. R.I. LUCAS: I flag that the opposition might seek to recommit the bill at the conclusion of the committee stage for the purpose of amending subclause (4). As I said, given the fact that we are working through this afternoon, I have not had a chance to speak to the member for Bragg, who had carriage of the legislation through the lower house, so I am not sure what her wishes would be. We will obviously be guided by that.

I also seek an assurance from the minister on behalf of the government in relation to the issues that have been raised with the most recent announcement from the government about community-based learning where eight of the 22 certificates of SACE could be done through volunteer activity with the Royal Lifesaving Society, Surf Lifesaving, the CFS, etc. Clearly it is part of a secondary curriculum; it is directed towards the achievement of the South Australian Certificate of Education. First, can I have an assurance from the government that paid employees of those associations (not volunteers) who are involved in providing a curriculum option under this program will not be required to each pay $60 to get a special authority to teach?

The Hon. T.G. ROBERTS: Yes; I can give you an assurance. No; they will not be covered.

The Hon. R.I. LUCAS: I will leave discussion on clause 20 at that. As I have said, I flag the possibility of seeking approval to recommit for the purposes of potentially moving an amendment.

Clause passed.

Clauses 21 to 27 passed.

Clause 28.

The Hon. R.I. LUCAS: This is one of the other issues that I raised in the second reading. I want a response from the government on the amount of detail. In the second reading I outlined the circumstances where an innocent teacher is the victim of a malicious allegation of child abuse, and, for health reasons, chooses to resign from teaching. Under the legislation, as I outlined, that school must then advise the board and something obviously goes on the teacher's file. Can the

minister indicate the level of detail that will be on that teacher's file in the first instance?

The Hon. T.G. ROBERTS: The amount of information that will be written into the file will be decided by the board, but that information will never become public.

The Hon. R.I. LUCAS: If we move to the second stage, we will have to go back to that first bit again. When the minister says that it will never be made public, what access can a potential future employer of a teacher have to information about that particular teacher? If a school is about to employ this person two years later, what information, if any, does it get access to?

The Hon. T.G. ROBERTS: Under clause 28—Register—(2)(g) they do not get any access to details concerning the outcomes of any action taken against the person by the board under part 7, but it may include other information as the board thinks fit. They do not get any details in relation to that section of the bill.

The Hon. R.I. LUCAS: I want to clarify this. I gave two examples, one where you had an innocent party; but let me refer to the example of a guilty party. Of course, how you determine guilt and innocence is obviously not known by the board because all it will have is an accusation made of child abuse against a teacher. The teacher was not dismissed. There was no inquiry by the board at all. The teacher resigns through mental trauma, stress and health problems. But in the case of a guilty person, you now have a principal who is saying, 'I am about to employ Mr X as a teacher.' Is the minister saying that that principal cannot get any information about that teacher at all from the board or the register?

The Hon. T.G. ROBERTS: If there is no adverse finding against that teacher, no information can be passed on. It is only under clause 52 that the board must notify the employer bodies if a teacher is charged or convicted of an offence, not on mere allegation by an employer or any other person. Further protection is afforded the accused teacher because the board must inform the employer body if any charge is withdrawn or the teacher is acquitted. The board must notify the employer bodies.

In regard to the example used by the Hon. Rob Lucas about the teacher who may be the subject of incorrect and malicious allegations as part of the family law court or some other proceedings, the registrar conducts a preliminary investigation to determine as far as possible both the validity of the allegations and whether there are sufficient grounds on which to lay a complaint with the board. The board must then test that and, in determining whether it will hold an inquiry (as explicitly provided for in clause 42 of the draft bill), if it proceeds with a formal inquiry it must afford the teacher procedural fairness and apply the principles of natural justice. This includes the right of the teacher to be heard and call evidence to prove an unjust or malicious allegation, if that is the case. There are protections for an individual if there is no case to be proven: no information is to be provided and only the outcome is to be made public.

The Hon. R.I. LUCAS: I think that it is important to clarify a number of aspects of what the minister has just said. I will use the example under clause 37 that the minister has indicated, namely, the example of a teacher being accused, rightly or wrongly, of child sexual abuse and the teacher resigning before any finding or dismissal. Under clause 37, the school has to write to the board describing the circumstances of the dismissal and regulation, and the board obviously holds onto that information. If there is no further investigation by the board, and another school contacts the Registrar and the board saying that it is about to employ Mr X, am I correct that the minister is saying that there will be no reference at all to the fact that allegations of child sexual abuse were made against Mr X and that he resigned before anything was established?

The Hon. T.G. ROBERTS: The situation the honourable member has just outlined is correct. Clause 37 requires an employer to report the dismissal of a teacher for unprofessional conduct, or resignation of a teacher following allegations of unprofessional conduct. This information is not passed on to other employers. Following such a report, the matter would be investigated by the Registrar, who may determine that there is no case to answer, when the matter would go no further and no other employers notified. However, if, following an investigation, the Registrar recommends to the board that a formal inquiry be held, the board could also independently determine that this should happen. It is only at this point that such a decision is taken to hold an inquiry into the teacher's alleged unprofessional conduct and that the Registrar is required, under clause 40, to notify employers and other registration authorities, of the commencement of an inquiry. Still no details of the allegations would be released to other employers. These organisations will be notified of the outcome of the inquiry under the same clause. Again, details of the allegations will not be released.

The Hon. R.I. LUCAS: To clarify that, the minister is saying that, once an inquiry has been started by the Teachers Registration Board, any prospective employer is advised that Mr X is the subject of an unspecified unprofessional conduct inquiry. I suppose that it is 'let the buyer beware' in terms of employment.

The Hon. T.G. ROBERTS: Yes.

The Hon. R.I. LUCAS: Is the minister also saying that, in every case of a teacher who is the subject of an allegation of unprofessional conduct who resigns before the matter has been finalised at that particular school, this act requires the board to commence an inquiry, or is it discretionary by the board?

The Hon. T.G. ROBERTS: The Registrar undertakes an investigation and then informs the board and makes a recommendation.

The Hon. R.I. LUCAS: To clarify that answer, the Registrar would consider it first, and if the Registrar decided there did not need to be an investigation one would not be held.

The Hon. T.G. ROBERTS: The board could make an independent determination to undertake one itself if it was not satisfied or somebody complained.

