LEGISLATIVE COUNCIL

Thursday 14 April 2005

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

STANDING ORDERS SUSPENSION

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

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

Motion carried.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NEW ELECTRICITY LAW) AMENDMENT BILL

In committee.

(Continued from 13 April. Page 1660.)

Clause 12.

The Hon. P. HOLLOWAY: I have some responses to a number of matters raised when we last debated this bill. In relation to offences and breaches by corporations (section 85 of the new National Electricity Law), section 80 of the NEL provides:

(1) If a corporation contravenes a provision of this Law or of a regulation in force for the purposes of this Law or is in breach of a provision of the Code, each officer of the corporation is to be taken to have contravened the provision or to have been in breach of the provision if the officer knowingly authorised or permitted the contravention or breach.

Section 85 of the new National Electricity Law has been drafted slightly differently but has the same effect as section 80 of the old NEL. The new NEL provides:

(1) If a corporation contravenes an offence provision or is in breach of a civil penalty provision, each officer of the corporation is to be taken to have contravened the offence provision or to have been in breach of the civil penalty provision if the officer knowingly authorised or permitted the contravention or breach.

The new National Electricity Law explicitly refers to an 'offence provision' or a 'civil penalty provision', while the old NEL refers to a contravention of the law, regulations or breach of the code. In the old regime, the law and the regulations contained the offence provision and the civil penalty provisions. So, the effect of the two provisions, while expressed differently, is the same. Subclauses (2), (3) and (4) of the new NEL are substantially the same as those provisions in the old NEL but reflect the drafting changes discussed above.

In relation to part 8, safety and security of the national electricity system, the responsibilities and obligations for the safety and security of the national electricity system are currently set out under clause 4.3.2 of the National Electricity Code. Given the importance of the safety and security arrangements to the jurisdictions, the provisions of clause 4.3.2 of the code have been elevated to the NEL and are reflected in sections 110 to 118. South Australia is still able to preserve its specific load shedding procedures, with the Electricity Supply Industry Planning Council continuing to be South Australia's responsible body for developing and maintaining the guidelines for load shedding by NEMMCO in this state.

In relation to part 9, immunities, the new NEL and rules provide for three types of immunity. Unless an agreement provides otherwise, NEMMCO and the network service providers do not incur any civil monetary liability—which means liability for damages ordered in a civil proceeding but does not include liability to pay a civil penalty under the new NEL or an infringement notice—for the performance of their functions under the new NEL or rules unless an act or omission is done in bad faith or through negligence. The maximum civil monetary liability that can be recovered for acts of negligence by NEMMCO and network service providers will be limited to an amount prescribed in the regulations.

Unless an agreement provides otherwise, a registered participant or NEMMCO does not incur any civil monetary liability for a failure to supply electricity unless the failure is due to an act or omission made by the registered participant or NEMMCO in bad faith or through negligence. No personal liability attaches to an AEMC official for an act or omission in good faith in the performance of a function under the new NEL or rules. Liability in such circumstances lies against the AEMC. The immunities described above are substantially the same as the immunities which apply for market participants under the current NEL and code.

The Hon. R.I. LUCAS: In relation to the first issue, it would appear that the government's legal advice is different from the legal advice of the National Generators Forum. I make no criticism—not being a lawyer, I am not in a position to make a judgment as to whose legal advice is correct. As I put on the record last night—and I will not repeat it—the legal advice available to the National Generators Forum concludes that there are differences in terms of the drafting of new section 85 of the National Electricity Law. The minister has made it clear, based on his legal advice, that the government does not agree with that, that it thinks that the provisions are essentially the same as—

The Hon. P. Holloway: There are drafting differences but the effect is the same.

The Hon. R.I. LUCAS: I am not arguing that they are word-for-word the same. I will summarise in plain language for us non-lawyers: in essence the government's legal advice appears to be that, whilst there are drafting differences, the provisions of the new law are essentially the same as the old, and it disagrees with the view of the National Generators Forum's legal advice that there are differences in effect. I do not intend to pursue that but just record it—it is not an unusual set of circumstances that two sets of lawyers have differing views as to the impact of the drafting. I guess time will tell, if it ever gets tested.

Again, given the government's position that the courts will interpret the committee stage of the debate, the government has put a position and the opposition has put an alternative legal position on the record, but it is not as simple as saying that the government's intention was this and the parliament's intention was, therefore, that. The courts may well interpret that that was the government's view but there was a position put in the chamber that disagreed with that, based on legal advice available to the National Generators Forum—

The Hon. P. Holloway: But what is your intention? It is the intention of the parliament that is important; it is not what the legal interpretation would be. The intention of the government is clear.

The Hon. R.I. LUCAS: We are recording here that it may well be the intention. Our view of the intention of the legislation is different to what the government claims its

intention is. Given that there seems to be some significance placed on the committee stage of the debate, the government says that this is what its intention is and I am saying that there is a view that disagrees with that—that is, that the government's intention is something different. Future judicial interpretation will make of that what it will, but it is certainly not as simple as being able to say, 'The intention of parliament was as follows.' Certainly, the government said its intention was to head down this particular path.

The Hon. Nick Xenophon: You do not seriously think that a court is going to take the debates into account?

The Hon. R.I. LUCAS: That is not my view; it is the government's view, because it has drafted the law and it specifically requires the committee stage of the debate to be taken into account. The Acts Interpretation Act of South Australia does not apply (and Mr Xenophon would understand the background of that) and there is a specific clause which takes almost a page—I think we are about to come to it—which says that not only should the government's second reading explanation be taken into account but also the committee stage of the debate—indeed, anything that is tabled—should also be taken into account, and I refer the Hon. Mr Xenophon to that, if he is interested.

The Hon. Nick Xenophon: It is going to be a lawyers' smorgasbord.

The Hon. R.I. LUCAS: That is why I have been indicating those issues during this debate.

The Hon. P. HOLLOWAY: My understanding of the background to these changes that were made to the Commonwealth Acts Interpretation Act some 20 or 30 years ago—and I indicated the other day that I was working for a federal member of parliament at the time and had some interest in it—is that there were often decisions from courts that appeared to go expressly against the intention of the parliament at the time. In other words, the legislation was interpreted in a way that parliament believed it should not be interpreted. That is why those changes were made:to try to clarify that, when the courts were interpreting legislation, they would take into account the intentions of parliament. What we are talking about here, and what the courts will be looking at, are the intentions of the parliament in introducing legislation. That is why the second reading explanation is given that particular weight.

The Leader of the Opposition is saying that he has had some legal advice from someone who is interpreting the provision in a different way. I do not think they are questioning the intention; they are questioning what interpretation might be given to the law. It is up to the courts to interpret the law, but in interpreting the law they will be interested to know what the intention of the parliament was, and rightfully so, in introducing the legislation. If the opposition is saying that we have a different intention in supporting this legislation, then that is one thing, but to say that there may be other interpretations of that legislation is quite another thing. I would suggest that what is relevant to the courts is the intention of this parliament in giving effect to this legislation. In relation to clause 85, it is the intention of the parties—the South Australian government and other ministers—that it should have, as I have indicated, substantially the same effect as the old NEL.

The Hon. R.I. LUCAS: I do not want this to go on for a long period and will not participate in doing that, but I indicate that part of what is missing from the minister's argument, in essence, is what the correct interpretation of it is in relation to the existing law. The minister in the advice that he has given is saying that it is substantially the same as the existing law and that is what the intention is—

The Hon. P. Holloway: And our interpretation. It is both the intention and our legal interpretation of it.

The Hon. R.I. LUCAS: The issue as well will be: what is the intention and interpretation of the existing law, because the minister is talking about this being essentially the same as the existing law. Obviously there is a different legal view as to what the practical impact of this particular provision will be.

The Hon. P. HOLLOWAY: I think the honourable member was suggesting that the contract will be changed or we agreed to change the intention. We are saying 'No, that is not the case, it is not our intention to change it.'

The Hon. R.I. LUCAS: The minister has outlined his position. The opposition has outlined its position. As I said, both of us not being lawyers, we are probably not well placed to argue the niceties of judicial interpretation in relation to this, other Acts Interpretation Acts and other things as well, but we will make the best of it as we can. The second area that the minister raised was the issue of part 8, safety and security of the national electricity system. I thank the minister for the reply which indicated that there were no changes in relation to these provisions, and that they had just been lifted from the code and elevated (to use his word) into the National Electricity Law.

In particular, the minister indicated that this would not in and of itself require changes to our load shedding procedures. I mean, they might be changed for other reasons but not as a result of the changes we are being asked to approve in relation to this legislation. I thank the minister for that. Given that this provision of the legislation does not give the jurisdictions any greater or lesser power in relation to the safety and security of the national electricity system, can the minister highlight to me whether there are any other provisions of this legislation which give jurisdictions greater powers in relation to the safety and security of the national electricity system, or is this really the only section that does relate to the important issues of the safety and security of the national electricity system?

The Hon. P. HOLLOWAY: These are the provisions that have been moved from the code and elevated in the NEL and, as far as we are aware, they are the only parts of the NEL relating to safety and security. My advice is that there may be details of them in the rules. We cannot point any out, but, certainly as far as the NEL is concerned, we believe that sections 110 to 118 are the only ones covering the safety and security of the national electricity system.

The Hon. R.I. LUCAS: That is certainly my reading of the legislation, and I thank the minister for confirming it. Certainly in the discussions I have had with some industry experts that is their view as well. The minister will be aware that, in the not too distant past, we had the unfortunate events of the power blackouts as they related to the power company NRG, ElectraNet and the interconnector when a significant part of South Australia was blacked out.

The Minister for Energy in South Australia, in a number of media interviews, claimed that NRG had a lot of questions to answer from people who have suffered and what a stress it is and that we need to complete this lengthy reform process we have been involved in for years: 'We've got a reform bill in the upper house and I hope that it's passed quickly.' It would appear clear that there is nothing in this legislation that backs what the minister is talking about. The minister just confirmed that there are no additional powers to handle the

sorts of issues of NRG and the circumstances of the power black-out. Can the minister now specifically point to what exists in this legislation that will help to prevent the sort of circumstances the state endured in relation to NRG's, ElectraNet's and the other electricity companies' problems with the recent black-out?

The Hon. P. HOLLOWAY: The answer to that question really is that this legislation abolishes NECA (which I would argue does not necessarily have a particularly good track record in relation to dealing with such matters) and puts in place the energy regulator and, because of its structure, the hope and expectation is that it will deal more effectively with these sorts of issues than has NECA.

The Hon. R.I. LUCAS: On Mr Abraham's program on ABC Radio on 16 March the minister said (and I paraphrase it): 'Yes, we've got problems and that's why we've got this reform bill in the upper house', 'I hope it is passed quickly' and 'The opposition should pass it.' Mr Abraham put the question to the minister: 'Well how would that fix the problem?' He then expanded on the question and the minister's response, in part, was:

> Now, part of the problem and we've talked about this before, is that about four different bodies have a role in protecting the system and managing it. You've got NEMMCO, you've got NECA, that's supposed to make an investigation, we got our local regulator and of course you've got the ACCC that regulates transmission. Now, what we're trying to do is reduce those number of regulatory bodies and give the ones that are there more teeth to deal with issues.

I specifically ask the minister (he has already answered this, but in this context): given that NEMMCO is continuing and given that NECA has been replaced by the AER and the AEMC, given that the local ESCOSA is continuing and given that the ACCC continues, how does the minister justify the Minister for Energy's claims that there will be a reduction in the number of regulatory bodies?

The Hon. P. HOLLOWAY: I answered those questions the other day, but I will repeat the answer. Events such as that which occurred on 14 March arise from a range of causes, including equipment failure, inadequate technical standards and/or market participants failing to comply with the appropriate technical standards or rules—and we know that the 14 March event is being investigated by NEMMCO regarding the causes and system security issues by NECA regarding potential code breaches and enforcement action and by ESIPC upon referral of the minister. The reforms have been based on changing the governance arrangements to separate the enforcement function from the rule-making function, with the AER and the AEMC to respectively perform these functions. So, the AER is the enforcement function and the AEMC is the rule-making function.

The intent is to improve the enforcement regime with a more focused and vigorous regulator, the AER, enforcing the rules, including appropriate standards. No changes have been made to NEMMCO's core functions or its role. It will be the AER's task to enforce the new National Electricity Law and the rules and, in this aspect, it will not be subject to other tasks such as approving rule changes. This should enable it to improve the level of enforcement of the rules within the NEM and, in this respect, markedly reduce the chance of reoccurrence of such events. So, it is essentially the separating, and the Australian Energy Regulator will be the body with that specific task. The legislation will make it clear that it will have that task, and that task alone, unlike the current situation.

The Hon. R.I. LUCAS: Does the minister at least concede that there has been no reduction in regulatory bodies as a result of this major reform as it has been portrayed by the government?

The Hon. P. HOLLOWAY: Along with the abolition of NECA, the bill also removes the functions and powers of the National Electricity Tribunal (NET), which changes the legislative and regulatory regime in relation to enforcement. As a result, the AER will be empowered to enforce the national electricity law, the regulation rules, through application to either the Federal Court or the Supreme Court of the participating jurisdictions. If the issue is—and it ought to be—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, it is part of the structure of how the current industry operates, but, if our intention is to more effectively deal with events such as occurred on 14 March—and a report has been tabled in this parliament; I am not the minister responsible for that report and I have not read it, but I have certainly seen the press reports about what happened—clearly, it would appear that certain standards were not adequately applied by that participant in the electricity market. It is clear that we need an effective regulator. This legislation is to ensure that the regulatory function is explicit, clear and effective. That is what this legislation is all about: it is separating the rule making from the enforcement function. We expect that the AER will be a more effective body. Whether one wants to argue about abolishing the number of bodies and whether or not NET is a body—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Also, one could point out that there are a number of arrangements we have to go through in relation to bodies such as ESCOSA. We have answered all those questions previously in debate. The important thing is to get an effective regulator to specifically deal with the sorts of situations we had on 14 March; and we believe this bill will do that.

The Hon. R.I. LUCAS: Is the government arguing that the National Electricity Tribunal is a regulatory body?

The Hon. P. HOLLOWAY: It is part of the current regulatory scheme. The NET is part of the current regulatory scheme.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I mean, you have a National Electricity Tribunal. I assume that, unlike courts of the land, it deals with one item, namely, electricity.

The Hon. R.I. LUCAS: So, are you arguing that it is a regulatory body?

The Hon. P. HOLLOWAY: I am arguing that it is part of the system. One would have to define what the honourable member means by 'regulatory body'.

The Hon. R.I. LUCAS: It is not the opposition that has to argue this: the government is claiming, in responding to significant events such as the recent blackout, that this legislation and the government plans are to reduce the number of regulatory bodies. I have put the position, clearly, that on the facts available to us that is a nonsense. The National Electricity Tribunal, as the name suggests, is a specialist tribunal for particular appeals. It has not sat often, on my understanding, over the six or seven years of the national electricity market. Indeed, it is part of the national electricity regulatory bodies' list. Even, if you include it—which, frankly, I do not—you still do not come to a reduction in the number of regulatory bodies. We are going around in

circles in relation to this. The government has made the claim—and let the record show that it has been unable to back this claim in this committee debate with any factual response—in terms of a reduction in the number of regulatory bodies.

I turn to the minister's claim in relation to the management of the recent blackouts. The decision which was taken and quoted by the Minister for Energy—and the minister said this was going to hurt NRG, in terms of the revenue it could earn and the capacity it could bid into the market—was a decision taken by NEMMCO. Under this legislation, are those decisions changed at all? Do they remain decisions of NEMMCO; or is the minister now saying that some other body such as the AER will be involved in that sort of decision to ensure the security and safety of our electricity system?

The Hon. P. HOLLOWAY: I am not familiar enough with the situation that occurred. As I said, I have not read the report in relation to that incident. My advisers and I can only deal with what is in the bill.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: But you are asking us to interpret how the bill affects certain situations, including a situation with which I am not familiar. The questions would have to be framed in such a way that they relate to the bill, rather than some external situation of which I am not aware of the detail.

The CHAIRMAN: I have been particularly impressed with the way in which the committee has conducted itself. It has been forensic and civil, and patience and understanding has been shown on both sides. As a consequence of the nature of this bill, there has been a bit of jumping around and we are doing it page by page, not clause by clause. I thought last night we had concluded that, bar some matters about which the minister had given undertakings to come back to the Hon. Mr Lucas, in particular. I have allowed the Hon. Mr Lucas to refer to matters that were said by the minister when considering the whole legislation. I think I have given him a reasonable opportunity to make those political points, and I have given the minister the opportunity to answer them.

I think we should return to a civilised approach and the proper structure of a committee in order to deal with the rest of the bill. The political arguments will continue. They will continue in forums other than this committee. This forum is to consider the provisions of this bill. We need to confine ourselves to the bill, not generalities of what people may or may not expect in the future, or whether those expectations were what someone claimed in a media interview on some other occasion. If we could just focus back on to the bill itself, I think we would be better served.

The Hon. R.I. LUCAS: I thank you for your comments in relation to that, sir. My comments have always been and will continue to be in relation to the provisions of the bill and the impact. If the minister does not like the politics of particular questions, then that is—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, if the minister does not like the politics of particular questions and cannot answer them, then so be it. Let the record shows that the minister cannot or will not answer the particular questions. Certainly, this opposition will not be diverted, through using the appropriate procedures of this chamber during the committee stage, from asking difficult questions of the minister. The procedures that we have before us are such that, if we are talking about a clause, we can go back to clause 12 of the bill which starts on page 8 and actually ends up on about page 100, or something. The unusual structure of this bill is such that the particular clause we are dealing with covers many tens of pages. As a matter of practice, we have worked our way through it, hopping backwards and forwards as required.

The question I left last night with the minister to which he has come back today was in relation to part 8, which concerns the safety and security of the national electricity system. There are critical questions in relation to the safety and security of our national electricity system to which this parliament demands answers. They are on pages 58 to 62 of this bill. The most recent examples we have of that are the problems from our national electricity system in relation to the blackouts on 14 March. Minister, I am not going to be diverted from asking difficult questions of the government about the claims that have been made about this legislation as to how the government will change the practices of those sorts of blackouts, how they will be regulated and what penalties might apply in the future as a result of the reform law that we have before us.

As I said, we are not going to make progress other than my recording the fact that there is no evidence to indicate that there is a reduction in the number of regulatory bodies. The government has a different view. I will not pursue the issue of the number of regulatory bodies. I do want to pursue the issue—

The Hon. P. HOLLOWAY: There is just one more point I will make about that. That is, the streamlining process removes the ACCC having to approve the rule changes. That is another advantage. It is the number of bodies involved in particular parts of the chain. I would argue that the outcome that this bill will achieve is that it will reduce the duplication of rule changes. It will streamline the process, and it will lead to a regulator which is more capable of dealing with those sort of situations. In relation to the blackouts, the only point I was making earlier is that I am not exactly aware of what the report into the particular situation has found to be the problem. The minister in another place is obviously more aware of those. All I am saying is that, if there are questions about the bill—and the honourable member can interpret what has happened in that particular event and bring that back to the bill—we can endeavour to answer that. We do not have the capacity here to understand what happened in that particular blackout.

The Hon. R.I. LUCAS: I have not yet asked, and I do not intend to ask, the minister to explain the causes of the recent blackouts. There has been a preliminary report, and, ultimately, there will be a final report. That was not my question. What I said was that the Minister for Energy who is in charge of this legislation has been making claims that this legislation should not be delayed because it will assist the prevention of these sorts of events occurring in the future. It will also certainly assist in the handling of these sorts of events in the future. One of the statements of fact that has been made publicly is that NEMMCO has taken action whilst it was being investigated to restrict the capacity of the northern power stations. As a statement of fact, the minister said that it will affect revenue, and that is a good thing. I am not asking for a comment about that.

Firstly, I am asking if NEMMCO still retains the authority under this legislation for taking that sort of action in the future. Is it NEMMCO that makes those decisions? My advice is that it remains NEMMCO's decision in relation to those issues. Secondly, does this bill give any other regulatory bodies such as the AER any greater powers in relation to the handling of these sorts of events? Again, my initial

advice is that it is hard to see where any greater powers are provided to the AER in relation to the handling of those issues. Nevertheless, that is the question to the minister in relation to the safety and security of our national electricity system.