The Hon. R.I. LUCAS: So, it is twofold: the Registrar could decide not to hold an inquiry, and the board would accept that; or the Registrar could recommend not to hold an inquiry, and the board would direct the Registrar to hold one.

The Hon. T.G. ROBERTS: Yes.

The Hon. R.I. LUCAS: I take it that, as a result of clause 8, in the circumstances I have outlined—namely, an allegation of unprofessional conduct and the Registrar and the board deciding not to hold an investigation—it is impossible for the minister to direct the Registrar or the board to hold one.

The Hon. T.G. ROBERTS: I think that is right.

The Hon. R.I. LUCAS: If a principal has dismissed a teacher for unprofessional conduct, what information will be provided by the board to prospective employers?

The Hon. T.G. ROBERTS: Unless the board holds its own inquiry, no information will be given.

The Hon. R.I. LUCAS: For example, if an allegation of child sexual abuse or unprofessional conduct is made against a teacher and, as a result, the principal dismisses the teacher, is the minister saying that a prospective employer would not be aware of the reasons for the principal's dismissing the teacher?

The Hon. T.G. ROBERTS: That is correct.

The Hon. R.I. LUCAS: In the government's view, why is that the case? If the teacher has been found guilty by the principal of unprofessional conduct and has been dismissed, why does the government believe that that information should not be made available?

The Hon. T.G. ROBERTS: As you have outlined, under the circumstances the board would have to hold the inquiry to take it to the next stage. If there is no inquiry held by the board, that information would not be provided. I am told that there is a difference between employment and registration.

The Hon. KATE REYNOLDS: I thought the difference would be between the employer dismissing an employee for what the employer believed to be unprofessional conduct, which could be for having purple hair or for acting in what the employer thought was an improper manner with the student at a school, and the Teachers Registration Board determining improper conduct, in which case, a different set of mechanisms and reporting kicks in, I believe. I understand your question about whether or not that information is made available to potential future employers. However, I would have thought that, if the Teachers Registration Board found the teacher to be guilty of improper conduct, it would either cancel their registration or impose conditions, and that information would then made available to a prospective employer.

The Hon. T.G. ROBERTS: Yes.

The Hon. R.I. LUCAS: I am trying to clarify how the recent examples that we have had, where, in the non-government system, a teacher—I guess it was not always a teacher, but in some cases it was—had been found guilty of child sex abuse by the principal of the school and was dismissed, the difference, the minister is saying, is that that would never be recorded on the file, and no prospective employer would be told about that unless the Teachers Registration Board decided to conduct its own investigation into the circumstances and find the person guilty. In the interim, any future employer of that person would not be aware of the circumstances of that teacher's dismissal, from the example I am using, in a non-government school. Is that the minister's understanding of the government's position?

The Hon. T.G. ROBERTS: It is not the board's role to make a determination; it may be an issue that the courts deal with.

The Hon. R.I. LUCAS: From the examples that we have seen, the courts have not been advised, have they?

The Hon. T.G. ROBERTS: No. The board would have a look at the severity of the case, I suspect, and it would make its own determination based on the circumstances as reported to the board.

The Hon. R.I. LUCAS: What is the government's position then, in relation to people being dismissed under section 37, if the employer in practice dismisses the teacher in response to allegations of unprofessional conduct? The non-government school principal arrives at the board and says, 'I've dismissed Mr X for unprofessional conduct' and does not say that it is for child sex abuse but that it is just for unprofessional conduct. Is the board going to require an investigation every time a person is sacked by a principal in the circumstances contemplated under section 37?

The Hon. T.G. ROBERTS: It usually does, as is the case now. The registrar would conduct a preliminary investigation, establish the facts and then decide.

The Hon. R.I. LUCAS: The minister says, 'as occurs now.' Is the minister indicating that, under the current act, if a non-government school principal dismisses a teacher for unprofessional conduct, there is a requirement in the existing act for the board to be advised?

The Hon. T.G. ROBERTS: No; there is no requirement.

The Hon. R.I. LUCAS: But they usually notify the board? There is no requirement?

The Hon. T.G. ROBERTS: No.

The Hon. R.I. LUCAS: In the instance where someone is found guilty by a board inquiry, what information will then be available to prospective employers, and is the information available on the register accessible only to the principal of the school or the board, or is it accessible to any member of the public?

The Hon. T.G. ROBERTS: The outcome and some conditions would be posted on the register and would be accessible to those who apply—those who have a specific interest.

The Hon. R.I. LUCAS: That is anyone?

The Hon. T.G. ROBERTS: It could be, but you would have to have a reason for doing it.

The Hon. R.I. LUCAS: For example, there are two categories. Would a journalist be entitled to get information if he or she applied? Secondly, would a parent contemplating keeping a child at, or taking a child to, a particular school be entitled to get that information?

The Hon. T.G. ROBERTS: Only if there are conditions placed on the outcome.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Well, the conditions that have been placed on the outcome would become available. The conditions placed on the teacher would be known by those who apply and they would have to have a reason for applying, but the outcome would not be known.

The Hon. KATE REYNOLDS: Can the minister confirm that the only information that is available on the register is if a teacher is registered and, if there are any conditions attached to their registration, those conditions appear?

The Hon. T.G. ROBERTS: They are available only on application and if you have a reason to apply.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Yes.

The Hon. R.I. Lucas: A journalist?

The Hon. T.G. ROBERTS: The board would make that decision.

The Hon. R.I. LUCAS: Following on from the Hon. Kate Reynolds' question, under the new bill there is a range of new penalties short of full deregistration—someone might be suspended for 12 months or two years, or whatever it might happen to be, so there is a range of penalties. Are prospective applicants—whether they be journalists, parents or principals—just told that this person is suspended for two years, or are they entitled to be told that this person was suspended for two years for punching out a student, or for child sexual abuse, or for theft, or whatever it is?

The Hon. T.G. ROBERTS: No, there would be no description of the offence. Only the conditions would be posted.

The Hon. R.I. LUCAS: Let us make it clear. This legislation is about child protection. Someone has lost their registration or been suspended for three years or five years or something for what might be deemed to be at the mildest end of child abuse (whether that be sexual, physical or whatever). What the minister is saying is that a prospective employer will not be told the reasons why someone has lost their registration to teach for three years if it relates to child sexual or physical abuse. It might have been because they stole $50 from the staff canteen or whatever it happens to be, or other non children-related offences but nevertheless something sufficient enough to be deemed to be unprofessional conduct.