The Hon. P. HOLLOWAY: I really think that I have addressed most, if not all, of those questions in earlier discussions. The AER will be a stronger body; it can take matters to the courts. I think we have already gone through those issues.

The Hon. R.I. LUCAS: That was the second question. Specifically, what stronger powers does the AER have to take issues to the courts? NECA and the existing regulatory bodies had the capacity to take issues to courts. Where specifically does the AER have greater powers than the existing regulatory bodies to take issues to courts?

The Hon. P. HOLLOWAY: I think the real point in this is at the moment—

The Hon. R.I. Lucas: The answer is you cannot answer that. You are now saying the real point—

The Hon. P. HOLLOWAY: The AER will have similar powers. The point is that we believe the AER will exercise the powers. The whole point of this exercise is that at the moment NECA, as well as being an enforcement body, has also been involved in code changes, and, because of that, we believe that it has not been as effective in the enforcement as it should be. The whole idea of changing over to the AER is that, as an enforcement-only body, it will be much more effective in enforcing this, because that is its primary task. We believe that NECA, although it has the powers, is hamstrung because it has this dual function.

The Hon. R.I. LUCAS: That is closer to the best argument the government can put, and that is the minister conceding that what he said previously was wrong. There are no greater powers for the AER in relation to this. I will not enter into a debate on this, but the government sophistry on the argument is that in some way NECA is incapable of doing both things, and therefore if the AER has to do only one thing it will do a better job. The jury, frankly, will be out on that and we will all watch with interest, but let us be clear that what the minister has just conceded is that there is no greater power. The Minister for Energy has been claiming that we are giving regulatory bodies greater teeth to tackle these issues.

Let the record again show that, when challenged in this committee, this minister could not refer to any example where greater teeth were being given to the regulatory bodies. I have asked the question about the AER, and the minister has said that, in most cases, its powers of investigation etc. are very similar to ESCOSA's powers, and certainly in relation to NECA as well. I have asked the question about NEMCCO, which is the other body which has a role in relation to this. The minister says this is virtually a direct lift from the existing code. So the minister has conceded, in response to a series of questions over three days, that there are no greater powers. There is no substance to the claim from this government and the minister that this bill gives greater teeth to regulatory bodies to handle the sorts of issues like the blackout last Monday.

In terms of the load-shedding procedures, they are exactly the same. In terms of the powers of NEMCCO, they remain the same. In terms of the AER, they are the same as NECA, and, in some cases, their powers of investigation are the same as ESCOSA. All the minister is arguing at the moment now is that NECA could not chew gum and walk at the same time, but the AER, given that it will have to do only one of those tasks, will therefore do a better job. If one strips bare the government's and the minister's claims in relation to this legislation, I think it leaves on the record the paucity of the government's response in relation to handling security and system issues in terms of tackling some of the major issues that have been of concern to not only members of the media and the community but also businesses over the past few months.

In relation to the third issue the minister raised this morning in respect of part 9 of the bill, which was the issue of immunities, as I indicated before, this was a controversial issue, and it has been during the period of the national electricity market. Under 119(1) and (2), the specific phrase used is 'made in bad faith or through negligence'. The question I asked of the minister last night was whether or not there were any changes in relation to the immunity provisions of this law compared with the existing law. The minister has explained what this law has done, but I certainly did not detect—and I stand to be corrected—whether the minister specifically answered the question as to whether or not this test remains the same, and whether or not in overall terms the immunities issue provisions are essentially the same as the provisions in the existing code. So I specifically ask the minister that question: are they the same, or have the tests been changed in some way?

The Hon. P. HOLLOWAY: What I said earlier was that the immunities described above are substantively the same as the immunities which apply for market participants under the current NEL and code.

The Hon. R.I. LUCAS: Specifically, is the phrase 'made in bad faith or in negligence' the exact test under the existing legislative code?

The Hon. P. HOLLOWAY: We will just check that.

The Hon. R.I. LUCAS: While the minister's advisers are checking, I refer to another issue. Again, I am not a lawyer or an expert in this area, but on the next page we see that the phrase for AEMC is 'made in good faith in the performance or exercise'. These two are actually 'made in bad faith or through negligence', and in the original debate there was a huge argument amongst the lawyers as to what phrasing was used. Evidently there is much legal precedent, based on exactly how the immunities or liabilities provisions of various laws are drafted, and there was a big debate about what the appropriate test would be.

The Hon. P. HOLLOWAY: Section 78 of the old National Electricity Law says:

> The co-participant or an officer or employee of a co-participant does not incur any civil monetary liability for any partial or total failure to supply electricity, unless the failure is due to an act or omission done or made by the co-participant or officer or employee in bad faith or through negligence.

If one looks at clause 119 of the New Electricity Law, again it is:

> Unless the act or omission is done or made in bad faith or through negligence.

So I think that answers the question; they are the same.

The Hon. R.I. LUCAS: I thank the minister for that. That clarifies that issue. Whilst the wording and the lead-in is different, the essential test of 'bad faith or negligence' remains the same. So I accept that. On page 64, for the AEMC, it is:

> No personal liability attaches to an AEMC official for an act or omission in good faith.

Can the minister explain why, in relation to NEMCCO, or a network service provider, the test is 'made in bad faith or

through negligence' yet, in relation to the AEMC, the government has decided to change the test to 'in good faith'?

The Hon. P. HOLLOWAY: My advice is that this is a standard provision we have in South Australian acts that applies to such provisions. That is why it has been used in this way: it is a standard provision in South Australian acts.

The Hon. R.I. LUCAS: It may well be a standard provision in South Australian acts but, clearly, the standard provision in the National Electricity Law for NEMMCO and network service providers was different—that is, it is in bad faith or through negligence. My question is: why has the government decided on different tests for the AEMC and NEMMCO and network service providers?

The Hon. P. HOLLOWAY: The answer is that the AEMC is a South Australian body, and that is why South Australian law applies. The others are national bodies.

The Hon. R.I. LUCAS: I would be surprised if that were the totality of the answer. At the moment, I am not in a position to argue but, having a recollection of previous debates, I suspect that there is a more substantive argument than that. As I said, I was privy to the debates many years ago, when there was much legal argument on the issue of whether it should be drafted as 'in good faith' or 'in bad faith'. It is not simply a matter of the difference being that one body is South Australian and the others are national. However, I am not in a position to sensibly enter into that sort of legal discussion with the minister. I simply note the difference in the tests for immunity for the AEMC and NEMMCO and other network service providers, but I do not express an objection or support.

Clause passed.

Title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

In committee.

Clause 1.

The Hon. R.D. LAWSON: Today, the Attorney-General issued a media release entitled 'Robert Lawson: please explain', in which it is alleged that the opposition has been delaying the passage of this bill. However, the committee ought be aware that it was originally introduced in another place by this government in October 2003.

The Hon. J.S.L. Dawkins: What year?

The Hon. R.D. LAWSON: October 2003. It passed the other place in May the following year, the debate having been concluded in February of that year. I spoke on the bill in the council in May 2004 and, since then, the government has not progressed it, and it lapsed at the end of the session. The bill was revived in September 2004, and the government has not sought to bring it on. So, the criticism that the government is making, through the Attorney-General and through the media, is entirely misconceived.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

The Hon. P. HOLLOWAY: I move:

Page 6, after line 42—insert:

(2) Section 19—after subsection (3) insert:

(4) In this section—

'harm', in relation to a person, has the same meaning as in section 21.

This amends section 19 of the Criminal Law Consolidation Act to reconstruct the offence of making unlawful threats so that it includes a basic and an aggravated penalty. The amendment is to add a further subsection that would make it clear that the word 'harm'—when used in the offence of threatening, without lawful excuse, to cause harm to the person or property of another in the proposed section 19(2)—is to have the same meaning as it will have in the proposed division 7A, which establishes the new non-fatal causing harm offences. It is desirable that the same word used in a different part of the act bears the same meaning.

The Hon. R.D. LAWSON: The Liberal opposition agrees with the minister's remark that it is desirable that the same word used in different parts of the act bears the same meaning, and with that in mind I indicate that we will be supporting this amendment.

However, given the remarks I made earlier in relation to the criticism sought to be levelled by the government against the opposition in relation to this matter, I think it is worth placing on the record the extraordinary fact that this very detailed legislation—which, according to the government, has been under consideration for a long time, and which arises largely out of recommendations of the Model Officers Code Committee—should, at the last minute, be amended in this way. The government seems to be finding additional refinements for the legislation in this amendment, which has been moved, and in the succeeding amendments, of which the government has given notice. I will not make the same remark in relation to those amendments, but the same comment will apply equally to them.

The Hon. P. HOLLOWAY: These amendments have been tabled for a long time. The deputy leader knows full well that the reason that this bill has not progressed is that the opposition indicated that it would not support the bill in its original form. Ultimately, the public will judge the government and the opposition on their actions and by what they support.

The Hon. R.D. LAWSON: In response to the minister's last comment, it is true that when the debate was first had in the committee stage in another place the opposition flagged that it would seek to make two minor amendments to the bill. We moved those amendments in another place but they were there defeated, and we indicated that we would be moving them again in this place. It is the government who appears to be gun-shy. We are not ambushing the government on this; we have indicated a position which we believe will improve the bill, and we make no apology at all for it.

Amendment carried; clause as amended passed.

Clauses 7 to 9 passed.

Clause 10.

The Hon. P. HOLLOWAY: I move:

New section 20, page 8, lines 11 to 13—

Delete subsection (2) and substitute:

(2) However—

(a) conduct that lies within limits of what would be generally accepted in the community as normal incidents of social interaction or community life cannot amount to an assault; and

(b) conduct that is justified or excused by law cannot amount to an assault.

This inserts a new definition of common assault. The judges thought it should be an element of the offence of common assault that the accused's act was unlawful or without lawful excuse. The Attorney-General pointed out that this might

shift the burden of proof to the defendant, and suggested that the offence should include a proviso like the one in the Commonwealth Criminal Code Act 1995 section 10.5, that a person is not criminally responsible for the events if the conduct constituting it is justified or excused by or under a law. The judges are happy with that solution. Accordingly, the amendment replaces subsection (2) of the proposed new section 20 to make this clear.

The Hon. R.D. LAWSON: I commend the government for consulting with the judges on this legislation. It would have been better, in our view, if the government had actually consulted with them on the draft before it was introduced rather than introducing amendments at this stage; however, we believe that the solution proposed is acceptable and we will be supporting this amendment.

The Hon. NICK XENOPHON: I have some questions in relation to clause 10, the substitution of sections 20 to 27, and I will be guided by the minister with respect to new proposed section 20(2). New subsection (2) provides:

However—
(a) conduct that lies within limits of what would be generally accepted in the community as normal incidents of social interaction or community life cannot amount to an assault.

Are there any authorities in respect of that? In terms of what is generally accepted in the community, one part of the community might say that that sort of behaviour is not acceptable and another part might say that it is. Is there a lowest common denominator? Is there a higher standard? I am trying to establish how that would be interpreted by the courts.

The Hon. P. HOLLOWAY: My advice is that the courts would take the ordinary meaning, whatever that means.

The Hon. NICK XENOPHON: I do not want to delay the committee unduly on this, but is there a body of case law in relation to 'generally accepted in the community as normal incidents of social interaction'? Is there other legislation in relation to other jurisdictions that has dealt with this and, if so, could the minister elaborate?

The Hon. P. HOLLOWAY: My advice is that there is. It is set out in the report of chapter 5, non-fatal offences against the person as per the model criminal code. I refer the honourable member to that report.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 9, lines 15 to 22—
Delete the definition of serious harm and substitute:
serious harm means—
(a) harm that endangers a person's life; or
(b) harm that consists of, or results in, serious and protracted impairment of a physical or mental function; or
(c) harm that consists of, or results in, serious disfigurement.

This amendment deals with several different concepts. First, it redefines serious harm so that the definition no longer includes reference to harm that is likely to endanger life (paragraph (a)), or that is likely to result in serious impairment or disfigurement (paragraphs (b) and (c)).

A harm that endangers life is undoubtedly serious, and it might be said that a persisting harm that represents a future danger to life is a serious harm, but a harm that was likely to endanger life will include cases where the danger did not eventuate and that we are quite sure now cannot eventuate in the future. Cases where the victim enjoys a lucky escape from likely danger are not cases where it can be said that the victim suffered serious harm. The same reasoning applies to situations where the harm is likely to result in serious impairment or disfigurement but does not in fact do so. For example, a needle-stick injury where the needle turns out not to have been contaminated or the infection does not take hold, the result is harm but not serious harm. Therefore, the amendment removes reference to the likelihood of endangerment or result.

Secondly, the amendment aligns the definition of serious harm more closely with the definition of grievous bodily harm as intended. Paragraph (b) at line 18 on page 9 includes as serious harm, 'harm that consists or results in loss of a part of the body'. This part of the definition has been removed by the amendment because it goes too far. Under current law, the loss of some parts of the body, say, the tip of an earlobe, or the last phalangeal of one's little finger, would not amount to grievous bodily harm. It is not the intention of this legislation to bring with the definition of serious harm any form of harm that would not amount to grievous bodily harm under current law.

The definition of serious harm, as reconstructed to exclude reference to loss of a part of the body, will allow a court to treat as serious harm the loss of a body part if this, with or without other injuries, results in serious or protracted impairment of a physical or mental function, or serious disfigurement, or endangers the victim's life.

The Hon. NICK XENOPHON: In his explanation the minister gives an example of a needle-stick injury in which it transpires that the needle-stick injury has not led to contracting, for instance, HIV or hepatitis C. However, there must be cases where, for instance, a person who has had a needle-stick injury could suffer a serious psychological injury, even if it transpires at the end of the process—that is, after the testing has been done or the results have come through six or 12 weeks later—that they have not contracted something. However, in the meantime, a serious psychological condition could have become entrenched with that person.

The Hon. R.D. Lawson interjecting:

The Hon. NICK XENOPHON: I am just trying to see how that would fit in, because I was concerned that the instance given of needle-stick injury does not lead to an infection. However, sometimes the needle-stick incident can lead to quite a significant psychological injury, post-traumatic stress disorder, or whatever. How does that fit in? How would that be interpreted in the context of this amendment and, indeed, this bill?

The Hon. P. HOLLOWAY: This will cover mental harm. Mental harm in the bill means psychological harm and does not include emotional reaction such as distress, grief, fear, or anger, unless they result in psychological harm. In the example the honourable member gave, actual harm is caused and that is the essential point.

The Hon. R.D. LAWSON: I indicate that the Liberal opposition will support this amendment, which highlights some of the difficulties in legislation of this kind. Certainly, when I first read this definition of serious harm, it did occur to me as appropriate to include not only actual harm but also harm that is likely to endanger life. However, upon reflection, it is entirely appropriate to delete the reference to the likelihood of endangerment. Can the minister confirm that this amendment was the subject of discussion with the judges and that they are aware of it?

The Hon. P. HOLLOWAY: We would have to check on that. We would have to take that question on notice.

The Hon. R.D. LAWSON: I raise that question because, in the explanation of the second of the government's amendments today, it acknowledged that that amendment

emanated from the judges. The minister said the judges thought that there should be a certain element, and that they are happy with the particular solution. If the government chooses to amend legislation of that kind, indicating the judges' position in relation to some elements, it seems to me only appropriate that their position on all of them ought be indicated. I am not for a moment endeavouring to bring the judges into any political disputation. I acknowledge that the comments they make are entirely politically neutral—they are helpful comments—and the last thing the judges want is to be embroiled in a political dispute, or even arguments.

However, in a case such as this, the view of the judges is very important. The judges have a unique perspective on the way in which provisions of this kind work, because it is the judges who have to devise the instructions to jurors—instructions that must be understood by jurors—and it is they who have the greatest experience in formulating those directions. That is why any view that they express about any particular amendment should be of interest and concern to the committee.

The Hon. P. HOLLOWAY: There was significant consultation in relation to this bill but, in relation to this specific matter, we would have to check.

The Hon. R.D. LAWSON: Given the minister's statement that there was significant consultation with respect to this bill, I place on the record the fact, as has been previously mentioned, that the Law Society's Criminal Law Committee made a significant contribution, which was opposed to many elements of this bill. Has the Law Society's Criminal Law Committee been asked to comment on any of these amendments—because I have not seen any response from the committee to the proposed amendments?

The Hon. P. HOLLOWAY: It is my advice that the minister in another place responded to each of those matters during that debate and, therefore, it is part of the parliamentary record.

The Hon. R.D. LAWSON: With the greatest respect, these amendments that are being introduced in this chamber were not foreshadowed by the minister in another place and were not the subject of any comments by the Attorney in relation to the Law Society. Indeed, the Law Society's letter did not refer to this or the other amendments. It might be said that the minister's response to the Law Society in another place was entirely dismissive—and, in some respects, dismissive in an offensive manner. The minister said that there was extensive consultation in relation to these amendments. We know that the judges were consulted. My question is whether these amendments that the minister is now moving were the subject of consultation with the Law Society and, if so, what response did the Law Society provide?

The Hon. P. HOLLOWAY: I will repeat what I said in summing up during the second reading stage, I think, in July 2004, as follows:

> Since the bill passed in the other place, the Attorney-General has consulted further with the Chief Justice, the Supreme Court Criminal Law Committee and a consultant to the Model Criminal Code Officers Committee. As a result, the government will be introducing amendments in committee that will: clarify a provision about alternative verdicts; ensure that the word 'harm' has the same meaning for the offence of threatening to cause harm as it will for the new offences of causing harm; make it clear that a person is not criminally responsible for an assault if the conduct constituting it is justified or excused by law; make it clear that the conduct that is likely to endanger or harm another, but does not in fact do so, does not constitute an offence of causing harm; align the definition of serious harm more closely with judicial interpretations of grievous bodily harm by removing specific reference to loss of a body part; require a consent to harm given on behalf of a person who is not of full age or capacity to be 'lawful'; and correct a clerical error.

As I indicated then, since the bill passed the other place there was significant consultation in relation to that matter. So, there has been plenty of notice in relation to that.

The Hon. R.D. LAWSON: I again ask the minister whether the Law Society has in writing responded to or commented upon the amendments as drawn, bearing in mind that the society, by a letter of some six pages dated 16 February 2004, indicated in great detail its observations in relation to the bill as originally proposed. Has the Law Society responded specifically to the amendments which the government is now moving?

The Hon. P. HOLLOWAY: My advice is no.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

> Page 9, line 27—After 'A' insert:
> lawful

New section 22 makes an exception to the law that makes causing harm a criminal offence. It exempts conduct that causes harm, but with the lawful consent of the victim. Subsection (2) of the new section deals with consent given for a person who is not of full age or capacity by a parent or guardian. Unlike subsection (1), it does not qualify the consent as having to be lawful. It should because, otherwise, for example, a parent or guardian, whose physical punishment of a child is intended to cause harm, can always escape criminal liability by saying that he or she gave consent to it on behalf of the child. The parent's or guardian's consent must also be lawful. Physical punishment of the child that is within the limits of general acceptance is not caught by the offence by virtue of proposed subsection (3) and physical punishment of the child that is outside the limits of general acceptance constitutes a criminal offence. In order to achieve this, amendment 4 qualifies that consent required in subsection (2) of new section 22 by adding the word 'lawful'.

Amendment carried.

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

> Page 11, lines 35 to 42 and page 12, lines 1 to 5—
> Delete subsections (4) and (5)

This amendment seeks to delete subsections (4) and (5), which introduce the concept of criminal negligence into this legislation. Section 23 deals with the general subject of causing serious harm, and there is a gradation of offences. Subsection (1) provides:

> A person who causes serious harm to another, intending to cause that harm, is guilty of an offence.

The maximum penalty is 20 years; that is intentional causing of serious harm. Subsection (3) provides:

> A person who causes serious harm to another, and is reckless in doing so, is guilty of an offence.

The penalty for that is not as severe; for a basic offence the penalty is imprisonment for 15 years, which is entirely appropriate, because the first category is intentional harm, the next is reckless. The third category appears in subsection (4), which provides:

> A person who causes serious harm to another, and is criminally negligent in doing so, is guilty of an offence.

It is the introduction of this notion of 'criminal negligence' that troubles us. We believe that the introduction in the statute of the notion of negligence, which is extremely well understood in the civil law, will create uncertainties and difficulties.

This issue of introducing the notion of negligence into the criminal law was alluded to by Justice Mitchell in the fourth report of her landmark inquiry into the criminal law and penal methods. The fourth report dealt with the substantive law. It was published in 1977—of course a long time ago—but the basic principles that Justice Mitchell adopted were, we believe, valid then and remain valid. At page 54 of that report, the Mitchell committee recommended against 'introducing the concept of negligence into the structure of causing death'. It was said that that would be 'fundamentally inconsistent' with the scheme that the committee recommended.

I will be seeking leave to conclude my remarks shortly, but I mention to the committee that there is already in the Criminal Law Consolidation Act an expression 'culpable negligence' in relation to a driving offence under section 19A. That is a concept already in our statutory law. There is in the common law relating to manslaughter a concept in which a negligent act can give rise to criminal consequences. That has always been the law. That is well understood and it operates satisfactorily. To have in one section of a particular statute the concept of culpable negligence and in another the concept of criminal negligence is something that we believe is inappropriate.

Progress reported; committee to sit again.

ANZAC DAY COMMEMORATION BILL

In committee.

Clause 1.

The Hon. R.D. LAWSON: I did seek from the minister some indication of the amount of financial contribution which the government proposes making to the fund established by this bill. I wonder whether the minister could indicate whether he has a response to that.

The Hon. P. HOLLOWAY: I did undertake to get an answer. My advice is that the government has decided that the size of the fund will be determined in the 2006-07 budget. At this stage, it is regarded that there is some ongoing assistance to enable the council to be established. The council will determine what types of activities it wishes to do. Based on that, the fund's budget will then be worked out. It seems sensible that the council should investigate the scope of the activities that should be undertaken in accordance with this bill. As a result of the council undertaking those deliberations, that budget will be worked out in the 2006-07 budget.

The Hon. R.D. LAWSON: Is the minister able to indicate the amount of the so-called sum financial contribution to enable the council to conduct its work until funds come over the horizon in 2006-07?

The Hon. P. HOLLOWAY: My advice is that it comes out of the existing DPC budget which includes sitting fees and the like.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. R.D. LAWSON: Clause 4 provides that the object of this act is to ensure that the contribution of all men and women who served Australia is recognised and commemorated. Did the government give any consideration to whether or not, given those objects, this bill should have contained provisions which made it an offence to denigrate the service of service men or women?

The Hon. P. HOLLOWAY: No, I do not believe that was specifically considered, and one would hope that such a situation would not come about.

The Hon. R.I. LUCAS: Would the minister agree that the Premier's referring to the member for Waite as Private Pike, in a disparaging fashion, is the denigration of a serviceman by reason of his service for his country?

The Hon. P. HOLLOWAY: I am sure the denigration of the member for Waite is more to do with his conduct in the parliament and not what his past might have been.

The Hon. A.J. REDFORD: Just along those lines, was any consideration given to a provision that might protect our flag, during ANZAC Day, from symbolic burning or other activity?

The Hon. P. HOLLOWAY: I would have thought the Australian flag was covered under national legislation. I could be wrong. The Hon. Robert Lawson might be able to help. I would be surprised if it was not covered under federal law, rather than state law. It is, after all, a national flag. I am sure there is some legislation relating to the national flag.

The Hon. A.J. REDFORD: Would you bring back some response as to what protection there is for our flag on this national day of ours?

The Hon. P. HOLLOWAY: I am sure the honourable member can look it up under the national legislation. It is a commonwealth responsibility, after all.

The Hon. A.J. REDFORD: I take it then the minister's answer is that there is protection of our flag under commonwealth legislation, and I can take him at his word on that.

The Hon. P. HOLLOWAY: I would have to go and look at it but, unless the law has changed in recent times, certainly my knowledge of it some 20 years ago is that there was legislation that clearly covered the Australian flag. The fact that it is a federal law really means that we cannot be responsible for that. I am not sure that it is our job in the state parliament to go and look up federal law, but if I can get any more information I will provide it.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: There is other behaviour—

The Hon. A.J. Redford: You don't care about our flag, do you?

The CHAIRMAN: I think the minister is saying that he is not going to do your research.

The Hon. A.J. Redford: I love my flag.

The Hon. P. HOLLOWAY: The Australian flag is protected under legislation. In relation to activities on ANZAC Day, activities such as sporting, shopping, all that sort of thing, come under state law, but the flag itself is, as far as I am aware—and it has been many years since I have been involved in this area—covered by federal law. I will endeavour to find out and provide the honourable member with an answer.

The CHAIRMAN: I think you have successfully got the minister to do your research for you, Mr Redford.

The Hon. A.J. REDFORD: Thank you. A novel principle with this government, but something we would subscribe to.

Clause passed.

Clauses 5 to 17 passed.

Clause 18.

The Hon. A.J. REDFORD: Has the minister any idea what sorts of events the Premier might grant authorisation for in relation to public sports or entertainment before 12 noon on ANZAC Day?

The Hon. P. HOLLOWAY: Events in this part are really limited to those where a charge is made, such as a major

sporting event or some entertainment event. Certainly the government does not believe that there are likely to be many, or that there would be many applications, as such, that would come under that category. The provision is there just in case that should come about.

The Hon. R.I. LUCAS: Can the minister indicate the reasons why the government chose not to accept the express desire of the RSL that the Shop Trading Hours Act be amended to ensure that no shop could trade before 12 midday on ANZAC Day? I indicated why the opposition took that view. I would appreciate the minister putting on record why the government chose not to accept that recommendation.

The Hon. P. HOLLOWAY: I think the only reason we did that was that parliament had just dealt with a major piece of legislation in relation to shopping hours; and the deputy leader would be well aware of the National Competition Council and other implications of any change. So, rather than have those quite complex issues caught up in that, it was decided not to deal with that in this bill.

The Hon. A.J. REDFORD: So, as I understand it, there are no basic principles at this stage about what sorts of events or criteria might need to be applied before the Premier—and I am pleased the Premier personally has taken an interest in this—gives authorisation to, say, a football club running a breakfast before an SANFL game. I know that there are breakfasts before football games when people are charged entry. Will those events require the Premier's personal authorisation before they can go ahead?

The Hon. P. HOLLOWAY: I do not believe so. Such events would be covered because of the definition of public sporting or entertainment events for which tickets for admission are made available prior to the holding of the event and are required for entry to the event or activity. Paying for a breakfast is different from paying to attend an event.

The Hon. A.J. REDFORD: With respect, some of these breakfast events have guest speakers, and people pay a fee to be admitted. There are also fundraisers, such as raffles and so on, that might, potentially, be caught by this section. I would be interested to know what these organisations need to go through if they are to hold these events on ANZAC Day morning, some of which have been going on for quite some time.

The Hon. P. HOLLOWAY: My advice is that this is really intended to cover only those major events for which you are required to buy a ticket in advance, such as you would buy through Bass and so on. You do not really buy tickets for a lottery in advance. I would have thought that breakfasts would not be covered and that it would be within the wit of the organisers of those events to live within this provision.

The Hon. A.J. REDFORD: I do not want to spend too much time on this, but all I want is an assurance from the government about these events, some which are not big and have been going on for years (some of which I have attended). Some of the old diggers often turn up themselves and provide some input, but they pay money to get in. ANZAC Day starts very early and is a big day for some people. All I want is an assurance that the Premier will not refuse authorisation for those events. I suspect that he will give it, but I want that on the record.

The Hon. P. HOLLOWAY: I really think that the honourable member is boxing shadows. Clause 18(1) provides:

> (1) Despite any other Act or law, the holding of a public sporting or entertainment event between the hours of 5.00 a.m. and 12 noon on ANZAC Day in any is unlawful. . .

We are talking about a public sporting or entertainment event.

The Hon. A.J. REDFORD: And a breakfast with a guest speaker falls into the definition?

The Hon. P. HOLLOWAY: Is that a public sporting or entertainment event? I would not have thought so—at least, none of events I am aware of that happen on ANZAC Day are, and I have been to a few of them.

The Hon. A.J. REDFORD: Notwithstanding that my sporting club in the country (and I am thinking of one in particular) holds an event, issues tickets and people pay for those tickets—anyone who wants to buy a ticket can get a ticket, so it is available to members of the public, and you do not get in without the ticket—and it falls within the definition of public sporting or entertainment event, it is not a big event and it is not a big deal. All I want is an assurance that such events will not be stopped or prevented. They have gone on unremarked for decades now, and I just think that an assurance at this stage would give me some comfort.

The Hon. P. HOLLOWAY: The whole purpose of the bill is to preserve this very important day. That is what it is all about. If events are held that are consistent with the spirit of ANZAC Day, if I can put it that way, obviously that would be done. I do not know what events the honourable member is talking about but, if they are in the spirit of ANZAC Day, and in the spirit of what this bill is all about, of course they would be permitted.

The Hon. R.D. LAWSON: My question is in relation to clause 18(5), which provides that an applicant for an authorisation from the Premier must provide the Premier with specified information. Where is the information specified? Where is it proposed that it will be specified? What information is intended to be specified? I say that bearing in mind that there is no power, as I read this act, to make regulations. Where is the information specified, and how will people know what they have to tell the Premier?

The Hon. P. HOLLOWAY: The purpose of subclause (5) is simply to provide that whatever information is necessary can be sought to determine whether the event would be consistent with respect for ANZAC Day. That is all this clause is about: it enables that information to be sought so that the Premier can make a determination on whether or not the event is consistent with the objects of the bill—that is, preserving the sanctity of this important day.

The Hon. CAROLINE SCHAEFER: I would like to ask the minister a more general question. We have never required legislation to preserve the sanctity of ANZAC Day previously. Does the government have evidence of a groundswell of inappropriate behaviour or inappropriate events leading up to the introduction of this legislation? If so, can he give us some examples?

The Hon. P. HOLLOWAY: It is not so much what has happened. I think the point that was made in the second reading speech is that it is now some 90 years since the ANZACs landed at Gallipoli and it is also—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: And, of course, it is 60 years since the end of the Second World War, and the point made in the second reading speech is that with the numbers of the people involved in ANZAC Day declining fairly rapidly as the years go by there may well be a situation where people tend to lose the spirit of ANZAC Day. I believe the reason the bill is being introduced now is in recognition of that fact.

Both my grandfathers were at Gallipoli, and my father was involved in the Second World War, so I had that contact and am well aware of the consequences of the war. However, there are a lot of people who were born more recently who do not have that contact, and we have also had a lot of migrants to the country since the Second World War. The contact with those events is declining as the years go by, and I think the whole purpose of the bill is to ensure—

The Hon. A.J. Redford: This generation is more interested in ANZAC Day than we are!

The Hon. P. HOLLOWAY: Hopefully that is the case, and I think it is true in a lot of cases. Nevertheless, as the number of people who, say, participate in ANZAC Day marches and have that direct contact inevitably declines, the government considers it important (as, I am sure, would all members of this chamber) to ensure that remains into the future. That is why the bill is being introduced, rather than there being any specific cases of people not respecting the history. It is simply to ensure that, as the number of people with direct contact with World Wars I and II declines, that memory persists.

Clause passed.

Remaining clauses (19 and 20), schedules and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

[Sitting suspended from 12.58 to 2.16 p.m.]

ABORTIONS

A petition signed by 84 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.

ABC, WOMEN PRESENTERS

A petition signed by 22 residents of South Australia, concerning women presenters on the ABC and praying that the council will do all in its power to urge ABC Adelaide management to redress the current imbalance and to encourage women into these roles, was presented by the Hon. Sandra Kanck.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

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

Department of Transport and Urban Planning—Report, 2003-2004—Addendum

By the Minister for Emergency Services (Hon. C. Zollo)—

Reports, 2004—
Senior Secondary Assessment Board of South Australia
Teachers Registration Board.

ROYAL ADELAIDE HOSPITAL

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I lay on the table a copy of two ministerial statements relating to the waiting list at the Royal Adelaide Hospital made yesterday in another place by my colleague the Minister for Health.

PARLIAMENT, REGIONAL SITTINGS

The PRESIDENT: Following questioning yesterday in respect of sittings of the Legislative Council in country areas, I did report to the council that I had written to the Premier in respect of these matters and was not prepared at that stage to make any undertakings until I had received advice. I am now in a possession of a letter from the Hon. Mike Rann, Premier of South Australia, which states:

Thank you for your letter dated 11 April 2005 concerning sittings of the Legislative Council.

As you would be aware, the House of Assembly will be sitting in Mount Gambier in the week commencing 2 May 2005. The decision for the house to sit in a regional centre was made in principle by the government in January 2005 subject to consultation with the Presiding Officer of the house. The final decision was made only after discussion with the Speaker.

A regional sitting in Port Augusta of the Legislative Council has also been proposed for later this year. Cabinet has made no decision to proceed with such a sitting. Any decision about whether such a sitting will take place will be made following consultation with yourself as the Presiding Member and in light of the experience of the regional sitting of the House of Assembly. A final decision on a regional sitting of the Council cannot be made without consultation with interested parties. However, the government is hopeful that a regional sitting of the Council will take place at some time in the future. This will enable members of the public who do not normally have the opportunity to see the Parliament at work to experience first-hand this important function of our political system. I look forward to developing this proposal with you and your officers.

Yours sincerely, Mike Rann, Premier.

QUESTION TIME

CITY CENTRAL

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the minister representing the Minister for Infrastructure a question about green city building development.

Leave granted.

The Hon. R.I. LUCAS: In the middle of last year, the government announced its involvement in the green city development project, known as City Central. The Minister for Infrastructure at the time made a ministerial statement on 19 July. As a matter of note, this particular project was done as a result of direct negotiations with the developer, rather than going through the normal tender process that is generally required. In relation to the leasing arrangements, the Minister for Infrastructure said:

Subject to final negotiations and documentation, the government has agreed to pay a gross rent of $375 per square metre, escalated annually at 4 per cent for a period of 10 years with a right of renewal. There will also be costs associated with the fit-out of the new accommodation, estimated at $4 million. If one calculates the net present value of this 10-year rental commitment, it comes out to little more than a commitment of $30 million. This is not a premium: it is the cost to house 670 public servants in the CBD.

What we have agreed to. . . is in effect a straightforward commercial transaction. There are no financial handouts to the developer.

As a result of that statement by the Minister for Infrastructure, I asked a question of the Leader of the Government in this place on that day, indicating that there had been reports that the government was paying an additional cost, over what would be expected to be paid for office space under this

proposed lease, of up to $700 000 per annum for the 10-year lease arrangement. Whilst there was no reference to that $700 000 in the ministerial statement, it was reported by some members of the media that that was what the government advisers had been saying.

I asked this question: is the government paying an extra cost of up to $700 000 per annum over 10 years, and the total additional cost to taxpayers of lease payments adding up to $7 million over the 10-year lease deal? I was amazed to see an answer this week from the government which states:

> In explanations given to the media, when this decision was first announced, the government stated that this could amount to a premium of $70 per square metre, or $700 000 per annum. This is equivalent to a nominal sum of $7 million.

The minister has now conceded that there is a premium (as he would term it) or a handout (as critics have described it) of $7 million to this particular developer in relation to the city central development. In that question, I also asked whether or not the Premier, the minister and the government had complied with all Treasurer's instructions, and whether or not all the requirements of the cabinet endorsed policy entitled 'Evaluation of public sector initiatives' had been followed. I note that in the answer the government has refused to answer those specific questions. The advice provided to the opposition is that the government has been advised that, indeed, there have been breaches of some aspects of either the Treasurer's instruction or the document 'Evaluation of public sector initiatives'. That is why the government has refused to answer the question. My questions are:

1. Why did the minister not refer to the premium (as he calls it) of $7 million to this particular developer in his ministerial statement of 19 July 2004?

2. Why is the government refusing to answer the specific questions as to whether or not there have been any breaches of Treasurer's instructions or the document 'Evaluation of public sector initiatives' in the undertaking of this particular process?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): In relation to that, I would have thought that, since the decision was taken by cabinet, that would have addressed any of those issues. I do not have the details of this matter. I will—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I am saying that, if the matter has been to cabinet and has been fully discussed and is endorsed by cabinet, it must be considered as part of the process. They are questions for the minister in another place, and I will bring back a reply.

The Hon. A.J. REDFORD: I have a supplementary question. Are we to assume that, if the matter has been to cabinet, questions such as this do not need to be answered?

The Hon. P. HOLLOWAY: I am not sure what the honourable member is getting at.

The Hon. R.I. LUCAS: I have a supplementary question. Can the government indicate to the parliament, and for the benefit of other developers who have asked the question, on what basis does the government determine that it is prepared to pay, to use its word, a premium of up to $7 million for a development as opposed to other developments where it is not prepared to pay a multimillion-dollar premium?

The Hon. P. HOLLOWAY: This matter was discussed very broadly at the time. It is almost 12 months old. The government—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: No. They did not delay it. In relation to these matters, the minister was very up-front at the time. Indeed, the leader himself said in his preamble to the first question that he was aware that it had been widely discussed by the—

The Hon. R.D. Lawson: They were rumours.

The Hon. P. HOLLOWAY: It had been widely discussed at the time; that is why he used the figure. How can the leader now argue that it is a streak of good luck? In relation to those general questions, I will refer them to the Minister for Infrastructure and bring back a reply.

YOUTH, TEA TREE GULLY

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Youth, a question on the lack of support for youth initiatives in Tea Tree Gully.

Leave granted.

The Hon. CAROLINE SCHAEFER: I have recently received a letter from the Tea Tree Gully council, bemoaning the fact that, in spite of its outstanding record on youth initiatives within that council area, it has received little or no support from this government. I will read some of the letter, as follows:

> The council was extremely disappointed in not receiving a positive response to the application made by the young people in our city for a youth empowerment grant from the Office for Youth.

A copy of the advice of their unsuccessful application is included. The letter continues:

> A group of young people from the City of Tea Tree Gully prepared this application, with support from council staff. According to feedback from staff from the Office for Youth, the application was a strong one with substantial merit. As I understand, only 13 grants were made out of over 50 applications.

There then follow three pages of the initiatives taken by the Tea Tree Gully council, including:

> The development of the Golden Grove skate park, the development of a new district standard oval facility, the Blue Earth initiative which involves council funding comprehensive programs in schools throughout the city to involve young people in active and healthy lifestyles, the Green Room Community Youth Centre, support for programs for youth, such as Life Education, Let's Talk, Drug Arm, upgraded library facilities for children and youth sections, support for over 10 000 young people in our city who regularly participate in a wide range of sporting pursuits, support for over 8 000 young people who participate in unstructured recreation using, in most cases, council-provided facilities, coordination and support for over 480 community-based groups and clubs for young people.
>
> The City of Tea Tree Gully has representation in state regional and local youth networks, continues to work strategically with schools in its area, continues to fund initiatives for young people, collaborates with the Office for Youth—

and, as an aside, it is obviously not reciprocal—

> and maintains extensive programs engaging young people from its four neighbourhood centres.

The last paragraph of the letter states:

> I believe the above demonstrates council's commitment and support to young people in our city, and I look forward to continue this fine record of initiatives into the future. We intend to continue to make application for funding assistance for our youth programs and initiatives.

In addition to the youth in the Tea Tree Gully council area being refused their application for a grant, they were also sent notice in January of this year, as follows:

We are writing to inform you that the Inner North-East Youth Service are currently in the process of closing down, which means that we will no longer be able to offer services through this agency. There will be services of a similar nature offered through Port Adelaide Enfield Council early in 2005. We would like to take this opportunity to thank you for your support, and for providing us with the opportunity to work with you over the past few years. We hope this letter finds you well and we apologise for any inconvenience.

It is obvious from that that the Tea Tree Gully council, for whatever reason, is not being serviced as well for its youth activities as is the Port Adelaide Enfield area. My questions are:

1. Has there been feedback to this group of youths as to why they were refused their application for a grant?

2. Why was the Inner North-East Youth Service closed?

3. What funding has the Tea Tree Gully council had in the last two years to assist with any form of youth initiatives?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her questions, and lengthy explanation. I will refer those questions to the Minister for Youth in another place and bring back a response.

TAXIS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the acting Minister for Correctional Services, a question about taxi expenses.

Leave granted.

The Hon. A.J. REDFORD: Earlier this year, a constituent wrote to me and enclosed a copy of an Adelaide transport credit docket dated 6 February 2005. The docket gives the journey details as Glenelg to Burton and Craigmore at a cost of $85.20. The time of the trip was 3 a.m. to 4.15 a.m.—a time when most of us are in bed. It was early on a Sunday.

The Hon. T.G. Cameron: Not necessarily.