The Hon. T.G. ROBERTS: I do not think the unprofessional conduct is the board's role. If they are still a registered teacher, the conditions would be available for a prospective employer.

The Hon. R.I. LUCAS: The conditions do not tell you anything, you said

The Hon. T.G. ROBERTS: Conditions can give you some information as to—

The Hon. R.I. Lucas: They will not tell you what the offence was.

The Hon. T.G. ROBERTS: It is not their role.

The Hon. KATE REYNOLDS: Can the minister confirm that the conditions that might be applied to a teacher might include things such as the person is suitable for teaching senior secondary students in a supervised capacity only, or something like that that would give an indication that there is something going on with this person and the potential employer can then make up their own mind?

The Hon. T.G. ROBERTS: Yes.

The Hon. KATE REYNOLDS: Or they might under some circumstances be able to seek some further clarification from the registrar, but the conditions are what appears on the register only, not any background about what has led to those conditions being placed there?

The Hon. T.G. ROBERTS: The board's role is to tell you whether a teacher is registered and what conditions apply to that registration. There may be a hint within the conditions as to what the prospective employer will get. As I think the Hon. Rob Lucas put it, buyer beware.

The Hon. R.I. LUCAS: Having been through a couple of these as a former minister, I think the sort of conditions that I would envisage—and time will tell, I guess, if the legislation is passed—will not give information to principals in relation to the nature of the offence, for example, whether it was an abuse-related offence as opposed to something else. Clearly, the conditions might also relate to a persons's mental capacity and stability and sometimes also their technical expertise.

I know we had technical studies teachers who had lost capacity in a couple of areas and they had conditions on their teaching where they had to be supervised by teachers because the union would not support their dismissal from particular schools. All those sorts of things potentially might be conditions on their employment within a particular school so that they are restricted in terms of the curriculum offerings and/or the year levels. In terms of incompetence they may say, 'Do not let them anywhere near a year 11 or 12 class because they are not capable of grasping that level' because of whatever disability or problem they have. I would be happy to be proved wrong, but I would be very surprised if there was anything in the conditions on the register in two years when we look at it which would give anybody an indication of the nature of the offence. That is my judgment, anyway.

I will not pursue this any further, and that was the last issue in relation to clause 28 that I had. I think a lot of people have understood this to be the solution to what they call 'school hopping' in terms of abuse issues. It appears to me that there may well be some loopholes in the package before us. I guess only time will tell whether my concerns are real or imagined.

Clause passed.

Clause 29 passed.

Clause 30.

The Hon. R.I. LUCAS: I wanted to pick up one last group that was raised in another place and earlier in our debate, and I refer to the issue of paid sports instructors within schools, so that this issue of whether or not they are paid is resolved. Sport and physical education is a key part of the school curriculum, primary and secondary, and a number of schools employ professional sports people in a paid capacity because the teachers do not have the skill set base to undertake the program. Contrary to the minister's views, they are alone with children. They are not under the supervising eye of a registered teacher. For example, they would be out on a sporting field, netball court, basketball court or soccer field taking both physical education and sport as part of the physical education component of the curriculum.

You certainly do not in all circumstances have a registered teacher with them all the time. It is a similar circumstance to the example used in relation to TAFE and the Hon. Kate Reynolds, and in relation to chaplains, with the Hon. Andrew Evans, that you do not have registered teachers there. Can I have an assurance that the government will not be requiring sporting instructors or teachers in the circumstances I have indicated to have to pay $60 for a special authority to teach?

The Hon. T.G. ROBERTS: Yes, I can give an undertaking on that.

Clause passed.

Clauses 31 to 55 passed.

Clause 56.

The Hon. KATE REYNOLDS: We oppose this clause. We will not be seeking to divide on it and I hope that it is not going to provoke further debate. I would like to put on the record that we do not support something that appears to force self-incrimination. We believe that a teacher who is the subject of a complaint should have the right to make their own judgment about whether refusing to answer questions or withholding information or material is likely to result in a decision by the board that that person, through withholding that information, is perhaps an unfit person to teach. We believe that, if the failure to provide material or an answer is seen as so significant, the board can, under the provisions of the act, make its own decision about that person. We will be opposing the clause.

The Hon. T.G. ROBERTS: It would not deem them to be not an inappropriate person.

The Hon. A.J. REDFORD: Is the minister saying that, if this clause is deleted and then someone refuses to answer questions, that would not render them unfit for registration?

The Hon. T.G. ROBERTS: It would not deem them to be, under this clause.

The Hon. A.J. REDFORD: I would like this to go on the record. This is half the problem when we try to rush bills through parliament. This is an important issue that warrants discussion. I must say that I think the Hon. Kate Reynold's

rationale makes some sense. Why undermine an important principle when, at the end of the day, if they refuse to answer questions, you could take that into account and refuse them registration or discipline them accordingly and make your own judgments? That rationale, to my mind, seems to have some commonsense. I have not had the opportunity to participate in my party's discussion on this issue. We got this bill into this place only a day or so ago. I think that rationale makes sense.

The Hon. T.G. ROBERTS: I do not know what the numbers are. The bill has been drafted in other updated legislation which requires that inquiries must proceed on the grounds that there is no excuse to hide behind protection afforded by self-incriminating clauses. It is deemed to be in the public interest to ensure that ongoing misconduct is able to be hidden for the operation of such clauses. Further, the general defence provision can be used if there is a legitimate reason. This position represents a shift from older existing legislation which provides that a person shall not be obliged to answer any questions if the answer to that question would tend to incriminate them, or to produce books, papers and documents if their contents would tend to incriminate them.

The Hon. IAN GILFILLAN: I endorse the comments made by my colleague. The Democrats believe that this issue should not become a sticking point in the progress of the bill. I am heartened to hear the observations made by the Hon. Angus Redford. It is a basic principle of human justice that no-one should be compelled to answer questions. I think the logic the honourable member put in explanation is adequate. However, to make it plain, we will be calling 'No' quite clearly, and our contributions to the bill will make it quite plain that, from the Democrats' point of view, this is a principle that flies in the face of justice, and it is a rash move to threaten what has been taken as a basic right of people in various jurisdictions.

We see no justification for contravening that expectation in this bill. We are conscious that there are other much more significant matters in the bill that must be progressed. It is the last day, and it is late. We do not believe that it is a matter that should become so profound and involve such a lengthy debate that it holds up proceedings. As long as *Hansard* and the chamber understand precisely how the Democrats feel, that is as far as we will pursue the issue at this stage.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): I am sure that is the case.

The Hon. T.G. ROBERTS: I place on the record that it is contained in the Podiatry Practice Bill, the Medical Practice Bill 2004, the Commission Inquiring into Children in State Care, the Complementary Products (Controlled Use) Bill and the Primary Produce Bill.

Clause passed.

Remaining clauses (57 to 61), schedules 1 and 2 and title passed.

Clause 20—reconsidered.

The Hon. R.I. LUCAS: I move to amend subclause (4) as follows:

After 'Part 6', insert 'or in relation to a person of a class prescribed by regulation'.

I flagged this during the lengthy debate on clause 20. Parliamentary counsel has suggested it in a slightly different form, but the intent is the same. In moving this I acknowledge the inadequacy of the amendment to completely canvass the issues that the Hon. Kate Reynolds and I debated in the committee stage. I acknowledge that the minister has indicated an intention to establish a committee and some assurances have been given in relation to surf lifesaving and a number of other issues. I also acknowledge that there is the general regulation-making power under clause 61.

I wanted at least to test the view of the chamber. All this does is give an indication to the government and the minister that we felt strongly about the issue of vocational education and training options within schools. A majority of us felt strongly that, in the circumstances outlined by the Hon. Kate Reynolds and me, we do not believe the solution is that special authorities to teach should be required of providers in all those circumstances. However, we acknowledge that we are not in a position to redraft these provisions to require that specifically, so we are just giving an indication to the minister that we believe that a regulation under this provision ought to be contemplated after the committee has met, and its intent ought to be to prevent wholesale authorities to teach being required of training providers and instructors both in TAFE and in private institutions as well.

The Hon. T.G. ROBERTS: The government supports the amendment.

The Hon. KATE REYNOLDS: The Democrats support the amendment.

Amendment carried; clause as amended passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

LOWER MURRAY RECLAIMED IRRIGATION AREAS

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table a ministerial statement on the subject of Lower Murray reclaimed irrigation areas made by the Minister for the River Murray today.

STATUTES AMENDMENT (LEGAL ASSISTANCE COSTS) BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 812.)

The Hon. IAN GILFILLAN: The Democrats support the passage of this legislation. It quite clearly deals with a matter that we support. In the second reading explanation, the Attorney-General said:

The bill does two things. It defines legal assistance costs in the same way in the two legal aid acts, and makes the terminology in these acts consistent in describing how the Legal Services Commission may recover and apply a contribution towards the costs of providing legal assistance to an assisted person, and consistent also with the laws that allow the commission to use confiscated proceeds of crime to reimburse its costs of providing legal assistance.

This is not the time nor is it necessarily a subject for lengthy discussion. Part of this bill was delayed, and I will quote again from the second reading contribution by the Attorney-General in another place.

The commission asked for the proclamation of this section to be postponed in relation to new section 29 so that it could 'reconsider its effect in the light of concerns raised by the Law Society. The Law Society thought the section might be misinterpreted as applying to private practitioners. It also thought the creation of an artificial retainer between the commission and the assisted person might have unintended consequences.' That, in general terms, was what appeared to be the wider powers to be handed to the commission in

dealing with legal practitioners involved in legal aid. It appears as if the Law Society's concerns have been dealt with adequately.

The contribution that I would make on behalf of the Democrats relates to the area which really does not need to be explored at length now; however, the confiscation of proceeds of crime and then the allocation of them to recoup the legal costs where legal aid has been involved, in principle, sounds fine and is endorsed by the Democrats. I suggest that it is open to misuse if a government is eager to recoup its contribution to legal aid by way of realising assets that have been acquired arguably on the grounds that they are proceeds of crime. The pressure then to embrace a wide range of assets of an offender is very strong.

I leave my contribution on the following note. There may be offenders whose assets are in part the consequences of crime and in part bonafide from previous rewards, inheritance or just the fact that they have come quite genuinely into their possession. The demarcation line could become blurred if we have a regime that is looking voraciously to acquire whatever it can get its hands on to recoup what would normally be the contribution by the crown to legal aid. Having put that concern of ours into this debate, that is as far as we wish to go at this stage. I repeat that we will support the passage of the bill.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank members for their contribution and indications of support. I commend the bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I will use clause 1 to answer some questions that were raised by the Hon. Robert Lawson; I must apologise for omitting to do that at the second reading stage. In giving his support for the bill, the Hon. Robert Lawson asked the Attorney to let him know whether the Law Society was consulted about the bill and the outcome of that consultation. The Attorney advises that the Law Society was consulted about the bill. The Law Society said that it was in favour of the amendments clarifying the position of the Legal Services Commission in relation to the recovery of legal costs from assisted persons. It was the Law Society's reservations about the part of the bill dealing with section 29 of the Legal Services Commission Act that led the Attorney to decline to proclaim it when it was first inserted into the main act by the Legal Services Commission (Miscellaneous) Amendment Act 2002.

When the Attorney sent a redraft of section 29 to the Law Society last year in similar terms to the one appearing in this bill, the Law Society responded that it was satisfied that the redraft removed some of the issues it had been concerned about. It stated:

> It is now clear that the commission is taken to be the retained legal practitioner only in relation to assisted persons to whom a commission practitioner is assigned, thus limiting to some extent problems in relation to conflicts and confidentiality.

It noted with apparent approval that the reference in subsection (4) 'attempts to ensure that for the purpose of the provisions of the Legal Practitioners Act relating to legal practice, the solicitor/client relationship lies with the commission practitioner actually providing assistance to the assisted person'. However, the Law Society remained concerned about the commission being taken to be the legal practitioner retained by the person, when it is not a legal practitioner, because it thought this may allow commission practitioners to be required to act in ways that were in conflict with their own professional obligations. That point has been pursued at length with the commission.

The Attorney is satisfied that nothing in new section 29 obliges or encourages the commission to fail to take regard of the importance of maintaining the independence of the legal profession required of it by section 11(d)(iii) of the main act. He is also satisfied that the authority given the commission by the section—that is, to manage the provision of legal assistance by commission practitioners as if it were a legal practitioner—is limited by section 30 of the main act. Section 30 provides that nothing in the act is to derogate from the duty of the commission practitioner to 'observe the ethical principles and standards appropriate to the practice of the profession of the law'. A director or the commission, invoking section 29 to supervise the provision of legal assistance by a commission practitioner, could not require the practitioner to do something that was unethical or unprofessional without acting contrary to section 30 of the act.