The Hon. A.J. REDFORD: Well, I said 'most of us'. I am grateful that the Hon. Terry Cameron stays up just to check these things out.

The Hon. R.I. Lucas: He might have been talking about something else. I think you missed the subtlety of the interjection.

The Hon. A.J. REDFORD: As you would expect—but I will not be diverted. The drop-off address has been provided to me, and I am happy to provide it to the minister. Interestingly, the docket is entitled 'Yatala Labour Prison', so it is a taxi on 6 February at 3 a.m., going from the Stamford Hotel at Glenelg to Burton and Craigmore, costing Yatala Labour Prison $85.20. I issued a freedom of information application seeking 'documents evidencing details of any official function or event attended by Correctional Services officers or staff at the Stamford Hotel on the night of 5 or 6 February 2005.' The response to the application was that there were no documents.

My question is: what Correctional Services business necessitated the use of a taxi by persons using a Yatala Labour Prison taxi voucher between 3 a.m. and 4.15 a.m. on 6 February 2005 between the Stamford Hotel at Glenelg and Craigmore?

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

REGIONAL OPEN SPACE ENHANCEMENT SUBSIDY PROGRAM

The Hon. R.K. SNEATH: Will the Minister for Urban Development and Planning update the council on the latest round of state government funding provided to local councils through the Regional Open Space Enhancement Subsidy (ROSES) program?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I thank the honourable member for his question and his interest in this important subject. This government is committed to working in partnership with local councils throughout the state to support the planning and implementation of open space programs and projects. Therefore, I am happy to advise the council that the most recent applications by the City of Port Augusta and the District Council of Mount Barker for grants under the Regional Open Space Enhancement Subsidy (ROSES) program were approved by my predecessor, Trish White, on 15 March 2005.

The ROSES program specifically provides financial assistance to local councils for the purchase, development and planning of open space identified as being of major regional significance. Projects are designed to assist in the preservation, enhancement and enjoyment of open space areas which are considered to contain elements of natural beauty, conservation significance and cultural value. The two most recent grants, totalling $387 240, will enable Port Augusta and Mount Barker to build on previous projects also funded through the ROSES program. Port Augusta will receive $254 000 to assist in the completion of stage 2 of its eastern foreshore redevelopment project.

Stage 1 of the foreshore redevelopment has already helped to create a vibrant open space focus for both residents and visitors. Mount Barker will receive $133 240 to assist in the completion of the final stage of its Linear Park development. This will involve the sealing of a portion of the linear park pathway, bridge construction and the installation of lighting, hand-railing, furniture and bins. So far this financial year that brings the total amount of state government funding provided to local councils through the ROSES program to almost $1 240 000.

POSTGRADUATE MEDICAL COUNCIL OF SOUTH AUSTRALIA

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Emergency Services, representing the Minister for Health, a question regarding the Postgraduate Medical Council of South Australia.

Leave granted.

The Hon. SANDRA KANCK: The Consumers Association of South Australia has informed my office that the Postgraduate Medical Council of South Australia recently underwent a review, and from that review a report has been produced. The Department of Health contracted Dr Peter Brennan, an interstate consultant, to undertake that review. The PMCSA is a subcommittee of the Medical Board of South Australia, and members would remember that I asked a question about some spending by that board earlier this week. The PMCSA's function is to oversee training of junior medical officers and overseas-trained doctors until they obtain full registration. It is funded by state and commonwealth grants.

The report included a series of observations regarding the operation of the PMCSA, including that the lines of 'accountability are blurred', that 'it was operating as a free agent', and that it did not have 'the level of accountability one would expect from a publicly funded body'. In that report the Medical Board is quoted as claiming that 'a financial crisis is looming' for the PMCSA. Further, the report details a dramatic $192 000 increase in expenses between 2001-02 and 2003-04. In 2001-02 PMCSA expenses were $290 000; in 2003-04 that figure had grown to $482 000. My questions are:

1. Does the minister concur with the Medical Board that the PMCSA has a financial crisis looming? If so, what steps has the minister taken to avert the crisis?

2. Will the minister provide a detailed summary of the PMCSA's expenses for the financial years 2001-02 and 2003-04? If not, why not?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her questions. I will refer them to the Minister for Health in another place and bring back a reply.

A TRIPLE BOTTOM LINE FOR THE BUSH

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, questions regarding the government's 'A Triple Bottom Line for the Bush' plan.

Leave granted.

The Hon. T.G. CAMERON: *The Advertiser* recently reported that the state's farmers are attacking the government for failing to take action over the key part of its plan 'A Triple Bottom Line for the Bush'. Launched last March, the plan outlined a far-sighted strategy to help combat a dire outlook predicted for the state's regional communities in the next 50 years. The urgency for action has been heightened by last year's poor cropping season and low prices in the grain industry.

The South Australian Farmers Federation said in the report that, if the predicted halving in farm numbers cannot be halted, the future of rural and regional Australia as we have known it throughout history is bleak. The report recommended that the government establish a task force to formulate a comprehensive strategic plan for the bush and report to Premier Rann by 16 July last year. To date this has not been done.

The general manager of the South Australian Farmers Federation, Carol Vincent, said in *The Advertiser* article that the government's failure to appoint a bipartisan task force was a serious concern. She said that conditions had deteriorated further since the report's release because no-one expected what happened with last year's grain harvest, while grain prices continued to decline. It would appear that this state Labor government still believes South Australia's border stops at Gepps Cross. Therefore, my questions are:

1. Why has the government not followed the 'A Triple Bottom Line for the Bush' report's key recommendation to establish a task force to formulate a comprehensive strategic plan for rural South Australia?

2. Considering the deterioration in conditions since the report's release last March, will the government now do more than simply pay lip service to country South Australia and commit to establishing the task force? If so, when is that likely to be?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am aware that another question was asked about this by the Hon. Caroline Schaefer earlier, but it was my understanding that, shortly after that report, it was announced that that was being referred to the Rural Communities Consultative Council, which is an ideal body to consider that information. That was my understanding of what happened, but I will refer that to the Premier and bring back a reply. In relation to what this government has done for country areas, this government has nothing to apologise for in respect of the service that it provides to country areas of this state and, indeed—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: It is interesting that the previous question from the Hon. Bob Sneath was about money and where it was going, and I answered that it was going to Port Augusta and Mount Barker. Of course, when I was the minister for agriculture, food and fisheries, it was this government that provided $5 million to the rural areas of this state to deal with the drought crisis. That $5 million was provided at a time when the commonwealth government provided very little indeed to assist those areas of the country that were drought affected. Also mentioned recently in this state's infrastructure plan are the deepening of the port and the building of bridges at Port Adelaide, which are not for the benefit of the residents of Port Adelaide. The building of this additional infrastructure is to reduce the costs of exporting goods through our ports. They will be for the direct benefit of country people.

Port Adelaide is the major port: there is no port that serves the rural industries of this state east of Adelaide—not in this state, anyway. All that infrastructure is specifically for the benefit of country areas. This government responded very quickly in providing assistance to people on Eyre Peninsula after the recent bushfire. I believe that assistance was very well received by the people of that area. This government has responded to those issues in the bush. The issues relating more generally to viability of the farm sector are quite involved and complex, and they are—

An honourable member interjecting:

The Hon. P. HOLLOWAY: What do you mean, I don't have a clue? The fact is that we have been delivering. The Liberal Party opposite talks about it. It has all the country members but it neglects their areas. The point is that this government has done more in three years for the people in the country of this state than the previous Liberal government ever did, because all this mob opposite ever did was use it for pre-selection. The Liberal Party plays politics in the bush. This government gets on with the job and delivers, and it is appreciated. All members of the Liberal Party do is whinge and play politics. They send press releases every week about this government, saying the sort of garbage that the Hon. Terry Cameron is talking about. They claim that this government does not support the bush. That is just not true. The fact is that this government has assisted the country areas of this state in many ways over the past three years, while the previous Liberal government neglected it for years.

TRAM LINE

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about the tramline extension.

Leave granted.

The Hon. T.J. STEPHENS: As part of its recently announced infrastructure plan, the government stated that the Glenelg tramline would be extended to North Terrace; and the buses travelling on King William Street would be reduced by about 20 per cent. A vast number of bus services run along King William Street to the inner and outer suburbs of Adelaide. My questions are:

1. Given this, how will the government meet its 20 per cent reduction target?

2. Will it simply move the bus stops from one end of King William Street to the other?

3. Although the minister said that people cannot catch a tram and a bus, and therefore that accounts for the reduction, how many people catch a bus to get from the existing tram stop to North Terrace who do not already catch the Bee-line?

4. Can the minister clarify that a 20 per cent reduction means fewer buses on the road, or will it mean buses with 20 per cent less patronage?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): This government, after years of neglect, is doing something; it is buying brand new trams. After 75 years there will be brand new trams on the line and the line will be extended, which is something that should have been done years ago. Instead of ending at Victoria Square it will go somewhere. We are doing it. Isn't it pitiful how all this mob can do is whinge, whinge, whinge? Why can't they be honest? Why don't they come out and say,'We don't like the tram?

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Yes, well, it will be in the next election. They will be able to vote—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron will come to order. He is being far too exuberant today.

The Hon. P. HOLLOWAY: If members opposite do not want the tramline built, let them have the honesty to come out and say so. Let them come out and oppose these things. We know that, when it came to infrastructure, they wanted things such as sports stadiums that became white elephants; they wanted wine centres. That was their infrastructure. This government has a new infrastructure: it will build things that are useful.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The honourable member would well know that this question was asked in the House of Assembly last week and that it was answered. If the best the honourable member can do is to ask questions on this, they really are in trouble.

Members interjecting:

The PRESIDENT: Now that order has been restored, the Hon. Mr Stefani has the call.

DURESS ALARMS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Police, a question about duress alarm calls.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Stefani is attempting to make his contribution. I did not hear a word he said because of interjections on both sides of the council. There is far too much exuberance. I require members to come to order so I can hear the Hon. Mr Stefani put his question.

The Hon. J.F. STEFANI: Thank you for your protection, sir. I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Police, a question about duress alarm calls.

Leave granted.

The Hon. J.F. STEFANI: Yesterday, a constituent contacted my office and expressed concerns that the South Australia Police had refused to attend a duress alarm call raised by the company for which he works. It appears that this is not the first time the police have refused to attend duress alarm calls raised by that company. On making inquiries, it appears that the police officers who receive duress alarm calls check the caller's name against a register and, if the name is not listed, the police refuse to attend the call. The Rann Labor government has been advising the public that all duress alarm calls will be answered by the police. In view of the circumstances I have outlined, my questions are:

1. Will the minister investigate the reason why all duress alarm calls are not answered by the police?

2. Can the minister assure the public that in future the police will answer all duress calls, regardless of the caller?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): It will obviously assist in any investigation of the matter if the honourable member were to supply details to the minister so that he can check out the case that has been raised by the honourable member. I will refer the question to the minister and bring back a reply.

The Hon. NICK XENOPHON: Sir, I have a supplementary question. What is the basis of and what are the protocols that are used for inclusion on any such register referred to by the Hon. Mr Stefani?

The Hon. P. HOLLOWAY: If there is such a register, I will refer that to the minister and bring back a reply. Again, it would be helpful if those details were supplied to the Minister for Police. I am sure that would help him to bring back an answer.

METROPOLITAN FIRE SERVICE

The Hon. G.E. GAGO: My question is directed to the Minister for Emergency Services. Could the minister inform the council of any examples of community support provided by firefighters to charity groups?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The South Australian Metropolitan Fire Service is giving ongoing support to a number of charitable community events. Camp Smoky is one event that occurs every year, with the camp being run for children who have been admitted to the Women's and Children's Hospital with burns. South Australian Metropolitan Fire Service personnel, along with nurses from the Women's and Children's Hospital, staff these camps every year in their own time.

On 16 January 2005, the South Australian Metropolitan Fire Service, together with the Australian Professional Firefighters Charity Foundation, Mix 102.3 and other emergency services hosted an open day at the South Australian Metropolitan Fire Service's Wakefield Street headquarters for victims of the Eyre Peninsula bushfire disaster. This event raised in excess of $83 000. These much-needed funds have aided the recovery of the Eyre Peninsula

region, giving life to a community that was so downtrodden from the fires.

Last year a similar open day event raised around $125 000 for the Amber Reinders Appeal. Amber, the daughter of firefighter Jason Reinders, was suffering from a rare cancer affecting the top of her spine, with the only possible cure being in Boston in the United States. I am happy to advise the chamber that Amber is now doing well. I am certain that all members will join with me in commending the work of the South Australian Metropolitan Fire Service for its community support to charity groups.

PARLIAMENT, REGIONAL SITTINGS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking you, Mr President, a question about regional sittings of the parliament.

Leave granted.

The Hon. KATE REYNOLDS: I ask the question of you, sir, but it will be of interest to every member in this place—the other, but equally important, half of the South Australian parliament, because there are two houses of parliament. Only the lower house—half the parliament—is sitting in Mount Gambier, and there is a squabble on about who will foot the bill because some MPs do not want to pay out of their own allowance.

The people in Mount Gambier—in fact, people right around South Australia—have 23 members of parliament representing them: there is the member for Mount Gambier Rory McEwen in the House of Assembly, and each one of us—the 22 members in this chamber—who represent the whole state. Every part of South Australia is our electorate and, if parliament is going to sit in Mount Gambier, that is all 22 of us sitting in our electorate.

Mr President, I ask two questions of you as presiding officer. First, do you concur with the member for Mount Gambier (a minister in the Labor government) Rory McEwen who, when referring to me during a radio interview on ABC Radio, said:

> If I want the Legislative Council to sit in Mount Gambier, all I have to do is ask the President.

That is you, Mr President. Secondly, do you want to join parliament and sit in Mount Gambier on 3, 4 and 5 May?

The PRESIDENT: The question 'do you agree' is seeking opinion, and it is generally out of order. I take the point you made in your explanation about there being two houses of parliament and the representation of the people of South Australia. I am not familiar with what the Hon. Mr McEwen has or has not said. What was the second part of your question?

The Hon. KATE REYNOLDS: Would you want to join parliament and sit in Mount Gambier on 3, 4 and 5 May?

The PRESIDENT: If indeed it was the will of the people of South Australia that the whole of the parliament attend, I would personally be delighted. Seeing the honourable member sought my opinion, I am going to give it. I would be delighted to represent my constituents at a parliament held in a country area in South Australia. I find it disappointing that yesterday a number of honourable members in this chamber made derisory remarks about the attempt to go to Port Augusta, and suggested that we may go on our own.

Let me remind honourable members of my information in respect of this matter. When it was announced that sittings of the parliament would take place in South Australia, almost every local government association wrote to the government asking it to hold a sitting of the parliament in their area. The people in Port Augusta and the people in the Iron Triangle are just as entitled to access to their parliament as any person in the metropolitan area. That is my opinion, and I would be delighted if it was decided that the parliament of South Australia were to go to Port Augusta or Mount Gambier as part of its duties. I would be delighted to go.

The Hon. R.I. LUCAS: On a point of order, sir, in the opinion that you just expressed, you indicated that members of parliament made derisory comments about Port Augusta. Can I indicate that that is incorrect, certainly as it relates to members of the Liberal Party. Any view we expressed was in relation to preferring to spend the money on hospitals and schools rather than wasting money on going anywhere in the country, rather than going to, in particular, Port Augusta or Mount Gambier.

Members interjecting:

The PRESIDENT: Order! There is no point of order. There is an attempt by the Leader of the Opposition to put a point of view. The Hon. Mr Stefani has a supplementary question.

The Hon. J.F. STEFANI: Mr President, in view of your statements, will you now give members of this council an unequivocal undertaking that any decision to hold the sitting of the council outside this chamber will be the subject of a vote which must be carried by a majority of the members of the council?

The PRESIDENT: I refer the honourable member to the contents of the correspondence in this matter which was sought by this council from me, which I delivered and which outlined precisely the processes that would be involved in this matter. One of the processes is that there be consultation with me. The final sentence of the third paragraph, which I think is instructive to all people interested, states:

> A final decision on regional sittings of the council cannot be made without consultation with interested parties.

I would say that you could clearly interpret from that, as the Premier has outlined, that, when the decision was made with respect to the sittings of the assembly in Mount Gambier, the Speaker was probably involved. The Speaker would make his consultations in the manner which he would desire. I will make the consultations in the manner which I think appropriate. That will involve discussions—obviously there will be technical matters—with the Clerk and the staff, and I will be at least having discussions with the Leader of the Government and the Leader of the Opposition, and if the opportunity arises there may be wider consultation.

At this stage of the consideration, I am not in possession of enough information as to whether the cabinet is desirous, given that they have not had the experience of what is going to happen in Mount Gambier. One can look at the conduct of these parliaments in other areas and can make a judgment. In most cases, they have been deemed to be highly successful. What is being proposed by the cabinet is that we will have the Mount Gambier sitting, and we will see how that works. If it seems that it is desirable, there will then be discussions with myself, as the presiding officer, and I will have the appropriate consultations with honourable members who have a principal role to play. I am not making any commitment beyond that at this stage because I am not in possession of enough of the facts.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. In his correspondence and communication

with you, Mr President, did the Premier indicate any costings for running a parliament for a week outside of the metropolitan area and, if not, will you endeavour to get those costings from him?

The PRESIDENT: There was no precise mention of costings. I am sure that. at the conclusion of what we would all hope to be a very successful sitting of the House of Assembly in Mount Gambier, there will be assessment. The cost will be assessed and that will be put into the mix as to whether we have a sitting of this Legislative Council in one of our principal cities in the Spencer Gulf area.

The Hon. CAROLINE SCHAEFER: I have a further supplementary. Mr President, are you aware that a sitting of the Legislative Council in Western Australia in Kalgoorlie cost $160 000 over and above normal running costs, and do you think our costs would be comparable?

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order! The Hon. Ms Gago is not being helpful. I am not aware of the cost of the Western Australian exercise precisely, but indeed it was most encouraging to have our Clerk attend that function, so that the logistics of that exercise could be assessed by her and her officers. That will be helpful in deciding whether we undertake a similar exercise. What I am aware of in Western Australia is the great appreciation of the people of Kalgoorlie for the opportunity to have the Legislative Council sitting in their area. They were warmly received by the local government and the people of Kalgoorlie, and I am certain that the people in country South Australia would be most grateful to have the opportunity. Not every child in a school in Port Augusta is going to have the opportunity to come to the parliament. There are some issues when democracy has to be taken to the people, not drag the people to democracy.

The Hon. R.K. SNEATH: Given that the opposition yesterday said that you would be in Port Augusta by yourself, Mr President, and given that the Leader of the Opposition interjected a while ago saying 'Bring the country to Adelaide', do you think it is worth consulting with the opposition when you do deliver a determination?

Members interjecting:

The PRESIDENT: Order! I took the interjections, although they were out of order but printed in the *Hansard* yesterday hopefully as just being flippant comments and members playing political games. I did not take it as their intention that they had disrespect for the people in the Iron Triangle, or anywhere else.

The Hon. KATE REYNOLDS: Based on the comments in the letter from the Premier, and also your earlier responses, sir, could you please outline some of the indicators of success that will be used to determine whether or not the sitting of the House of Assembly in Mount Gambier is a success?

Members interjecting:

The PRESIDENT: Order! I will take the question on notice, and I am sure that, when a report is brought back to the Legislative Council, there will be a number of factors including public response, local government response, and the reactions of educators and children who will have the opportunity to see the parliament of South Australia in action.

The Hon. J.M.A. LENSINK: I have a further supplementary question. Mr President, will you undertake to ask the Premier who the interested persons are and whether we can have a full list?

The PRESIDENT: I will take those questions on notice, and they will be taken into consideration.

The Hon. IAN GILFILLAN: I have a supplementary question. Mr President, do you have any objection to the question being put to the council on a motion that the chamber move to a country location and the decision being made by a majority vote?

The PRESIDENT: There are a few constitutional problems in the member's suggestion. I will have to think more about it before I give a definitive answer.

BREAK EVEN NETWORK

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Families and Communities, questions in relation to software for data collection and reporting to the Break Even gambling services.

Leave granted.

The Hon. NICK XENOPHON: One of the counsellors working for the Break Even Network recently expressed serious concerns about the new computer software provided by the Department for Families and Communities as part of its administration of the Gamblers Rehabilitation Fund. Since the inception of the GRF in 1994, no comprehensive system has been provided whereby gambling counselling services have been able to collect client data and produce such data in reports to provide feedback on the effectiveness of gambling rehabilitation programs to the department and, by extension, to the parliament and to the public.