Clause passed.

Remaining clauses (2 to 20) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

MOTOR VEHICLES (FEES) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 831.)

The Hon. R.D. LAWSON: I rise to indicate that the Liberal opposition supports the passage of this bill that empowers the Registrar of Motor Vehicles to withhold payment of a fee that has been overpaid (up to $3), which amount will be indexed, unless the person who paid the fee demands a refund. It also empowers the government to make regulations providing that the Registrar is not required to make a refund where the refunded amount does not exceed $3 (indexed for CPI), or to recover a fee where the amount underpaid does not exceed $3 (also indexed for CPI).

We think it is an important principle that people who are entitled to refunds are able to demand that they be paid, and that is preserved. There was some discussion amongst my colleagues about the appropriateness of paying moneys overpaid, and held by the Registrar, into the Community Road Safety Fund—a fund this government has much trumpeted. However, in a briefing from the minister's advisers, for which I am grateful, I was informed that in fact the amount of overpayments is exceeded by the aggregate amount of underpayments. The logical consequence of having the balance of funds paid to the Community Road Safety Fund is that, rather than receiving funds, they would have to be paid out, which is clearly not a desirable outcome. For those reasons—

The Hon. R.I. Lucas: You could put it in the Crown Solicitor's Trust Account. The Attorney would support that!

The Hon. R.D. LAWSON: That is already an overworked fund, and one of which he is sometimes not aware when a Bible is put in front of him. With those brief comments, I indicate support for this bill and gratitude for the government's having adopted a suggestion made by the shadow minister for transport (the member for Mawson, Robert Brokenshire) that the amount originally proposed be reduced and that a CPI factor be built into the amount of $3.

The Hon. SANDRA KANCK: This bill was introduced this morning, and I had a briefing on it a short time afterwards. I had a few initial concerns when I read it, mainly because I thought that $3 counts for a lot to people who are not well off. At the briefing, I was told that, effectively, this bill puts into law what has been in practice for the past 30 years—that is, minor underpayments or refunding minor overpayments are not pursued—and that the figure that has been set (apparently, for the past 10 years) is $3. In answers to my questions at the briefing, I was informed that there is roughly an equal number of overpayments and underpayments each year (about 7 500) and that, after a cheque is posted (including the costs of the postage, the envelope, the paper, the staff time and so on), it costs approximately $20 each time an overpayment is refunded by the department. So, generally speaking, unless the consumer believes that there is an issue, it is not worth taking it any further.

In terms of who wins and who loses, I was told that, overall, in any one year the government loses $5 300, and I guess that means that, overall, the consumer wins by that amount. So, on the basis of the information the government has provided me, I indicate Democrat support for the bill.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank honourable members for their indications of support and for their consideration in giving this bill unusually speedy passage.

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

CRIMINAL LAW CONSOLIDATION (CHILD PORNOGRAPHY) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 831.)

The Hon. R.D. LAWSON: This bill was introduced in another place by the Attorney-General on 26 October. As is the wont of this government, the Premier proclaimed that the new bill was the 'toughest in the country' and sought to suggest that, in some way, South Australia was a leader in this particular field. In fact, South Australia is following other states and the commonwealth in this particular measure.

Our current laws relating to child pornography are contained in sections 58A, 64 and 65 of the Criminal Law Consolidation Act and in section 33 of the Summary Offences Act. The last-mentioned section contains the main offence of selling or exhibiting 'indecent or offensive material in which a child is depicted or described in a way that is likely to cause serious and general offence among reasonable adult members of the community.' The current penalty is a maximum of two years' imprisonment or four years for a subsequent offence.

The criminal law consolidation offences relate to the production of child pornography by making it an offence punishable by a maximum penalty of two years for procuring or inducing a child to engage in an indecent act or to expose any part of his or her body with a view to 'gratifying prurient interests.' These offences are fairly elementary and they do not address the now notorious international child pornography networks which involve the transmission by internet of thousands of pornographic images of children, nor do the existing laws easily cover the situation where paedophiles participate in internet chat rooms for the purpose of grooming children for sexual activities. For these purposes 'child' is defined as anyone under the age of 16 years or apparently under that age.

Some of the techniques of child pornography are described in an admirable recent publication of the Australian Institute of Criminology referred to in a number of speeches in another place but which I will not repeat here. Suffice to say that law enforcement authorities have identified the transmission of child pornography as a serious international issue from which this country is not exempt. The recent national police campaign and so-called raid on the possessors of child pornography received very widespread publicity, that is, the so-called Auxin Operation.

This bill will define child pornography as material 'that describes or depicts a child engaging in sexual activity', and I doubt that there would be any objection to that definition. That is coupled with an additional requirement, easily fulfilled in this case, that the material 'is intended or apparently intended to excite or gratify sexual interest; or to excite or gratify a sadistic or other perverted interest in violence or cruelty.' The second category of child pornography is material 'that consists of, or contains, the image of a child or bodily parts of a child (or what appears to be the image of a child or bodily parts of a child) or in the production of which a child has been or appears to have been involved.' Once again, the second element of that type of material is a requirement that it be 'intended or apparently intended to excite or gratify sexual interest; or to excite or gratify a sadistic or other perverted interest in violence or cruelty.'

This second category of the definition of child pornography does create conceptual and other difficulties, but it is indeed a very difficult task to approach a definition of this kind. The definition does include, as I have just read, material in which a child appears to be engaging in certain acts. This is to catch the practice of 'morphing', which involves the digital manipulation of images of children rather than physically involving a child. As was explained in the second reading explanation of the Attorney-General and is detailed in greater specificity in the publication of the Australian Institute of Criminology, modern digital techniques enable images to be manipulated to create an impression.

The bill also outlaws the practice of 'grooming'—that is, communicating with a child for a prurient purpose with the intention of making the child amenable to sexual activity. The existing offence of procuring a child to engage in sexual activity will continue. Once again, the concept of grooming is a difficult one. There will be many adults who, for perfectly reasonable and legitimate purposes, seek to befriend children without any ulterior purpose in mind and it will, in my opinion, be difficult to prove a charge of this kind beyond reasonable doubt. Notwithstanding that difficulty, it is now very widely recognised that the practice of grooming does go on and has gone on for many years. It has gone on for too long and, in many cases, for too long unpunished.