In January 2004, software for data collection only was installed at all Break Even agencies. Over the course of the year, the department consulted with various agencies about developing a system for reporting such data, and reporting software was installed in December 2004. Much to the dismay of a number of agencies, this software did not work. Only two weeks ago—some four months after the computer software was installed—the problem was rectified and the system was reinstalled. I am advised that some agencies did not have access to vital data needed in preparing submissions to the current inquiry of the Independent Gambling Authority into gambling rehabilitation programs. I understand that the system is not up and running in a number of agencies because staff have not been trained by the department. I also note that, in its submission to the Independent Gambling Authority inquiry, the department criticised the data collection of agencies for not being comprehensive enough. My questions to the minister are:

1. What consultation has been undertaken with Break Even agencies regarding the effectiveness or non-effectiveness (as seems to have been the case) of the data collection software described? When did that consultation take place?

2. What was the cost to the department of such software, and did it come directly from the Gamblers Rehabilitation Fund?

3. What resources has the department provided to agencies who need training in the operation of the new system?

4. Why has there been such a delay in the provision of such a system?

5. Given the criticism by the department of the data collection undertaken by Break Even agencies, will the

minister apologise to them for the statements made by the department, given that it appears to have been the department's fault in terms of software problems?

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

METROPOLITAN FIRE SERVICE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the Metropolitan Fire Service.

Leave granted.

The Hon. J.S.L. DAWKINS: Members may recall that last week I asked a question of the minister regarding the forced secondment of Metropolitan Fire Service officers to the MFS training department at Angle Park. I understand that the MFS has in place a number of service administrative procedures, known as SAPs. The stated aim of SAP No. 6 is to define a safe and effective procedure for appointments and secondments. It also establishes the process to be followed by the chief officer, or his or her delegate, in appointing or seconding staff. My questions are:

1. Will the minister indicate whether SAP No. 6 was adhered to in the secondment of 11 station officers to the SA MFS training department on 30 December 2004?

2. Will the minister also investigate the manner in which officers identified for secondment under SAP No. 6 are classified as volunteering for the position, even if an officer expressly indicates that they did not volunteer?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his questions. I will be in touch with the chief executive in relation to those operational matters concerning staff training and will bring back a response.

FOX BAITING

The Hon. IAN GILFILLAN: Mr President, you will note that I am actually garbed in normal, masculine clothing! I seek leave to make an explanation before asking the Minister for Emergency Services, representing the Minister for Agriculture, Food and Fisheries, a question about fox baiting.

Leave granted.

The Hon. IAN GILFILLAN: On 3 May last year, I asked a question in this place relating to an incident of unauthorised 1080 fox baiting in the Mount Crawford Forest during Easter 2004.

An honourable member interjecting:

The Hon. IAN GILFILLAN: No. That was one of the more outlandish interjections, Mr President, which should have been ruled totally out of order had I got an answer.

The PRESIDENT: Had I heard it, I probably would have.

The Hon. IAN GILFILLAN: You did hear it, Mr President. One of my questions to the minister was:

> Will the minister investigate—or, if he is determined for it not to be his responsibility, urge his colleague to investigate—to discover who is responsible for the repeated and dangerous baiting in the Mount Crawford Forest as a matter of urgency?

An honourable member interjecting:

The Hon. IAN GILFILLAN: I stand corrected. In the minister's reply of 3 May (and I must say that, strangely, the question was answered on the same day) he said:

> PIRSA undertakes and coordinates investigations of chemical misuse and trespass incidents on behalf of state government agencies. The matter of fox baiting in Mount Crawford is being treated as such and investigated accordingly. The proclamation of the Agricultural and Veterinary Products (Control of Use) Act 2002 later this year will provide legislative backing for this activity that currently relies on the voluntary cooperation of those involved.

My office has been contacted by the residents who originally brought the matter to my attention, and they have expressed concern that since the time of the incident—over a year ago now—PIRSA has not reported on the matter. Further, since the events of last year I have been informed of another instance where an entire family of eagles near Keyneton have been wiped out by the illegal use of fox baits. My questions to the minister are:

1. Has there been an investigation into the misuse of 1080 fox baits in Mount Crawford Forest last year as detailed in the minister's reply of 3 May 2004? If not, why not?

2. To whom has the report from any investigation been distributed?

3. When will the minister make the report public?

4. Is the minister or the department aware of further incidents of misuse of 1080 fox baits? If so, have these been investigated?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his question, and I am pleased that he has acknowledged the efficiency of the ministerial office of the Minister for Agriculture, Food and Fisheries in the other place in having a question answered on the same day. As to the other questions, I will refer them to that minister in another place and bring back a reply.

ADELAIDE, OUTER METROPOLITAN AREA

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question regarding planning strategies for the outer metropolitan Adelaide region.

Leave granted.

The Hon. J. GAZZOLA: I am sure that all members of the council would be aware of the important economic contribution to the state of primary production and associated value-adding industries in the peri-urban areas around Adelaide. In fact, it is stated in the draft strategy that is now out for consultation that:

> Areas within 100km of the Adelaide metropolitan area generate 20-25 per cent of the state's total gross value of production from 3 per cent of its total agricultural land base.

How will the strategy protect this agricultural land base and support the growth of the primary industry sector?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I thank the honourable member for his question and his interest in matters relating to the country, an interest which obviously is not shared by members of the Liberal opposition—in fact they do not even want to leave the city, but that is another question—

The Hon. T.J. Stephens interjecting:

The Hon. P. HOLLOWAY: I am sure that fact will get out there amongst the country people. The council would be aware that, last Thursday, I announced in this place the release of the draft metropolitan and outer metropolitan volumes of the planning strategy for public consultation. The importance of the outer metropolitan region covering the smaller regions of the northern Adelaide Plains, the Barossa, the Adelaide Hills and southern Fleurieu is now recognised through the introduction of a new and separate volume of the strategy. It is well-known that the peri-urban areas of the outer metropolitan region support a diverse range of primary

production industries, including horticulture, organic farming, commercial forestry and grazing. There are also significant value-adding industries, including the processing and packaging of local commodities for sale locally, as well as interstate and overseas.

Demand for these value-adding industries is on the increase, with significant growth in activities such as viticulture. For example, there is strong demand for grape crushing and wine-bottling facilities which are suitably located on site but which are also designed to protect the environmental and landscape qualities of the region. In recognition of the importance of maintaining and expanding opportunities for growth in primary production industries, the draft strategy includes as one of its five key planning priorities the protection of agriculturally productive land and the facilitation of value-adding opportunities. Other priorities relate to urban containment, the integration of land use planning with transport, water use and energy provision and the protection of the region's biodiversity.

More specifically, the strategy outlines how this priority will be actioned and reinforced through the following strategies:

- by identifying in council development plans the significant areas of primary production;
- by establishing township boundaries throughout the region to safeguard these areas from urban encroachment;
- by discouraging the fragmentation of agricultural land through inappropriate land division;
- by ensuring that land uses are compatible with primary production activities, particularly in high priority areas; and
- by encouraging greater policy flexibility to support value-adding opportunities and enterprise diversification throughout the region.

Some of this work has already started. The council will be happy to note that the Department of Primary Industries and Resources is currently undertaking work related to the identification of areas of primary production significance in conjunction with industry and local government.

Once these areas have been identified, the draft strategy contains a priority action to ensure that development plans are updated through council development plan review processes in order to define these areas and provide more specific development controls to support the continuation and expansion of primary producing and value-adding opportunities. As the minister responsible for mineral resources development in this state, I also advise the council of how the strategy will support extractive industry operations in the outer metropolitan area. Shale, sand and clay deposits are important sources of materials for major construction, rail and road industries. The location and size of deposits in the outer metropolitan region provide the industry with a significant competitive advantage in terms of both transport and handling costs.

It is therefore vitally important that these deposits are protected, and that the extractive industry operations are able to be carried out efficiently and in a manner that minimises the impact on the environment and allows the appropriate rehabilitation of sites. To this end, the draft strategy is aimed at identifying existing and potential mineral resources and development plans; preventing the encroachment of sensitive land uses such as housing by the establishment of appropriate buffers and distances between development and existing or potential mineral deposits; and ensuring that mining activities are carried out in a manner which will minimise impacts on water resources, areas of significance for biodiversity, human health and adjoining land uses.

I thank the honourable member for his question. I believe that all members of the council and all members of parliament have been provided with a copy of both the outer metropolitan region and the metropolitan planning strategy. The comments on that strategy are invited until the end of July this year, and I look forward to comments on that and the implementation of the strategy.

REPLIES TO QUESTIONS

ROYAL ADELAIDE HOSPITAL

In reply to **Hon. SANDRA KANCK** (23 November 2004).

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

1. The Royal Adelaide Hospital Department of Medical Physics does not have any point of view about the relationships bill.

2. The Royal Adelaide Hospital advises that the communication referred to was unauthorised and an internal investigation of the matter has commenced.

The hospital has existing protocols in place about communication with Members of Parliament. Staff are required to immediately refer requests for information from Members of Parliament to the Chief Executive Officer.

3. The facsimile was sent via the machine located in the Department of Medical Physics Office. The facsimile machine in question is open for official hospital use to all staff within the Department of Medical Physics and Radiation Oncology.

The exact distribution of the facsimile has not been ascertained, however the author is currently under investigation and will be reminded of appropriate use of government resources.

In reply to **Hon. SANDRA KANCK** (22 November 2004).

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

1. Under Section 23 of the Mental Health Act 1993, police officers can apprehend and convey a person using reasonable force and take them to a medical practitioner for examination if they have reasonable cause to believe that a person has a mental illness and may be at risk of self harm or pose a danger to others. A medical practitioner may, after examining a person, make a detention order.

Under the Act, there is no requirement to notify particular persons that a patient has been apprehended and conveyed by police. However, the Department of Health, Emergency Demand Management Policy & Procedure Series 2002-2005 recommends that the nominated person responsible be advised at the time of the intervention or soon after and also at the time of admission.

This recommendation would not be followed when consent to notify was withheld or if it was felt to be in the patient's best interests not to notify a friend, relative or guardian or if the patient is accompanied by a partner, friend or relative or if the patient is unconscious or too ill at the time.

At the Royal Adelaide Hospital Emergency Department (RAH ED) patients who have significant medical or mental health conditions are routinely asked whether a friend or relative is aware of where they are. Staff attempt to obtain consent from patients to contact the next of kin as soon as it is practicable to do so. Patients are also encouraged to contact a friend or relative themselves. In this instance the patient did not respond to verbal prompting from staff for information.

2. In this instance, authorisation for the application of restraint was provided by the treating Medical Officer, who also made the order for detention under the Mental Health Act.

From a duty of care perspective, the state of undress of a patient is not related to the decision of whether to apply physical restraint. This decision is based on an urgent need to provide safety and protection for the patient and to others where less restrictive measures have failed to do so.

It is the opinion of the Assistant Director, RAH ED that the management outlined above is consistent with the recommendations made in 'Mental Health in South Australia Emergency Demand Management Policy & Procedure Series 2002 – 2005, Restraint and Seclusion in Health Units, Policy EDM P6-02'.

The RAH has a policy of notification of physical restraint of patients. All physical restraint is documented and reported internally for monitoring by the Safety & Quality Unit.

Independent of this incident the RAH commenced a review of all policies and guidelines in relation to detention, violence and physical restraint to ensure that practices reflect best practice and consistency with the Mental Health in South Australia Emergency Demand Management Policy & Procedure Series 2002-2005.

3. It is important to note that the patient, who has a diagnosed mental illness and who is a client of mental health services, was detained and transported to the RAH ED because of reports from neighbours that she was running down the street naked. Even after arrival at the ED, the patient continued to make every attempt to undress herself and staff had great difficulty in ensuring that she remained at least partially covered.

At the RAH ED, professional security officers provide continuous observation of patients at risk of violence towards themselves or others. Officers receive training from their employer and undergo a period of specific training relevant to management of agitated and disinhibited patients, which includes instruction from psychiatry staff from the RAH.

Although the management and observation of violent, agitated and disinhibited patients can be psychologically stressful on all staff involved in their care, including security officers, it is hoped the professional nature of their work and training minimizes the negative impact upon them.

Security staff in the Emergency Department act under the direction of the treating clinicians and according to protocol. Security guards are not trained medical professionals and are not authorised to become involved in the medical treatment of a patient.

4. At the RAH, the practice is to remove physical restraints for 10 minutes every hour where it is safe to do so. It is the opinion of the Assistant Director, RAH ED that the clinical state of the patient would have precluded the safe removal of the restraints for some hours.

The patient initially violently refused/resisted any pharmaceutical sedation. From review of the clinical record it appears that, once it became possible to administer safe levels of sedation, the medication took some time to take effect. Release of restraints prior to adequate levels of sedation would have made attempts to keep the patient at least partially covered completely ineffectual.

PREMIER'S ROUND TABLE ON SUSTAINABILITY

In reply to **Hon. J.M.A. LENSINK** (25 October 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has been advised that:

The notes of the Round Table's meeting recorded the observation of one member of the Round Table that in promoting the importance of issues such as climate change, political timeframes need to be observed and understood – that is, that opportunities to advance the long term issues of environmental sustainability ought be taken.

This observation was clearly in the context of working on the long-term environmental sustainability of South Australia, including addressing such important issues as climate change.

This does not equate to the Round Table deciding to be opportunistic.

In reply to **Hon. J.M.A. LENSINK** (12 October 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised that:

1. The Thinkers in Residence program was initiated by the current Premier. Its purpose is to encourage discussion of a diversity of ideas in the community. The Round Table also contains many talented thinkers who can advise the government and encourage debate in the community on environmental sustainability. I understand Thinkers in Residence and the Round Table do meet and share ideas and organise events to foster these goals.

2. The sponsors for Peter Cullen were the Department of Water, Land and Biodiversity Conservation, SA Water and CSIRO, and these organisations were therefore the organisations referred to in the media release. Peter Cullen engaged with the Round Table in the following ways:

- Worked closely with two members on consideration of the report for Government;
- Attended a Round Table quarterly meeting to discuss his views on SA's water supply; and
- Met with the chairs of Round Table committees to discuss water issues and the Wentworth Group of Scientists model of operation.

3. As explained above, there is no significance in the Round Table not having been included in the press release about Peter Cullen's visit.

The Round Table recently released its first formal report to Government. At the launch the Premier thanked the Round Table for its work and praised its commitment to identifying and acting on the issues that threaten our long-term environmental sustainability.

4. The Premier has a strong record in environmental sustainability. Highlights of this Government's leadership include the following decisions and commitments:

- The targets in South Australia's Strategic Plan relating to environmental issues;
- Leadership in the COAG Agreement on the Murray and the National Water Initiative;
- Plans to prescribe the water resources of the Western Mount Lofty Ranges;
- Mandatory plumbed rainwater tanks on all new homes from July 2006;
- A five-star energy rating for new housing built from July 2006;
- A four year extension of the current solar hot water subsidy;
- Extending the Solar Schools program to provide solar power to 250 schools by 2014;
- Progressive installation of solar power to other key government buildings including Parliament House;
- Expanding the *One Million Trees* program to Three Million Trees by 2014;
- Preference for all new Government office leases to those buildings that meet at least five-star energy rating from July 2006.
- All office buildings newly constructed from January 2005, to use 5-star classification under the Green Building Council's Green Star system, if they are to be used by Government.

In reply to **Hon. J.M.A. LENSINK** (22 September 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has been advised that:

1. The meetings with the following people and groups have occurred since the Round Table was formed. These are in addition to meetings with staff of the Office of Sustainability.

Premier's Round Table on Sustainability (full board or Chair on behalf of board).

Premier of South Australia
Deputy Premier of South Australia
Minister for Environment and Conservation
Minister for Energy
Chief Executive, Department for Environment and Heritage
Executive Director, Science Technology and Innovation Directorate
Executive Director, Cabinet Office
Executive Director, Strategic Projects Division, Department of the Premier and Cabinet
Senior Management Council
Ecosystems Management Committee
Executive team of Department for Environment and Heritage
Director, Coast and Marine Branch, Department for Environment and Heritage
Director, Science and Conservation, Department for Environment and Heritage
Native Vegetation Program Manager, Department for Water, Land and Biodiversity Conservation
Manager, Rural Communities and Education, Department for Primary Industries
Director, Strategic Planning, Planning SA
Executive Director NRM Services, Department of Water Land and Biodiversity Conservation
Subprogram Leader, SARDI
Living Coasts Strategy Team
Directorate, Natural and Cultural Heritage
Sustainable Settlements Committee
Minister for Housing, Minister for Families and Communities
Executive Director, Planning SA
Chief Executive, Zero Waste SA
Executive Director, Office for Infrastructure Development
Chief Executive, Department of Transport and Urban Planning
Chief Executive, Department of Water, Land and Biodiversity Conservation

Chief Executive, SA Water
Director, Strategic Planning, Planning SA
Manager, Spatial Planning Analysis and Research
Fleet Manager, Fleet SA
Director, Green City, Capital City Project
Energy Opportunities Committee
Minister for Energy and staff
Chief Executive of Primary Industries and Resources SA
Manager, Energy SA
Chief Executive of DAIS represented by Executive Director, State Procurement and Business Development, DAIS and Chair of the State Supply Board and Director, Real Estate Management, DAIS
Executive Director, Microeconomic Reform and Infrastructure Branch, Department of Treasury and Finance
Director, Technical Services, SA Housing Trust
Energy SA
Communication and Change Committee
Manager, Environmental Education, Department for Environment and Heritage

2. The Chair has met with the Chairs of the Social Inclusion Board and the Economic Development Board. The three Chairs have also interacted frequently about the implementation and auditing of the State Strategic Plan.

The Chair of the Round table of Sustainability has also presented to members of the other Boards on the issue of Climate Change on 2 December 2004, as a precursor to further joint meetings on this topic.

3. See answer to question 2.

In reply to **Hon. J.M.A. LENSINK** (20 September 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has been advised that:

1. The Round Table has determined its role and structure. This information is available on the web site for the Round Table at:
http://www.environment.sa.gov.au/sustainability/roundtable.html

2. The Round Table has offered advice to government and government agencies including advice to Ministers, advice on programs, advice on policies as they are developed and advice on the development and review of the State Strategic Plan, recently released in its report *Three, Four, Five: 3 Challenges, 4 Principles, 5 Actions for a Sustainable Future.*

In reply to **Hon. J.M.A. LENSINK** (16 September 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has been advised that:

1. The Round Table has provided information about itself through:
A web site at:
ttp://www.environment.sa.gov.au/sustainability/roundtable.html.

This site is under the Department for Environment and Heritage - Sustainability site, but is not under the "about" link as it has its own link.

- Participation in the *A Just and Sustainable SA Conference* earlier this year, which brought together many members of the community involved with the related issues of social justice and environmental sustainability. Several Round Table members attended the conference and participated in and/or led workshop sessions. The Chair convened the final plenary session of the conference. A fact sheet on the Round Table was made available to attendees at the conference.
- News items about the formation of the Round Table.
- Media appearances and public presentations by Prof. Tim Flannery, Chair of the Round Table in his capacity and Chair and using that title. For example, the 7:30 Report on 23 June 2004 about climate change and water resources; and the *Sydney Morning Herald* article on 15 June 2004 on climate change and the *Sunday Mail* article on 19 September 2004 on energy policy and climate change.

2. The Round Table has, and continues to provide, high quality advice to government. It has presented its first report to government *Three, Four, Five: 3 Challenges, 4 Principles, 5 Actions for a Sustainable Future*.

The first meeting of the Round Table was not the only opportunity for the Round Table to provide advice on the State Strategic Plan. The Round Table's first report included advice on implementation of the Plan and will include advice on additional or future targets.

South Australia's Strategic Plan was finalised and released four months after the first meeting of the Round Table and reflects many of the targets recommended by the Round Table.

3. The Premier has reinforced the importance of the Round Table by attending a meeting to discuss high level priorities for the Government, and inviting the Round Table to be part of the process of evaluating the State Strategic Plan. The Premier has invited the Chair of the Round Table to address Cabinet periodically on emerging issues.

The Premier's Round Table has met five times since its inception and members have attended most meetings.

4. There are three topics here. The first is about how successfully the Round Table is engaging with the community. The second is whether there is a low level of information about the Round Table. The third is whether there was any correspondence with the Round Table between March and April 2004.