The bill also increases penalties as follows. For the possession of child pornography, from one year to five years, a maximum of seven years for a prior offender. For distributing child pornography, the maximum penalty will increase from imprisonment for two years to 10 years. The fines will be increased from $5 000 to a range of fines depending upon the particular jurisdiction that is imposing the penalty. It can be as high as $75 000 in the Supreme Court, $35 000 in the District Court and $10 000 in the Magistrates Court. Increasing penalties, as we on this side frequently say in relation to the activities of this government, are one thing, often

welcome, but more important is the detection and prosecution of offenders in this area.

Announcements such as the Premier's that accompanied the introduction of this measure, where great play is made of increased penalties, simply do not address the issue of how you detect these offenders, how you bring them before a court and successfully discharge the onus of proving the offence. This bill will remove child pornography from the Summary Offences Act and will abandon the definition contained in that act and the concept of causing offence to reasonable adult members of the community. As I noted in my opening remarks, there is a move afoot across the country to introduce updated legislation. A helpful table in the publication of the Australian Institute of Criminology indicates that the South Australian law on this topic is some of the oldest law in the country.

Concern has been expressed in the public arena by the Hon. Dr Bob Such and others that this bill will jeopardise ordinary citizens possessing snapshots of naked babies in a bath or young children playing under a sprinkler. Such images are not pornographic under this legislation unless they also depict the child, as would be unlikely, engaging in sexual activity; or that the prosecution can prove that the photograph is intended or apparently intended to excite or gratify a sexual interest or to excite or gratify a sadistic or other perverted interest in violence or cruelty. Whilst these fears have been expressed about the possibility of innocent persons being prosecuted for the possession of such innocent material, I cannot see a way of easily defining this concept in other terminology.

It is important to note that the bill contains an important proviso to ensure that the innocent receiver of unsolicited material is not prosecuted for the possession of that material. In the publicity that accompanied the recent Auxin raids, widespread notification was given that hard drives of personal computers were seized with, in some cases, over 300 000 images, one is led to believe. But this bill will provide that it is a defence to a charge to prove that the receiver took reasonable steps to get rid of such material as soon as the receiver became aware of its pornographic nature.

One hopes that many of the possessors of child pornography in this country realised their vulnerability to prosecution by holding that material in that form. I believe that that is a reasonable and practical measure. I note that, by amendments moved in another place by the Attorney-General, there is now a new addition to section 104 of the Summary Procedures Act, which will relieve the prosecution of an obligation to supply child pornography to an accused.

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

That standing orders be so far suspended as to enable the sittings of the council to be extended beyond 6.30 p.m.

Motion carried.

The Hon. R.D. LAWSON: As I was saying earlier, amendments introduced to section 104 of the Summary Procedure Act will prevent an obligation being placed on the prosecution to supply child pornography to an accused, where the child pornography, or alleged child pornography, whether or not it is encrypted, and which forms the subject of charges, would need to be under the current rules provided to the defendant. I certainly agree that it would be undesirable, and the amendment which has been introduced will remove that possibility. With those words, I indicate that Liberal members will be supporting the passage of this bill.

However, it is a matter of considerable regret that the bill comes to this place for debate at such short notice, and also in circumstances where the time for the sitting is rapidly expiring. We have agreed to debate the bill in the council today, notwithstanding the fact that it was passed through another place only yesterday. If other members in this place wished to participate in the debate but are prevented from doing so by reason of the shortness of notice, we certainly have every sympathy for them. However, I gather that the government has made arrangements which will allow the passage of the bill this evening.

The Hon. KATE REYNOLDS: The Democrats have consistently advocated, at both federal and state level, for the protection of children and young people from exploitation, degradation and humiliation. So, we are pleased to speak at this second reading stage and indicate our support for the bill. We agree with the government that child pornography is a heinous exploitation of children and young people, and we acknowledge that demand for such material fuels both its production and supply.

We welcome any reasonable measure to reduce and, as far as possible, eliminate (although we think 'reduce' is more realistic) the possession, production, supply and sale of child pornography. We welcome the increased penalties for the offence of possession of child pornography, and for the production or dissemination of child pornography, as well as the new offences of procuring and grooming a child or children, or young people. We commend the government for introducing this bill, and I personally commend the government's advisers for their excellent briefing this morning. I indicate the Democrats' support for the bill.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank honourable members for their indication of support, and also for their forbearance in giving speedy passage to this bill. It is unfortunate that, given the considerable length of time that has been spent in another place on debate on a number of bills we have dealt with this year—in particular, what was the fair work bill, the bill in relation to smoking and the bill in relation to gaming—the council has not had a lot of time to consider this very important bill, but I thank honourable members for giving it such speedy consideration. I commend the bill to the council.

Bill read a second time.

In committee.

Clause 1 to 3 passed.

Clause 4.

The Hon. R.D. LAWSON: Can the minister indicate in relation to section 58A of the Criminal Law Consolidation Act whether there have been any prosecutions under that section in the last three years, and, if so, how many?

The Hon. P. HOLLOWAY: We are not aware of that matter. If the honourable member is agreeable, I will take that question on notice and write to the honourable member with that response. We do not have knowledge of any cases at this point.

Clause passed.

Clauses 5 and 6 passed.

Clause 7.

The Hon. R.D. LAWSON: With reference to the definition of child pornography contained in this clause, can the minister indicate the source of the definition and, in

particular, indicate why the government has not adopted different definitions which appear in other places? For example, in the commonwealth Crimes Act, child pornography is defined in terms not dissimilar to those in our bill but has a standard of reasonable person by defining child pornography as including material which has certain characteristics but which reasonable persons would regard as being in all the circumstances offensive. What is missing from the definition of child pornography in this bill is any overt reference to the standards of ordinary persons.

The Hon. P. HOLLOWAY: I can certainly give the honourable member some information about why the legislation has moved away from the previous definition in section 33 of the Summary Offences Act. The previous definition evolved over time out of the indecent and offensive provisions of the Summary Offences Act. It was felt that it was time to update the offence to reflect the harm and the type of images that are able to be generated using modern technology. The old definition had some serious drawbacks in that it would not necessarily cover 'morphed'. I advise that the older definitions in the commonwealth act are based on the classification of offences whereas what is attempted here is to move away from that to deal with the problem at hand, which is the abuse of children.