The Round Table's engagement with the community has been addressed in answer to question one.

The level of information provided by the Round Table is addressed in answer to question one.

The minutes for 27 April 2004 show no correspondence that had not been dealt with out of session. The Premier's Round Table's Committees were active during that period, as they have been all year, which involved correspondence.

FARM WASTE DISPOSAL

In reply to **Hon. J.M.A. LENSINK** (19 July 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised that:

1. It is acknowledged that it is important to provide certainty to the farming community in respect to their obligations under the *Environment Protection Act 1993* (the Act) to properly manage solid waste materials on their properties. The development of the draft guideline was pursued by the Environment Protection Authority (EPA) to clearly define obligations under the Act.

Any changes to the regulation of activities as a result of changes to environmental standards will be carefully considered and will be based on the best available information, evidence and contemporary approaches to implementation and will also involve consultation with stakeholder groups.

2. Representatives from the EPA met with the Natural Resource Committee of the South Australian Farmers Federation (SAFF) to discuss the draft guideline, and the EPA extended its consultation timeframe to allow SAFF to consult more widely with its members prior to submitting comment.

The EPA also wrote to each of the following organisations to seek comment on the draft guideline:

- All South Australian local councils, through the Local Government Association of South Australia;
- Zero Waste SA;
- Waste Management Association of Australia (South Australian Branch);
- Department of Primary Industries and Resources, South Australia; and the
- Department of Water, Land and Biodiversity Conservation.

The EPA is awaiting comment from some of the stakeholder organisations. In light of this it is not possible at this time to provide detail on all comments received.

3. Since being established, the EPA has constantly balanced the use of its resources for the development of guidance documents with the operational roles as required by the *Environment Protection Act 1993*.

The EPA continues to identify, develop and revise guidance documents as environmental issues emerge. The issue of unlicensed waste disposal on private land is only one of these emerging issues and a draft guideline is now being developed.

4. There are 205 licensed landfills currently receiving waste in South Australia, 163 of which are identified as community "dumps".

5. The draft guideline document is an important stage in defining the minimum requirements for landowners and it clearly establishes the expectations relating to waste disposal on private properties. One of the main purposes of this document will be to raise awareness in the community of their existing responsibilities under the Act.

The EPA has undertaken to widely distribute the guideline as soon as it is finalised.

The retrospectivity issues in relation to this matter are complex, however, the EPA will consider a range of measures that may be

taken to address unlicensed disposal sites where ongoing environmental harm is occurring.

6. The Act does not provide an exemption in relation to the disposal of fencing wire and iron.

However, fencing wire and iron, and other ferrous materials, are valuable source materials that can be recycled within South Australia. The Government of South Australia, through initiatives such as the establishment of Zero Waste SA, has prioritised the interception of waste materials to improve resource sustainability.

Instead of providing exemptions, it will be preferable to direct these materials to material recycling industries to assist in the long-term objective of resource sustainability in this State.

HISTORY TRUST

In reply to **Hon. J.M.A. LENSINK** (30 June 2004).

The Hon. T.G. ROBERTS: The Minister Assisting the Premier in the Arts has been advised that:

1. The budget allocation by Arts SA for building maintenance to the History Trust of SA was substantially reduced under the then Liberal Government in 1999.

2. The 2003-04 supplementary funds for $95,000 over and above the set allocation of $170,000 was provided, and again in 2004-05 Arts SA has budgeted additional supplementary funds of $130,000. This is a 13% increase in building maintenance funding from 2003-04 to 2004-05.

VICTORIA SQUARE DRY ZONE

In reply to **Hon. J.M.A. LENSINK** (28 October 2004).

The Hon. T.G. ROBERTS: The Minister for Housing has advised that:

Safe, affordable and suitable shelter is only one aspect of responding to and alleviating the impact of homelessness and transience. In addition to providing accommodation, support services designed to support transition pathways between transitional and other forms of housing are being developed through the implementation of the *Inner City Services Strategic Plan 2004-2007*.

In October 2004, the Department for Families and Communities released the Inner City Services Strategic Plan to significantly improve services provided to the homeless and other people in need in the inner city.

A range of actions were implemented in 2003-04 and services were developed in a coordinated manner; in some instances services began working differently to support new projects or service development, with and without additional funding.

Initiatives that have received additional funding include:

- the Day Centre Case Coordination Project;
- service establishment and evaluation of the Stabilisation Centre;
- client brokerage funds for the Stabilisation Centre;
- additional community liaison positions;
- WestCare Day Centre service development;
- the Parkland Response Project;
- the Indigenous Inner City Workers Network; and
- the Infrastructure and Service Development City Homeless Assessment and Support Team.

Further to this, the Government recently announced Cabinet approval for funding of $780,000 for the establishment of a Public Intoxication Facility, a drug and alcohol 'in-reach' service provided at the City Watch House for people detained under the Public Intoxication Act.

Through the implementation of the Inner City Services Strategic Plan over the next three years, further initiatives involving cross agency responses will be developed to respond to the most marginalised of the inner city population.

The Aboriginal Housing Authority (AHA) has developed an accommodation and service system model to respond to the state-wide issues of Indigenous transience and mobility.

The model links with the ongoing implementation of the Inner City Services Strategic Plan and a range of initiatives and developments that have already been actioned.

Further to this, the AHA will be conducting a presentation to the Adelaide City Council in February 2005 on the model, to fully involve and inform the Council in the development of a range of accommodation options.

Through the development of a partnership with all the inner city service providers, the AHA will explore the reasons why some current short-term accommodation options are not being accessed by public place dwellers and how those existing accommodation options might be better utilised to provide short-term options, which may also involve the development of specific accommodation options. The feasibility and desirability of these options are currently being explored by the AHA.

The AHA is preparing a scoping report to examine the transitional accommodation proposal in more detail.

HOMELESSNESS

In reply to **Hon. J.M.A. LENSINK** (19 February 2004).

The Hon. T.G. ROBERTS: The Minister for Housing has advised that:

1. Youth homelessness is addressed through the Supported Accommodation Assistance Program (SAAP), which is managed by the Department for Families and Communities (DFC), through the South Australian Housing Trust (SAHT). Approximately $11m of SAAP funding is provided to agencies offering services specifically for young people, including $3.7m to inner city agencies, $5.5m to metropolitan services and $1.8m to rural areas.

SAAP provides a number of accommodation and support options for young people that can be accessed through the central referral service, 'Trace-a-Place'. Emergency Accommodation Support South Australia was recently established to bring an integrated emergency response to homelessness across the youth, domestic violence and family sectors. This incorporates the work of Trace-a-Place.

In addition, the SAHT manages a Direct Lease Youth Priority Scheme providing medium term accommodation (up to 18 months) for young people aged 16 to 25 years who are experiencing severe difficulties in securing or maintaining suitable accommodation. During 2003, 224 young people were housed under this scheme.

The Aboriginal Housing Authority (AHA), in conjunction with Children, Youth and Family Services, established a facility to accommodate Aboriginal youth on remand. Known as Marni Wodli or the 'Good House', accommodation is provided for young people who have no alternative housing when released from jail. This accommodation includes a live-in support worker who coordinates services and programs at the centre. The support workers help young people establish networks to assist them once they have accessed alternative accommodation. $125,000 in capital and $20,000 in recurrent funding has been committed to this project.

Reducing homelessness (including youth homelessness) is a key priority of this Government's Social Inclusion Board, which completed its inquiry into homelessness and presented its report *Everyone's Responsibility – Reducing Homelessness in South Australia* to the Government in July 2003.

In August 2003, the Government made a formal response to the recommendations in the report, acknowledging the issues and detailing a 14 Point Immediate Action Plan to address these. In 2003-04, $12m was committed over four years to implement the action plan. In 2004-05 a further $8 million over four years was committed for this work. The action points in relation to young people include responses to homeless students and accompanying children.

The Government has recently provided $550,000 to fund a supported housing facility for young people who are low functioning due to learning disabilities and who are homeless. The young people will be supported daily by workers from Centacare Community Services and Centacare Disability Services who would develop an appropriate support package to assist each young person to transition into longer term stable housing.

2. Young people exiting supported accommodation services often experience difficulty in making a successful transition to independent living. In addition to the Social Inclusion Board's Homelessness Plan referred to in the response to question 1, programs are being provided by the SAHT.

The SAHT, in collaboration with non-government organisations, initiated a Supported Tenancies Demonstration Program in 2002, to support SAHT tenants who are at risk of losing their tenancy. A total of 87 people were assisted including 48 (55%) young people (under 25 years of age). It also provides support options to facilitate successful tenancies, provides referrals to appropriate agencies and enhances the living skills of young SAHT tenants in Noarlunga, Marion, Port Adelaide and the Parks areas.

Following the success of the Demonstration Program, I am pleased to advise that a broader rollout of the Supported Tenancy Program has now commenced. A total of five non-government agencies are delivering tenancy support programs across seven regions in South Australia at a cost of $785 000. This initiative is being undertaken in partnership with the Aboriginal Housing

Authority in two regions, allowing support services to be provided directly to Indigenous tenants.

The Transitional Housing Project, a partnership with Centacare and the Service to Youth Council (SYC), provides supported accommodation to homeless young people in the Murraylands and develops service models for further evaluation. A service agreement has been entered into with Centacare and SYC, and the SAHT is providing specialised property management services to designated properties. $37,000 from Commonwealth State Housing Agreement funds, and $111,000 in SAAP funding has been allocated by the State Government to this project.

In addition, SAHT Regional Services (Country and Metropolitan) are making available grants of up to $2000 to assist community agencies to provide facilities and programs for disadvantaged customer groups, including young people. Examples of funded projects include 'The Rental Kit' which provides tenancy survival information in a youth-friendly format and 'Real Life', an independent living skills training program developed and delivered by young people, for young people in rural areas.

3. I have recently met with St John's Youth Service (SJYS) and they have recently re-submitted their inner-city foyer proposal for consideration.

Improving outcomes for young people involves complex service delivery issues. How tenancies and services would be managed and delivered within a foyer based arrangement within inner-city Adelaide need to be worked through and resolved before proposals such as that from SJYS can be properly considered.

Preferred exit point strategies involve encouraging young people to return to their region of origin and participate in outreach programs linking them to employment and training opportunities.

I have been advised that the SAHT has contacted SJYS for further discussions on the model and expect that a second formal submission addressing the aforementioned concerns will be submitted to the Department.

4. The foyer model originates from the UK and Europe. The model stresses the holistic nature of the links between young people with housing, education, employment and their communities through:

- Living – by providing a safe and stable living environment;
- Learning – supporting the development of life skills and education opportunities; and
- Earning – providing links to employment opportunities.

It is seen as a way of developing life skills, esteem, networks, breaking the 'no home no job no home' cycle of youth disadvantage and making a successful transition to independence. However, the foyer model is not a model for crisis or emergency accommodation.

An example of the foyer model has been recently implemented at the Miller Live 'n' Learn Campus project in NSW. I am advised that the Australian Housing and Urban Research Institute is conducting an evaluation of this project and I look forward to seeing that evaluation.

It is important to note that the Adelaide metropolitan youth SAAP service is unique in that it is one system. Other cities in Australia do not have a 'whole of system' response. This means that if a new service model such as the foyer model is to be introduced, consideration must be given to how it will interact with the rest of the SAAP system.

The majority of youth agencies agree that the best option for supporting young homeless people is for them to be returned to their place of origin as quickly as possible, not concentrated in one place and potentially exposed to some of the less positive aspects of the inner city.

At present, the SAAP Outreach model is considered the best way to work with young homeless people to achieve Living, Learning and Earning outcomes.

5. Training and education support is principally a matter for the Minister for Employment, Training and Further Education. However, it is clearly understood that there is a critical relationship between successful housing outcomes and other whole-of-life factors.

South Australia has finalised arrangements under the Bilateral Commonwealth State Housing Agreement. This Agreement will concentrate on the interaction between housing assistance and workforce participation and the implementation of strategies to maximise workforce participation.

However, there are a number of programs that are aimed at supporting young people who may be homeless or at risk of becoming homeless to keep them in education or training or access work opportunities including Paralowie Youth Service, the West Coast Building Training Initiative and the Port Lincoln Aboriginal Community Council Youth Housing Project.

6. The Housing Industry Prospects Forum (September 2003) reports an overall vacancy rate of around 2.8%, which is around the market equilibrium of 3%. This is likely to result in continued upward pressure on rents for lower priced properties but downward pressure for the higher priced properties.

In the September 2003 quarter, the average weekly rental for 3-bedroom houses and 2-bedroom units were $208 and $159 respectively in the Adelaide Statistical Division according to the Office of Consumer and Business Affairs. Annual increases in average weekly rentals were 6% for 3-bedroom houses and 3% for 2-bedroom units in real terms, i.e. adjusted for inflation.

Rental assistance is available to eligible South Australians from the Commonwealth, through Centrelink.

The SAHT also provides financial assistance to households experiencing instability, poverty or difficulty accessing the private rental market under its Private Rental Assistance Program. Assistance is provided in the form of bonds, bond guarantees, rent in advance/arrears, and rent relief in certain circumstances. $14.3m was expended in 2002-03 to assist 31,800 people and $14.7m has been allocated to administer the program and assist the same number of people in 2003-04.

In 2002-03, 13,610 people received rental assistance through SAHT (rent in advance or rent in arrears) to the value of $2,218,562, of which $621,239 was provided in assistance to 4,441 (33%) young people. 14,843 people received bond assistance to the value of $7,086,123, of which $2,295,092 was provided for 5,336 (36%) young people. In addition, 126 young people (5%) received an average of $18.70 per week in rent relief.

ASBESTOS

In reply to **Hon. J.F. STEFANI** (13 October 2004).

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

1. There are currently two information pamphlets available that have been developed by the Government. These provide information and advice targeted at the home renovator and the home mechanic about the dangers of exposure to asbestos and the safe management of asbestos. Further pamphlets are being developed.

2. There has been wide distribution of these pamphlets, including to hardware stores, local government, employee representative groups and community support groups such as the Asbestos Victims Association.

Consideration is being given to widening the distribution of these pamphlets and including additional information to ensure community awareness about asbestos is increased.

3. I agree that this is a serious health issue and wish to assure the Honourable Member that government action has been taken to protect the health of all South Australians.

In addition to the production and distribution of the information pamphlets, one recent initiative was the *Occupational Health, Safety and Welfare (Asbestos) Variation Regulations 2004* came into effect on 12 August 2004. The Regulations aim to reduce future death and illness from exposure to asbestos by extending licensing provisions so that they apply to a greater amount of asbestos removal work.

Also, a strategy is being developed to increase community awareness on the health risks associated with exposure to asbestos in collaboration with the Asbestos Victim's Association.

This strategy is aimed at involving a wider group of parties such as the medical profession and local councils to assist the Government to promote greater awareness amongst the community.

ABORIGINAL MESSAGE

In reply to **Hon. J.S.L. DAWKINS** (14 February 2005).

The Hon. T.G. ROBERTS: I advise that:

As I suggested at the time of the Honourable Member's question, the Department for Aboriginal Affairs and Reconciliation (DAARE) has no involvement with respect to the funding or production of the 'Aboriginal Message' weekly radio program, which is broadcast through various host stations around Australia.

The program originates from the Central Australian Aboriginal Media Association (CAAMA) on Radio 8KIN FM, which broadcasts to a large area of central Australia including northern South Australia.

CAAMA is a successful Aboriginal owned and operated business with a 25-year history that employs 12 staff and is based in Alice

Springs. It broadcasts 'Aboriginal Message' between 9.30am and 10am each Saturday.

This program, along with the complete weekend broadcast schedule for CAAMA, is also broadcast by 5NPY, which is heard in the APY Lands.

As the Honourable Member is aware, the program is re-broadcast on Wednesday afternoons by Radio Adelaide 101.5 FM in the metropolitan area, the Mid-North, the Yorke and Fleurieu Peninsulas, the Southern Barossa, Kangaroo Island, the Riverland and parts of the Eyre Peninsula.

DISABILITY SERVICES

In reply to **Hon. A.L. EVANS** (9 November 2004).

The Hon. T.G. ROBERTS: The Minister for Disability has advised that:

The often-quoted Productivity Commission figured relating to this expenditure describe the period 2002/2003. The South Australian Government clearly inherited a system from the previous State Liberal Government that was chronically under-funded.

This State Government acknowledges there is a long way to go to rebuild our human services, but we have made a start. This Government has increased funding to disability by 16.8% in three years including an increase of $5.26m in the most recent State Budget.

It is acknowledged, however, that after 8 years of Liberal Government neglect of this sector, a challenging level of unmet need exists which the Rann Government will address.

ADOLESCENTS AT RISK

In reply to **Hon. A.L. EVANS** (27 October 2004).

The Hon. T.G. ROBERTS: The Minister for Families and Communities has provided the following information:

1. DFC not aware of any reliable estimates that would identify numbers of young people, particularly those under Guardianship of the Minister, who are engaging in commercial sexual activity. Comprehensive and supportive case management services provide for the care, protection and support of these young people whilst they are under Guardianship. Furthermore, a number of strategies are being developed to improve the services that are provided to children and young people through the current child protection reform program.

2. The risk of negative influence from other young people is addressed though effective case management that seeks to place children and young people according to need, and through the provision of comprehensive youth work support.

3. The Government has a strong commitment to supporting and promoting the interests of young people. The Government aims to improve responses to the significant issues affecting young people through the implementation of the South Australian Youth Action Plan. The Government recently endorsed the policy framework of the Youth Action Plan, of which eleven of the eighteen goals directly relate to the issues raised by the Hon A. L. Evans. In particular, the Youth Action Plan focuses on working in partnership with communities to provide appropriate and flexible youth health services and address the barriers that young people face in accessing appropriate housing.

Other areas where the State Government provide assistance include the Supported Accommodation Assistance Program (SAAP) that provides a range of support and accommodation services to homeless young people across South Australia. Total SAAP funding to the youth sector in 2003-04 was $10.5 million. 37% of clients using the SAAP services in this year were under 25 years.

Secondly, the Exceptional Needs Unit (ENU) works with young people at risk of homelessness or who are homeless as their only residence is within a hospital or a detention setting. Young people under Guardianship who are in transition to adult services are targeted, in order to provide consistency of support through the Management Assessment Panel process that was amalgamated into the ENU in 2003.

Thirdly, a total of $20 million has been committed over four years for homelessness, with a focus on prevention and improved coordination. All of the service delivery initiatives funded have commenced. Several of these include support to families with young children, with the aim of supporting parents in their caring role and avoiding the necessity of the removal of children and placement in alternative care. One project of particular relevance to adolescents at risk is the Homeless Students initiative. The aim of this project is the development of a service network to support homeless students, including phone support and advice to students and counsellors at the Department of Education and Children's Services and TAFE, in addition to support packages, which will be available to students and their families in a case management context.

The Government also provides funding to the following services for the provision of support to young people:

- Mission Australia Hindmarsh Centre - provides overnight non-medical sobering-up service for people aged 12 to 24 years. Services include crisis intervention, assessment, information and referral, incorporating outreach service and individual counselling, advocacy and support.
- Service to Youth Council (Trace-A-Place) - provides advocacy, assessment, referral and further information regarding accommodation services for youth. Transition, education and mentoring programs are also provided to assist young people to move towards independence.
- Streetlink Youth Health Service – provides a free medical and counselling service for young people aged 12 to 24 years, and their children, who are homeless and at-risk.
- The Second Story Youth Health Service – provides clinical, short-term counselling and group work services for young people aged 12 to 25 years. Other activities include health education and promotion, community initiatives and peer education.

DISABILITY SERVICES

In reply to **Hon. A.L. EVANS** (26 October 2004).

The Hon. T.G. ROBERTS: The Minister for Disability has advised that:

The State Government acknowledges that overcoming nine years of disability funding by the previous Liberal State Government will take some time.

The most recent State Budget included a real increase in disability funding of $5.2m. Any further spending will form part of discussions around the next budget.

CHILD CARERS FOR THE DISABLED

In reply to **Hon. A.L. EVANS** (11 October 2004).

The Hon. T.G. ROBERTS: The Minister for Disability has advised that:

1. In circumstances where young children are looking after their disabled parents on a long-term basis, all Options Coordination agencies are mindful of the need to ensure that young children are not burdened with the care of their family members. Adult Physical & Neurological (APN) Options Coordination, in particular, uses 23 criteria to determine priority of access to available funds. Of these, a child providing personal support is a very strong case for support, as is a parent's inability to adequately care for a child without additional support.