The Hon. R.D. LAWSON: On a related matter, could the minister indicate to the committee whether amended legislation, which I understand has been introduced in the commonwealth, in the Australian Capital Territory and in New South Wales to address child pornography, has passed, and has any other jurisdiction adopted new legislation in relation to child pornography?

The Hon. P. HOLLOWAY: My advice is that the amendments have passed in the ACT. In New South Wales the bill was before parliament on 22 November, although I am not sure what has happened since then. The commonwealth has also passed its amendments. Finally there is a push from the Standing Committee of Attorneys-General, COAG and the Australasian Police Ministers Council for consistent national child pornography offences across all jurisdictions, and this may impact on our child pornography legislation.

The Hon. R.D. LAWSON: In relation to this clause, can the minister indicate the source of the definition of prurient purpose? I should perhaps have mentioned in my second reading contribution, for the benefit of the committee, that the definition is:

> A person acts for a prurient purpose if the person acts with the intention of satisfying his or her own desire for sexual arousal or gratification or of providing sexual arousal or gratification for someone else.

Where does that definition find its origin? Is it based upon comparable provisions in other jurisdictions?

The Hon. P. HOLLOWAY: I am advised that it is an original work. It has been drafted by parliamentary counsel.

Clause passed.

Clause 8.

The Hon. R.D. LAWSON: Will the minister place on record the reason for the introduction of this amendment, which constitutes an amendment to the Criminal Law (Forensic Procedures) Act?

The Hon. P. HOLLOWAY: This amendment will remove section 33 of the Summary Offences Act from the operation of the Criminal Law (Forensic Procedures) Act. The bill will remove the child pornography offences from section 33 of the Summary Offences Act and the offences will become indictable. A consequential amendment to the Criminal Law (Forensic Procedures) Act 1998 is required to remove section 33 of the Summary Offences Act from the schedule to the Criminal Law (Forensic Procedures) Act. A 'serious offence' for the purposes of the Criminal Law (Forensic Procedures) Act 1998, in particular, section 14, allows for the taking of a DNA sample from a suspect.

The net effect is that police have the power to take DNA samples from people under suspicion for child pornography offences. The amendment would result in no net changes to the intention behind the Criminal Law (Forensic Procedures) Act 1998. Under the Criminal Law (Forensic Procedures) Act, all indictable offences are serious offences, and therefore the existing power to take DNA samples from people suspected of child pornography offences will continue. To leave the Criminal Law (Forensic Procedures) Act 1998 as it is would create the unintended situation where the police would have the power to take DNA samples when investigating the residual summary offence of publishing indecent or offensive material.

Clause passed.

Clause 9 passed.

Clause 10.

The Hon. R.D. LAWSON: This clause will amend the Summary Procedure Act. Will the minister place on the record whether there was any consultation with the Law Society or any other representatives of the practising legal profession in relation to this amendment and, if so, what response was received in that consultation?

The Hon. P. HOLLOWAY: My advice is that this amendment was requested by the Director of Public Prosecutions, but the Law Society was not consulted, because it was regarded as being unnecessary in this case, given the nature of the amendment. It was requested originally by the DPP.

Clause passed.

Title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

TEACHERS REGISTRATION AND STANDARDS BILL

The House of Assembly agreed to the Legislative Council's amendments without any amendment.

CRIMINAL LAW CONSOLIDATION (CRIMINAL NEGLECT) AMENDMENT BILL

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

ADJOURNMENT DEBATE

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

> That the council at its rising adjourn until Monday 7 February 2005 at 2.15 p.m.

I thank you, Mr President, and all members of the council for their cooperation during the past session, which has been particularly busy, with a number of quite complex bills. We all know that conscience vote bills lead to much lengthier debates than many of the other procedural bills, and we have had more than our fair share in this session. Of course, the lengthy delays in receiving them from the other place has, in some sense, interrupted the program of the council. However,

despite that, I believe that we have dealt with the matters before us very constructively, and I do not think they have been unduly delayed in this place. As so often happens at the end of a session, a number of bills have to get through the council very quickly, and I thank all members for their cooperation in doing that.

I thank the Leader of the Opposition, the leader of the Democrats and the Independents for their cooperation. I thank the whips, John and Carmel, for carrying out their jobs, which are particularly difficult. I also thank the table staff, and Jan in particular. It has come to my attention that, on 21 December, Jan will complete 40 years of service in the Legislative Council, which I am sure is more than any elected member to this place would ever hope to achieve let alone be capable of achieving. I thank Jan for her longstanding contribution to the council, especially during the past session, which has been a particularly difficult one.

Also, I thank Trevor, Noelene, Chris, Margaret and the messengers and attendants. I thank *Hansard* for repairing the verbal damage that some of us create during these debates. We have had a few long nights this session, but I thank them. I thank the attendants, the kitchen and dining room staff, the security staff, the library staff and everyone else who works in this building. I would like to wish all members and those who work in this parliament the compliments of the season. I look forward to everyone coming back here safely and in good health in the New Year when we reconvene in February.

The Hon. R.I. LUCAS (Leader of the Opposition): I support the remarks of the Leader of the Government and, in doing so, I thank all members. As the leader indicated, a considerable quantity of legislation has passed through this place, particularly in the past couple of days. Certainly, we would ask that the leader take up his remarks with his lower house colleagues. Occasionally in the public airways they are wont to be critical of delays in the Legislative Council. We acknowledge his recognition that that is not the case; that this council generally works assiduously in terms of processing the legislation.

We would hope that the Leader of the Government's acknowledgment of the work of the Legislative Council might be conveyed to some of his lower house ministerial colleagues—in particular the Premier—in relation to his consideration of the work and the worth of the Legislative Council. I join with the leader in thanking all staff. I will not go through all the different categories in terms of thanking them. On behalf of Liberal members, I thank them. Without their hard work (and late hours sometimes) we would not be able to function. We acknowledge their work.