The following are a range of strategies put in place to alleviate the burden for child carers:

- children may be referred to the Northern Carer's Network, Young Carer's Program;
- additional hours can be provided for personal support;
- equipment may be provided to make the client less dependent on their child(ren);
- bathroom and/or kitchen modifications may also assist clients to be more independent;
- temporary respite care; and
- transportation assistance.

2. 15 clients have been identified by APN.

A range of measures have already been taken to be provide assistance, including:

- purchase of household appliances;
- increased home support in the area of meal preparations;
- liaison with schools; and
- referral to Technical Aids for the Disabled (SA) Inc., for modification to normal household items.

3. During Carers Week, the Minister for Disability advised that an extra $180,000 per annum will be made available to APN to ensure that children are not providing care beyond their capacity and years.

INDEPENDENT AND LIVING EQUIPMENT PROGRAM

In reply to **Hon. KATE REYNOLDS** (28 October 2004).

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

The State Government has recently injected $5.9m to eliminate the current and predicted waiting list for 2004-05 waiting list for equipment. This funding will provide essential equipment to children and adults with sensory, physical and severe multiple disabilities.

The $5.9m includes:

- $3.7m for the Independent Living Equipment Program (ILEP), which is the only government funded scheme to provide eligible adult clients with equipment to enable them to live safely and independently in the community;
- $504,000 for the employment of 7 Occupational Therapists by ILEP to assess and ensure that equipment is correctly customised to fit the client;
- $850,000 to Novita Children's Services
- $350,000 for the sensory sector for specialised equipment not available through the ILEP scheme eg braillers, electronic magnifiers, etc

This State Government is working diligently to overcome eight years of funding neglect by the previous Liberal Government, under Premiers Dean Brown, John Olsen and Rob Kerin.

The work continues to rebuild all our human services, including our hospitals and schools and, importantly, our services to people with a disability.

MOVING ON PROGRAM

In reply to **Hon. KATE REYNOLDS** (25 October 2004 and 9 November 2004 and 24 May 2004).

The Hon. T.G. ROBERTS: The Minister for Disability has advised that:

The Working Party for Moving On, established in September 2004, provided information on the future direction of the program. The working party's central recommendation was that there must be full-time day options for eligible young people with severe disabilities. In response to this, there are now 40 new full-time places available for 2004 school leavers. These full-time places are provided by the Intellectual Disability Services Council (IDSC) and Minda. Some new entrants into the Moving On Program this calendar year have already enrolled in these two pilot projects.

The report from the Working Party for Moving On is available to the public through the Disability Services Office of the Department for Families and Communities.

The total budget this financial year for the Moving On Program is $7.572m, which includes a $1.2m increase in the most recent State Budget. The State Government acknowledges there is a long way to go to rebuild our human services after eight years of neglect under the previous Liberal Government but we have made a start, by increasing funding to disability by 16.8% in three years

The Government is currently undertaking a number of projects to improve the day options program. These include:

- a reference group is examining the real costs of providing a day options service. The results of this costing study will allow the Government to set realistic prices for the provision of day options services in the future;
- the development of an assessment tool which will better assess school leavers entering day options programs;
- requesting current day options providers to submit proposals to provide services, five days a week, 48 weeks a year, for six and a half hours a day; and
- new participants of the Moving On program now having the opportunity to attend one of the full-time services provided by the IDSC and Minda.

Two pilot programs commenced on 1 February 2005, and will provide full-time day options programs for two groups of up to 20 school leavers through individuals' Moving On allocations.

As at 16 February 2005, there were 12 Enrolments at IDSC, and 8 at Minda with an additional 2 enrolments expected to start in the next 2 weeks.

A Request for Proposal has been released and will close on the 6 March 2005. Service providers have been invited to submit proposals for the delivery of full-time day options for groups of up to 20 people. Current day service clients will then be provided with the opportunity to attend one of these services, which will be operational as soon as possible.

In order to provide a full-time day service for school leavers living in the country, all country 2004 school leavers will receive a 100 percent of their benchmark allocation and an additional 10 percent loading. This will enable country day options providers to provide a full-time service to new school leavers in the country. This additional funding is in recognition of the limited number of providers in the country and the additional costs of country service provision. Extra funding is available for start up and infrastructure costs for day service providers in country and remote regions.

Supplementary Question 1

There has been no decrease in funding to respite services over the past seven years. There has however been an increase in demand for respite services. Information from the National Minimum Data Set for the Commonwealth, State and Territory Disability Agreement indicates that a total of 2398 people received respite services in 2002-03, and 2603 in 2003-04, a 9% increase.

LAND VALUATION FEES

In reply to **Hon. IAN GILFILLAN** (25 October 2004).

The Hon. T.G. ROBERTS: The Minister for Administrative Services has provided the following information:

1. I am advised that the cost of valuing properties varies according to the resources required to undertake the valuation. These factors may include the type of property and its location within the state. However, the average cost of providing site and capital value assessments is approximately $12.27 per property.

2. I understand that the cost of providing valuation services has remained constant in real terms for a number of years. I am advised the fee structure set in 1993 collected up to half of the full cost of providing the service. While revenue has risen recently the fees collected from rating and taxing agencies in 2003-2004 did not meet the cost of providing the service.

3. The current fee structure was implemented in 1986 and I am informed that since that time the service has been cross subsidised.

4. I understand that a review of the valuer-general's statutory fees is nearing completion and the Minister for Administrative Services will consider the recommendations shortly. Consultation has been undertaken with all statutory clients.

ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON (14 September 2004).

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

South Australia Police sought and were provided funding in the 2003-04 fiscal year for 6 dwellings on the Anangu Pitjantjatjara Lands. The Department for Administrative and Information Services is negotiating with the APY Lands Council on site approval. The dwellings will have the capacity to accommodate Officers or Officers with families.

Subject to agreement by the APY Lands Council as to the placement of the dwellings and site preparation it is anticipated that the dwellings will be available for occupancy from about July 2005.

The Attorney-General has provided the following information:

Funding for family care meetings on the lands had not been withdrawn and there are no plans to do so.

AUDITOR-GENERAL'S REPORT

The Hon. R.D. LAWSON: (26 October 2004).

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

1. The Aboriginal Housing Authority (AHA) received additional funding, in excess of $5million, from the Aboriginal and Torres Strait Island Commission (ATSIC). This funding allowed AHA to manage its capital spending, and to increase spending on the original capital budget. The additional funding allowed AHA to:

- manage the commitment of $2million;
- undertake additional housing upgrades of $1.6million; and
- undertake upgrades on existing stock in rural and remote locations to ensure their long-term viability.

It should be noted that the AHA was unable to spend all of the additional funding granted by the Commonwealth and has sought, and received, approval from Treasury to carry over funding that could not effectively be spent by 30 June 2004.

The AHA achieved a budget neutral position by receiving additional Commonwealth revenue, increasing spending on capital improvements to houses and carrying forward unspent Commonwealth funds.

2. No, this did not have an adverse effect on South Australian Aboriginal communities. In fact, I see the additional expenditure as having a positive impact as it has contributed to the long-term viability of Indigenous housing stock.

3. The AHA has extensive internal management monitoring processes. This is complemented by reporting expenditure against budget on a monthly basis to the Department of Treasury and Finance and the Department for Families and Communities' Executive. In addition to this, the AHA Board of Management receives reports on a bi-monthly basis, and its Risk Management and Finance Sub-Committee meet quarterly to oversee AHA's financial performance.

YATALA GAOL

In reply to **Hon. R.D. LAWSON** (24 February 2004).

The Hon. T.G. ROBERTS: I advise that:

1. The Chief Executive of the Department for Correctional Services forwarded a report to me relating to this incident on 24 February 2004. I have also been provided with a copy of the report and recommendations by the departmental Investigations and Intelligence Unit of 26 March 2004. I am also advised that the police have completed their investigation and that the alleged attacker/s could not be positively identified so no further action can be taken at this time.

2. No.

3. No.

4. As a result of the departmental investigation several System Operating Procedures and Local Operating Procedures have been reviewed and amendments made that relate to general protocols where required. These protocols are being reinforced with all prison staff across the State.

JAMES HARDIE INDUSTRIES

In reply to **Hon. NICK XENOPHON** (25 November 2004).

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

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

Evidence of the South Australian Government's commitment for a fair deal for victims can be seen in the Premier's clear support for the efforts of the New South Wales Government and the Australian Council of Trade Unions to make sure asbestos victims are not left without compensation.

You would be aware that the ACTU have signed a Heads of Agreement with James Hardie to ensure adequate resources are available for claimants. I am advised that:

- this agreement provides for an open ended funding commitment and no cap on payments to members;
- the agreement will rely on the creation of a special purpose fund to receive funding from James Hardie in order to make payments to claimants;
- an initial buffer of $250 million has also been set up to ensure the payment of claims in the next few years;
- the terms of the agreement provide for a minimum 40 year term which can be extended if required; and
- importantly, the agreement also includes funding for asbestos education and medical research.

The South Australian Government has also supported a review, and if necessary, reform of federal Corporations Laws to ensure the James Hardie debacle is not repeated in the future. The areas of the law in need of consideration include the ability of companies to 'asset strip', to move assets to other jurisdictions and the individual responsibility of company directors and executives.

2. What assurances will the Premier, who is Patron of the Asbestos Victims Association of South Australia, give to asbestos victims in this state and potential future asbestos victims in this state that they will not be left without compensation as a result of exposure to James Hardie products?

I refer to my answer to Question 1.

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

I refer to my answer to Question 1.

GAMBLING ON CREDIT

In reply to **Hon. NICK XENOPHON** (24 November 2004).

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

1. Section 51B of the *Gaming Machines Act 1992* allows a licensee to provide a cash facility (ATM or EFTPOS) which allows a person to obtain cash on any one debit or credit card up to a limit of $200 per transaction.

Regardless of whether the GE Creditline card is a debit or credit card, the fact that the venue provides an ATM which allows the withdrawal of cash from either type of card, does not offend the Act.

An offence under section 52 will only occur if the licensee (or gaming machine manager or employee) who allows a person to use a credit card for the purpose of paying for playing gaming machines, could reasonably be expected to know that the use of the card is for that purpose. The Commissioner's view is that it would be difficult to prove this in relation to withdrawals from an ATM since there is no human intervention.

2. The responsibility to comply with section 51B and 52 is conferred on the licensee. It is therefore the licensee's duty to contact the ATM or EFTPOS provider to ensure that withdrawal limits are restricted to $200 (or another amount if so approved by the Liquor and Gambling Commissioner under section 51B(2)).

Licensees were advised of this fact by the Commissioner prior to the section commencing on 1 January 2002.

3. As advised in question 1, Section 51B of the *Gaming Machines Act 1992* allows a licensee to provide a cash facility which allows a person to obtain cash on any one debit or credit card up to a limit of $200 per transaction.

Some licensees have voluntarily chosen to remove the credit facility from their ATM machines.

Without being physically present or knowing the exact buttons used at the ATM it is difficult to know the exact reason for why the card worked at some venues and not others. However it may be due to the constituent selecting "savings" at some venues and "credit" at others. If the ATM had the "credit" facility removed, the card would not work.

4. Prior to the commencement of section 51B on 1 January 2002, the Commissioner met with representatives from the banking sector to determine whether EFTPOS and ATM facilities were capable of having a $200 per transaction withdrawal limit placed on them.

The Commissioner was advised that all ATM machines were able to comply prior to 1 January 2002 but that only one bank was able to fix a $200 limit on EFTPOS by 1 January 2002. Licensees were advised that they should implement appropriate management practices to ensure withdrawals from EFTPOS facilities do not exceed $200, until such time as their bank was able to offer a technological solution.

Since then all banks but one are able to provide a $200 limit on EFTPOS. However, the facility is not activated automatically since current EFTPOS technology does not allow banks to identify whether or not an EFTPOS facility is located at a gaming venue. Licensees must contact their bank to activate the facility.

Subsection 51(B)(3) further provides that ATM/EFTPOS use in a gaming venue must be restricted to one withdrawal per debit or credit card per day (retaining $200 maximum). That section has not been proclaimed into operation. The banking sector has consistently argued that this cannot currently be done. Following the banking industry's lack of support to assist implementation of this measure the Government has repeatedly asked the Federal Government to use their banking powers to legislate the requirement on the banks to provide this facility. The Federal Government has refused to assist in this way.

Further discussions have now commenced between officials of the Ministerial Council of Gambling and representatives of the banking sector on this matter.

The Government is keen to adopt this measure but I am advised the Federal Government and the banking sector continues to refuse to provide the necessary assistance.

GAMBLING, PROBLEM

In reply to **Hon. NICK XENOPHON** (28 October 2004).

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

1. A number of steps were undertaken by the Government in preparation for the commencement of the *Problem Gambling Family Protection Orders Act 2004* which came into force on 1 July 2004. A number of activities have also continued since.

Prior to the commencement of the scheme, comprehensive information about the problem family protection orders scheme was

posted on the website of the Independent Gambling Authority to inform the public about the commencement of the scheme.

I am advised that one of the Authority's members and staff of the Authority met with a senior officer of the then Department of Human Services to provide a detailed briefing on how the Authority proposed to undertake its obligations under the scheme and to discuss the likely impact of the scheme.

Additionally, I understand that Authority staff have briefed the Break Even network of gambling counsellors on the application and operation of the scheme, both in the context of the network's routine meetings and in visits to the Gambling Helpline office, and regional services in Port Pirie and Mount Gambier.

Also since commencement, there has also been involvement with the Department of Education and Children's Services, including an executive level meeting on how the scheme is being implemented and participation in training activities for teachers in the Dicey Dealings program.

The Department of Families and Communities also provides updates and information to the broader public about the Problem Gambling Family Protection Orders scheme in its publication "Gambling Matters".

2. Resources from the Independent Gambling Authority and the Gambler's Rehabilitation Fund have been used to publicise the Problem Gambling Family Protection Orders scheme.

3. The Honourable Nick Xenophon's statement about the existence of widespread ignorance of the Problem Gambling Family Protection Orders scheme is incorrect. As noted in response to question one, the Office of the Independent Gambling Authority has and continues to brief the Break Even network about the scheme.

Information about the scheme has also been made available to the broader public through the website of the Independent Gambling Authority and by the Department of Families and Communities in its "Gambling Matters" publication.

The Member may be aware that there has also been some media coverage of the existence of the scheme.

The Independent Gambling Authority has received some enquires regarding the Problem Gambling Family Protection Orders scheme from counsellors in welfare agencies with which the Authority does not normally deal with, suggesting that the extent of knowledge of the scheme is wider than those agencies specialising in problem gambling.

4. The Government in the 2004-05 State Budget provided $1.362 million to the Independent Gambling Authority and $2.195 to the Gambler's Rehabilitation Fund for their functions including responsible gambling measures such as the publication and implementation of the Problem Gambling Family Protection Orders scheme.

The total budget of the Gambler's Rehabilitation Fund in 2004-05 is $4.155 million assuming the gaming industry also matches the Governments additional $350,000 in 2004-05 on top of their current contribution of $1.5 million per annum, and that the Casino will continue to contribute $110,000 per annum.

The funding provided in the 2004-05 State Budget by the Government to the Authority and the Gambler's Rehabilitation Fund is greater by some 34 percent and 174 percent respectively than what was provided to the Authority and the Gambler's Rehabilitation Fund by the previous Government in their last budget.

5. The Office of the Independent Gambling Authority has handled 31 enquiries from members of the public, including 3 enquiries prior to the commencement of the *Problem Gambling Family Protection Orders Act 2004* as a result of public discussion of the issues.

The Independent Gambling Authority is aware that, in at least 3 of these cases, a request for voluntary barring has been made as a direct result of the contact made in relation to the scheme.

One formal complaint has been made.

Following an initial meeting, the complaint was adjourned with the agreement of both complainant and respondent to allow the respondent to request voluntary barring. An extensive barring request was then made and granted. The Independent Gambling Authority is monitoring progress.

6. As noted above there is no lack of resources to publicise and implement the Problem Gambling Family Protection Orders scheme. In the 2004-05 State Budget the Government provided $1.362 million to the Independent Gambling Authority and $2.195 to the Gambler's Rehabilitation Fund for their functions, which includes such responsible gambling measures as the publication and implementation of the Problem Gambling Family Protection Orders scheme.

The Government has also funded the publication of a gaming machine information booklet for distribution throughout the general community. This booklet is expected to be completed shortly and will include reference to the Problem Gambling Family Protection Orders scheme.

The Independent Gambling Authority has been monitoring the development of the scheme and will, six months post implementation, undertake a review to identify (among other things) whether any additional steps are necessary to ensure that information is appropriately available in the general community.

JAMES HARDIE INDUSTRIES

In reply to **Hon. NICK XENOPHON** (26 October 2004).

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

1. Media reports indicate that an "in principle" agreement to provide for the continued operation of the fund, subject to approval by shareholders, has been reached.

2. I refer to my answer to the first question, however I can advise that the Statutory Reserve fund (SRF) responds to claims made under the *Workers Compensation Act 1971* (1971 Act) in cases of unsatisfied workers compensation liabilities arising from the insolvency of an insurer or uninsured and insolvent employer.

The 1971 Act applies to work related injuries which occurred prior to 30 September 1987. Most asbestos related claims fall into this period.

Under this legislation, a worker (or former worker) is required to lodge a claim directly with their employer or the employer's insurer.

I am advised that the independent actuarial advice is that, based upon known circumstances and allowing for a cautious approach with an increased prudential margin, the SRF, administered by WorkCover, is adequately provisioned.

3. In light of my answer to the first question, it is unlikely that such a boycott would be given further consideration, unless circumstances change.

BREAK EVEN NETWORK

In reply to **Hon. NICK XENOPHON** (19 July 2004).

The Hon. T.G. ROBERTS: The Minister for Families and Communities has advised that:

1. Break Even services are funded to provide flexible services that respond to local demands, including the provision of out-of-hours services. All metropolitan regions have a Break Even counselling service offering out-of-hours appointments, most by prior arrangement, with several sites offering regular set days for out-of-hours appointments. The agencies offering out-of-hours services include Uniting Care Wesley Adelaide, Anglicare, the Salvation Army, and Relationships Australia.

Details of out-of-hours service provision are provided through the free-call Gambling Helpline number 1800 060 757, which is widely publicised on television and through other media. Break Even agencies promote their services in their local area, with campaign materials funded out of the Gamblers Rehabilitation Fund.

A planning process is currently underway to examine future requirements for out-of-hours services and the need for these services to be specifically advertised as such.

2. In the southern suburbs, Uniting Care Wesley makes available out-of-hours appointments every Wednesday evening at its Christies Beach office.

The planning process currently underway will look at future requirements for allocating resources to out-of-hours, face-to-face services.

3. Since January 2004, the Department has received reports detailing all call attempts made to the Helpline. Between 1 January and 30 June 2004, 192 calls were recorded as not being successful. There could be a number of reasons for unsuccessful calls, including all lines being busy.

The data collected by the Helpline shows that, out of all calls answered and registered through the Queue Master system, over 90% of calls are answered within 34 seconds by a counsellor, following the delivery of a recorded privacy message. This is well within the contractual requirement of 85% of successful calls being answered within 60 seconds and within the benchmarks set for this type of service. It should be noted the Helpline identifies an average of 30-40% of all calls as prank calls, which could attribute to the number of unsuccessful calls.

The number of callers who waited in the queue for over five minutes in 2003-04, some of whom may have hung up prior to getting through to a counsellor, is detailed below. On average, less than 3% of callers waited longer than five minutes before speaking with a counsellor, with the monthly averages being:

- July 2003 – 8 (0.9% of the total 885 calls received);
- August 2003 – 17 (2.4% of the total 705 calls received);
- September 2003 – 15 (2.3% of the total 645 calls received);
- October 2003 – 12 (2% of the total 600 calls received);
- November 2003 – 15 (2.9% of the total 502 calls received);
- December 2003 – 12 (2.6% of the total 450 calls received);
- January 2004 – 14 (2.7% of the total 503 calls received);
- February 2004 – 17 (4.4% of the total 385 calls received);
- March 2004 – 14 (2.7% of the total 504 calls received);
- April 2004 – 13 (2.2% of the total 572 calls received);
- May 2004 – 18 (3% of the total 581 calls received);
- June 2004 – 8 (1.4% of the total 547 calls received);

The data reports are used by the Helpline provider, the Drug and Alcohol Services Council, to map the peak time periods for calls and this information is used to determine staffing levels and rosters. As a pool of casual staff is available, extra staff can be rostered for anticipated peak periods.