I join with the leader in congratulating Jan Davis in particular—40 years on 21 December. I did become aware of it. She was very coy about which day it was. I was trying to get out of her what day it was, but Jan being Jan she was not prepared to reveal it, but luckily the information dropped from a cloud somewhere today to the Leader of the Government and me and the date has been revealed. People will not realise that Jan—of course who is the epitome of decorum, good grace and manners these days—was quite mischievous and naughty in her early days in the Legislative Council. Indeed, I am led to believe that she broke an explicit commitment that she gave to her first employer about what she would and would not do within two years of first being employed. I will not put on the public record that—

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: No. I am happy to share that information privately with members. I do not want to add to Jan's embarrassment by indicating the nature of her broken commitment. That was the last time that she broke a commitment—39 years ago—in relation to her activities and operations in the Legislative Council. Certainly, she has seen a few crusty old Clerks in her day—Ivor Ball and, of course, Clive, and a variety of other staff who have passed through this place—as well as many Presidents and members too numerous to count.

Jan, I congratulate you on behalf of present Liberal members. I spoke with Henry Peter Kestrel Dunn (otherwise known as Peter) a day or two ago. I told him that 40 years was up and he asked me to convey his best wishes to you. I know that I speak on behalf of many past Liberal members in congratulating you on your first 40 years. I presume that you are now embarking on the next 40. I am sure that you will outlive and outlast us all in the parliament. We do acknowledge what you do for us. Congratulations, and I hope that you get a chance to celebrate the 40th and enjoy some rest period between now and the February session.

I thank all other members for their cooperation with the Liberal members in the chamber. I join with the Leader of the Government in wishing them well for the period between now and the February session. In particular, I hope that the Christmas period is an opportunity to catch up with family, friends and acquaintances. I hope that it is an enjoyable Christmas period for you, and we will see you in the New Year if we do not see you before at the odd select committee or two.

The Hon. SANDRA KANCK: I want to thank all of my parliamentary colleagues in this chamber for the generally pleasant way in which we deal with matters here. I want to thank table staff and, in particular, Jan. I understand that when Jan began working here 40 years ago—I just find it impossible to believe, because I understand that she was a teacher before that, and it leaves me reeling to wonder how old she was that she did her teacher training—she began as a clerk typist, and has worked her way up from that position and, I understand, has held all positions in table staff which, I think, gives her the wisdom and experience that we all know we can rely on.

I also want to thank messengers and building attendants, and I particularly thank the engine room of parliament—the catering staff who provide us with the carbohydrates and caffeine that keep us going, and that is so important. They do it with such graciousness and patience. Sometimes I get annoyed when I see some MPs taking them for granted but, generally speaking, I think they are appreciated and I certainly want to put that on the record. I would also like to thank all the organisations and people who have supported the Democrats in the last 12 months in providing us with information and support in getting information when we are trying to pass legislation, when we go through that consultation period, and there have been many of them.

Once again, I observe that the Legislative Council provides an example to those in that other place of how to speedily progress legislation in a responsible way. I conclude by wishing all members and staff the best for Christmas and the new year. I look forward to seeing everybody come back recharged and enthusiastic in February.

The PRESIDENT: I also rise to make a brief contribution to this motion. I think that the last 12 months has seen the

Legislative Council operate efficiently and with a great deal of dignity. During the session, from time to time there will be differences of opinion between the President and members of the council but I am very pleased to note that, by and large, everybody has acted with good cheer, grace, and a fair amount of dedication. One of the things that I am pleased about is that, during the committee stage, we now concentrate on each clause as it goes through. I think that, at the end of the day, it makes the passage of the legislation more efficient. Everybody has moved back into that mode, and I think that it augurs well for a future in the Legislative Council whereby we can always look back and say the Legislative Council has done its job with modesty and dignity, and got the legislation through.

Many times we are accused of holding up legislation, and it is pointed out, from time to time, that members of the Legislative Council enjoy unlimited time to put their point of view on each particular matter. I think that it leads people to believe that long-winded discussions take place. A lot of the time it results in a proper scrutiny of the legislation, and everybody is given a fair opportunity to be clear on the situation. I think that, on any fair assessment, we would find that legislation, despite the fact that members have unlimited opportunities, often passes much quicker, and the amendments that come out of the council are often for the betterment of the legislation and for the people of South Australia. I say that with some confidence because most of the amendments that are sent from the Legislative Council to the House of Assembly are agreed to. Very few bills have to go back to conferences—we have had very few conferences—and I think that points to the fact that the Legislative Council is playing a proper role in legislation on behalf of the people of South Australia.

I also would like to make a couple of brief comments about the Clerk, Jan Davis. Jan, along with her team, the table staff and the messengers, really do make life much more pleasant in the Legislative Council. Jan has been particularly helpful to me since I have been the President. Her breadth of experience, the training that she has undertaken during her career, her attention to the processes of the Legislative Council and, indeed, her great knowledge of the Legislative Council processes, coupled with the training that she has undertaken, and her studies in constitutional law in the past few months, have been invaluable when there have been disputes between Her Majesty's Legislative Council and the House of Assembly. Often we find that, when constitutional legalities are being discussed, generally the most succinct and correct information comes from the Clerk of the Legislative Council, despite the high credentials of other people who would put their nose into the business of the Legislative Council and, indeed, comment on the constitution and the practices of the Legislative Council. Jan normally comes through almost 100 per cent.

Jan has her own particular way of doing things. From time to time we clash. She is normally very patient, but she often gets annoyed. You know when she is annoyed because she starts using that terrible word 'jolly'—the 'jolly' thing this and the 'jolly' thing that. So, you know when she is quite upset. I hope that Jan Davis has a 'jolly' Christmas period, and I thank honourable members for their general good cheer and the way in which they have gone about maintaining the dignity of the council, which I am charged with overseeing and which I take very seriously. I hope that all members have a happy and prosperous Christmas and new year and that they return to this parliament refreshed and recharged in order to continue the good work of the Legislative Council. I wish you all well for the festive season.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Mr President, I omitted before to give my thanks to my personal staff for the work that they have done for me and, on behalf of all members of the council, I also extend our thanks to our personal staff, without whom we would not be able to do what we do in here.

The PRESIDENT: I can only endorse those remarks and make the same comment about my own personal staff, who have taken on many more of the tasks that were normally undertaken by others since I have been President. The presentations to people from overseas is something of which I am very proud, and most of that work is done by Mary Kasperski and Andrea Wilson.

Motion carried.

At 7.08 p.m. the council adjourned until Monday 7 February 2005 at 2.15 p.m.