4. The Helpline service is a confidential and an anonymous calling service. Recording details of callers, to check if they have followed up their referral to a Break Even service, is not usual practice for a service of this kind. While counsellors are trained to encourage clients to seek further assistance, readiness and autonomy of the caller in deciding to attend face-to-face counselling is critical to the rehabilitation process. Helpline callers seeking referral to face-to-face counselling agencies can, and are, directly connected to a Break Even service during their operating hours.

Data collected by Break Even services show that out of the 1087 new clients who registered between 1 January to 30 June 2003, 210 indicated the Helpline as the referral source. Between 1 July to 31 December 2003, 1237 new registrations were recorded, with 273 indicating the information source as a referral from the Gambling Helpline.

Monitoring the short and long-term effectiveness of assistance to clients by Break Even services is undertaken by Break Even agencies as part of normal case-management practice. In 2003, the Department reviewed data collected from Break Even services to measure client outcomes. As a result, provisions have been in place since January 2004 for improving the collection of outcome data received from services to better monitor the effectiveness of the services. The Gamblers Rehabilitation Fund periodically commissions reviews of both the Gambling Helpline and Break Even services.

5. Waiting times for face-to-face counselling at Break Even services are monitored periodically, particularly during media campaign activity. Information regarding waiting lists in 2003-04 was collected in June, July, September and November 2003 and in May 2004. Each time, waiting lists were no longer than two to three weeks for a counselling appointment. New registrations to Break Even services are monitored quarterly, from data reports collected from the services.

Waiting times will be looked at as part of the current planning process underway to determine future services.

6. The advertising campaign 'Think of What You're Really Gambling With' started on 15 June 2003 and concluded in May 2004. During that time, expenditure on advertising was $530,000.

The highest impact of the campaign was recorded in June and July 2003, when expenditure was greatest. A decision was made not to advertise during school holiday periods, to minimise prank callers; therefore television and other media activity in December 2003 to January 2004 was light.

A print and radio campaign, targeting cultural and linguistically diverse populations, was conducted during November 2003 and January 2004.

WORKCOVER

In reply to **Hon. A.J. REDFORD** (11 November 2004).

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

1. How can the government advertise that South Australia is a cheaper place to do business on the same day that Victoria WorkCover decides to release figures showing that we have the dearest WorkCover system in the country?

The Government's advertising is based on an independent assessment by KPMG, which found Adelaide was the most cost competitive city in Australia and the Asia Pacific, and the third best in the world for a city its size.

A national report produced by the Australian Industry Group (AIG), released in November, also has confirmed Adelaide's ranking as the most competitive capital city in Australia for manufacturing businesses.

It should be noted that of all the cost drivers, some components will have a higher cost and others a lower cost than other States depending on local factors and focuses.

2. What does the government propose to do to reduce the cost of business in this state?

While independent studies show South Australia is a cost leader, the State Government is conscious of the need to maintain the competitiveness of SA business. This has included not introducing any new taxes and charges in the most recent State budget (which also included programs such as $950 million for capital works that will flow to many local businesses), as well as initiatives developed by the Economic Development Board, reform of the public sector, support for industry and initiatives to boost population growth. The achievement of a AAA credit rating reflects another independent assessment of the Government's management of the economy, which is crucial for business.

3. (Supplementary question). If the former government was negligent in reducing the premium, is this government not equally negligent in maintaining that same levy in a decision made in March 2002 by Minister Wright?

The decision to maintain the average levy rate at 2.46% in March 2002 was made by the former Board of the WorkCover Corporation, who were appointed by the former Liberal Government. The Government has appointed an entirely new Board.

CORRECTIONAL SERVICES RECIDIVISM

In reply to **Hon. A.J. REDFORD** (11 November 2004).

The Hon. T.G. ROBERTS: I advise that:

The Department does not have specific persons dedicated to the management of offenders sentenced only to parole orders. This is consistent with other States within Australia.

Community Correction Officers have responsibility for offenders on probation and parole orders; bail orders; community service orders and financial expiation orders.

The allocation of parolees to Community Correction Officers is based on matching the assessed needs and risk of an offender with the skills and expertise of the Community Correction Officer.

On 30 June 2004 there were 62 Community Correction Officers employed in the Department for Correctional Services. Part of their duties involve the supervision of 948 parole orders.

GAMBLING PROBITY

In reply to **Hon. A.J. REDFORD** (10 November 2004).

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

1. There is no secret or gentleman's agreement with the major licensees on payments of regulatory costs.

The two major gambling licensees, the TAB and the Casino have recently agreed to make a contribution towards the Liquor and Gambling Commissioner's costs of regulating and supervising the licensees and the cost of the triennial reviews to be undertaken by the Independent Gambling Authority. It is proposed to amend the Duty Agreements between the Government and the licensees to reflect the recovery of these regulatory and review costs. It is intended that this process will be completed shortly. This agreement will be completely transparent as the Variations to the Duty Agreements will, as required by the Act, be tabled in both Houses of Parliament once signed.

The TAB and the Casino are licensed under the *Authorised Betting Operations Act 2000* and the *Casino Act 1997* respectively. It is the legislative requirements under these Acts that ensures that the major gambling licensees are properly regulated and investigated by the Liquor and Gambling Commissioner and the Independent Gambling Authority. The Government provided $388,000 (indexed) per annum to the Office of the Liquor and Gambling Commissioner in the 2004-05 State Budget to ensure appropriate regulation of the TAB was established.

2. As noted in response to the previous question there is no gentleman's agreement, the agreement with the major gambling

licensees to make a contribution towards the regulatory and review costs is to be reflected in the duty agreements between the licensees and the Government. The duty agreement is an appropriate place to formalise this agreement as this binds the parties, uses existing administrative processes and makes the requirement to pay a condition of their licence. The Government is very happy to have worked with the licensees to come to an agreed arrangement. There is now no need to pursue the previous legislation.

3. As noted in response to the previous questions the agreement for payment of regulatory costs by the Casino and TAB are yet to be finalised. The Government has not yet collected any money from the licensees under these arrangements.

Based on the intended agreement the TAB and the Casino will contribute $1.1 million for 2004-05 with respect to the Liquor and Gambling Commissioner's costs of regulating and supervising the licensees. The agreement would also provide that they would be required to contribute further funds (up to $70,000 each) if the Authority were to commence a probity review of the licensee in this year.

WORKCOVER

In reply to **Hon. A.J. REDFORD** (23 September 2004).

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

1. Is it not the case that this press release now acknowledges that the Minister's direction to the Board to slow down lump payments is having an adverse affect on WorkCover's bottom line.

There has never been any direction to the Board about redemptions as is suggested by the question. As the Honourable Member would be aware, the Mountford Report made recommendations against the continuation of the previous levels of redemption usage, in order to improve the position of the scheme.

2. How can the Minister justify collecting an extra $97 million from employers in this State while improving the bottom line by only $19 million?

The Board has indicated that the scheme remains on target to achieve full funding by 2012-2013 barring any unforseen events. The Chair has made it clear that it will take some time for improvements to emerge and patience will be required.

3. Is it not the case that operating costs have increased by over 20 per cent in the past 12 months, and should this not be cause for concern?

I am advised that the Member's assertion is incorrect.

4. Will the Minister explain why there has been a change of application of the GST causing a further $2.3 million deterioration in WorkCover's position?

I am advised that the provisions for the application of GST to insurance entities have been subject to refinement and clarification since being introduced in July 2000.

WorkCover conducted an internal review of GST based on its current understanding and identified some areas which were not being treated appropriately. Subsequently WorkCover made a voluntary disclosure to the Australian Taxation Office on this issue and repaid the amount incorrectly claimed.

TOWARDS CORRECTIONS 2020

In reply to **Hon. A.J. REDFORD** (14 September 2004)**.**

The Hon. T.G. ROBERTS: I advise that:

It is not Government policy to grant home detention to sex offenders. Should the need arise to review this policy we will do so.

Nothing has been done to this point to extend the granting of home detention to sex offenders.

In reply to the Supplementary Question:

In the last two years, about $87,000 has been spent by the Department for Correctional Services replacing equipment that has been damaged or lost by offenders. It is estimated that offenders who have been granted Intensive Bail Supervision have caused more than 80% of these damages.

The Attorney-General has advised the following:

In the report 'Towards Corrections 2020', which I remind members is now some 18 months old, under the topic of 'intensive bail supervision' it states:

Establish procedures and legislative changes to the Bail Act for recouping money from bailees who lose or damage equipment.

I assume from reading the report that that relates to damage and/or loss to the bracelets and other equipment that might be distributed to prisoners who are on home detention, either under the Bail Act or prior to their general release in the community. I also understand from reading the report that expense is incurred by the department as a consequence of prisoners destroying or damaging their bracelets. Why has the government not brought any amendments to the Bail Act to this parliament to remedy the situation, to enable the government to recoup losses as a result of damage to this equipment?

The 2020 Report was an internal discussion document prepared by the Department for Correctional Services in 2002. Most of the work that went into preparing the report was performed under the former Government. The 2020 Report examines gaps in client, staff and service delivery needs. The Report was prepared after consultation with staff and some external stakeholders and research into what is occurring in other jurisdictions. The views expressed in the report are not necessarily those of the Department for Correctional Services, nor do any of the recommendations represent Government policy.

As to the particular matter raised by the honorable member, the Government is aware of the Department's concerns about damage to home-detention monitoring equipment and the uselessness of the available remedies to the Department where deliberate, criminal damage to equipment is done.

In the report 'Towards Corrections 2020', under the topic Miscellaneous Strategies, it states that the government should be 'developing a clear statement of rights for victims and offenders'. Can the minister advise whether such a statement has been developed, and if so is it publicly available?

The authors of Towards Corrections 2020, which was published in 2002, acknowledged that Correctional Services in South Australia had undergone extensive restructuring in the previous decade. They concluded, however, that those changes had not been adequately analysed. The Towards Corrections 2020 Project was intended to do so.

Towards Corrections 2020 identifies challenges of Correctional Services and suggests ways to deal with those challenges. These ways identified and discussed included the Department's better meeting the needs of victims of crime.

Consistent with the Declaration of Principles Governing Treatment of Victims in the Criminal Justice System, which is now part of the *Victims of Crime Act*, and the *Correctional Services Act*, the Department for Correctional Services has a statutory responsibility to victims of crime. The Department also has a responsibility to victims and to the public to deals with the behaviour of offenders so that they can be safely returned to society.

The Department for Correctional Services staffs a Victim Services Unit. The Unit maintains the Victims' Register. Registered victims are entitled to information about their offenders, such as the sentence details; name of the prison in which the offender is imprisoned and details of any transfer from prison to prison and prison to the pre-release programme or home-detention; and the offender's security classifications. A registered victim is also told if an offender escapes and when he is apprehended.

The Victims Services Unit, with the help of the Victims of Crime Co-ordinator, has recently produced a pamphlet on the Victims Register, which includes a registration form. Copies of the pamphlet have been sent to all South Australia Police Local Service Area Commanders, Witness Assistance Officers in the Office of the Director of Public Prosecutions and others.

A victims' representative sits on the Prisoner Assessment Committee. The Committee is responsible for decisions about prisoners' sentencing plans. It recommends, for example, whether a prisoner should be granted home-detention.

Towards Corrections 2020 proposed that a victims' representative be appointed to the Parole Board. The Government has a Bill before the Parliament that will give effect to that proposal. In addition, the Government's Bill will give victims a right to make their submissions to the Parole Board in person.

The Department for Correctional Services offers a victim awareness program for some offenders. The program aims to raise offenders' awareness of the effect of their offences on victims and gives offenders an opportunity to acknowledge the effect of their offences.

Furthermore, the Department conducts Victim and Offender Restorative Justice Conferences. These conferences, which victims and offenders must freely agree to, offer victims the chance to tell offenders about the harm they have suffered and to ask questions that victims feel remain unanswered.

The Department for Correctional Services believes that victims have rights and has made practical improvements to ensure that

victims are engaged in the progress of offenders through prison, if that is the victim's wish.

AUDITOR GENERAL'S REPORT

In reply to **Hon. A.J. REDFORD** (26 October 2004).

In reply to **Hon. R.D. LAWSON** (26 October 2004).

The Hon. T.G. ROBERTS: I advise that:

Question asked by the Hon. A.J. Redford:

A copy of the correspondence between the Department for Aboriginal Affairs and Reconciliation (through the Department for Administrative and Information Services) and the Auditor-General is attached.

Questions asked by the Hon. R.D. Lawson:

The costs associated with the transfer of DAARE from the Department for Administrative and Information Services to the Department for Families and Communities and subsequently to the Department for the Premier and Cabinet have by their nature not been separately recorded. The main costs associated with such transfers relate to the salaries and wages of the administrative staff charged with effecting these transfers. Throughout the process the head office of DAARE has remained in the same physical location and it should be noted that the staff of larger SA Government agencies are now well versed in the processes to be followed when administrative changes of this type are required. My department advises me that small internal working groups have been established to cover these transfers, however the Head Office Corporate Services sections of the transferring and receiving departments have absorbed the bulk of the work.

As I suggested at the time of the honourable member's question, the rise in the net asset position for the department over the past year relates to a build up of funds in the DAARE operating account to fund the capital works programs planned for 2003-04 and 2004-05. These funds are SA Government appropriations largely for the construction of the APY Central Power Station at Umuwa.

The method of accounting used to record the expenditure on projects of a capital nature that will not remain under the care and control of the department is to expense these costs as payments for contracts, supplies and services. The fluctuating activity associated with capital works can often have a significant effect on a department's recorded level of expenditure and, in this case, is the reason behind DAARE's reduced expenditure in the 2003-04 financial year.

SEX SHOPS

In reply to **Hon. T.G. CAMERON** (15 May 2003).

In reply to **Hon. J.F. STEFANI** (15 May 2003).

The Hon. T.G. ROBERTS: The Attorney-General has received this advice:

1. The Attorney-General does not accept the sale or rental of X-rated films in South Australia. He supports the current law.

2. Not known.

STATE LIBRARY

In reply to **Hon. SANDRA KANCK** (28 October 2004).

The Hon. T.G. ROBERTS: The Minister Assisting the Premier in the Arts has been advised that:

1. The State Library has not changed its retrieval times since opening the new facility in July 2003. Material retrieved onsite is delivered within 1 hour. Detailed information relating to retrieval services is available on the Library's website.

2. The State Library's retrieval services are highly efficient and comparable to other State Libraries.

3. A survey of State Library services in 2004 resulted in a customer satisfaction rating of 97.9 per cent. There is no need for the Premier to seek any change to the current situation.

SNAKE VENOM

In reply to **Hon. SANDRA KANCK** (14 October 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised that:

1. An extensive review of documents associated with a complaint to the Ombudsman provided the evidence upon which this advice was based. The review of the fauna permit system was preceded by a legislative review of the National Competition Policy, which may be the source of the apparent contradiction in the submissions you have been provided. Both reviews led to the recommendations to impose royalties.

2. No, the Minister does not consider that the Department and then Minister were misled. The Ombudsman's Office carefully reviewed all documentation related to this matter over many months before it advised that the Department had appropriately considered the issue of royalties related to fauna and had consulted widely with appropriate interest groups when preparing its recommendation to the Minister.

3. No. The Department for Environment and Heritage does not have a "Royalties Policy" as royalties are legislated charges under the *National Parks and Wildlife Act 1972*.

EIGHT MILE CREEK

In reply to **Hon. SANDRA KANCK** (11 October 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has been advised that:

1. No studies have been undertaken at this stage to ascertain the feasibility of altering the current drainage scheme in the Eight Mile Creek area. Studies have been undertaken by consultants to assess the impact of the current Eight Mile Creek maintenance operations on the environment.

The report associated with this study recommends several options to be considered in the future maintenance operations.

2. No studies have been undertaken on the feasibility of draining the adjacent land through means that do not interfere with the natural environment, therefore no recommendations are available.

3. The South Eastern Water Conservation and Drainage Board has met with a representative of the Marine Life Society of South Australia to discuss issues relating to the environmental health of the Eight Mile Creek system. From this discussion the Board intends to undertake an investigation into the nutrient sources in the system as well as a feasibility study on realigning the current drainage system.

ALDINGA SCRUB CONSERVATION PARK

In reply to **Hon. SANDRA KANCK** (22 September 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised that:

1. I refer the honourable member to the comments I made in Hansard during Address In Reply on 21 September 2004.

2. The City of Onkaparinga and the Onkaparinga Catchment Water Management Board commissioned Ecological Associates Pty Ltd in 2003 to undertake a report on the 'Environmental Water Requirements of Aldinga Scrub, Blue Lagoon and the Washpool'. This report outlines the historic and current hydrological regimes of the Aldinga Scrub CP. The findings of this report include the observation that the current land use activities of the general region up-gradient of the Aldinga Scrub CP have effectively re-directed surface flows away from the Aldinga Scrub CP. This reduction in natural seasonal flooding is believed to be the primary cause of the degradation of the wetland ecologies once observed in the region. The current level of infiltration of surface water to the water table is believed to be significantly less than that which would have occurred pre-development.

The report further recommends that, to help rectify the degraded wetland ecologies of the park, additional surface water should be made available in the vicinity of the northern park boundary. The source of this additional water would likely come from discharge of adjacent urban development, thus treatment of the water is recommended via the establishment of artificial wetlands.

It is reasonable to assume that the observed degradation is likely to continue if no additional surface water is made available to this region. It is also reasonable to assume that the provision of additional water via concentration of urban storm water run-off through an adjacent wetland would make available more water than currently infiltrates from incident rainfall.

3. The developer (Canberra Investment Corporation) has undertaken a site induction for employees and contractors working on the property adjacent to Aldinga Scrub Conservation Park and, at the request of the Department for Environment and Heritage (DEH), the environmental component of that induction specifically identifies echidnas as a species of concern.

DEH has undertaken a thorough investigation of the reported incident of kangaroo deaths in the Park and has been unable to find any evidence of such an occurrence.

To minimise any potential impacts of the development on the Park, DEH will be investing $200,000 provided by the developer into

works such as fencing, revegetation and pest plant and animal control. These funds are being managed by DEH with input from a reference group that includes the Friends of Aldinga Scrub and Friends of Willunga Basin. This is in addition to works that are required to be carried out by the developer outside of the Park relating to water management and revegetation programs on adjoining land.

FISH WASTE

In reply to **Hon. SANDRA KANCK** (20 September 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has been advised that:

1. The EPA responded to the situation of Feed Link no longer being in business, by advising industry stakeholders in the region that the dumping of fish waste at sea is not appropriate and is a breach of the *Environment Protection Act 1993*, should this activity occur within State waters. Industry stakeholders have also been informed that the unauthorised disposal of fish waste to landfill is also not acceptable. Limited processing of fish waste has been approved for a particular compost site at Port Lincoln, the application for which has been through the appropriate development approval and licensing requirements.

2. Approx 500 tonnes of fish waste for this harvest was used for composting.

3. The freezing of fish waste is an option that may be taken by industry to ensure they comply with legislation relating to the disposal of fish waste. As the decision is made and implemented by industry it is difficult to estimate how much is being frozen, consequently it is not possible to estimate how much longer this option can be maintained.

4. Three fish processing facilities are still disposing of some fish waste in to the ocean environment. This is managed through their licences under the *Environment Protection Act1993*. Negotiations are taking place between the businesses and the EPA, as part of their EPA licence conditions, to ensure this practice ceases in a timeframe that is appropriate for the business and the local environment.

MEN'S SUPPORT SERVICES

In reply to **Hon. T.G. CAMERON** (3 May 2004).

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

1. Approximately 32 per cent of community health services are accessed by men per year, the expenditure of which is equivalent to around $6m per annum.

40 per cent of services provided by general practice, funded by the Commonwealth Government, are accessed by males.

The Department of Health (DH) is responding to existing demand while at the same time using a small, but targeted pool of funding to promote and develop men's health services. DH will continue to provide funding of $200,000 through the Men's Health and Wellbeing Primary Health Care initiatives grants, which have been directed towards primary health care programs and services that address identified gaps in service provision, enhance existing services, respond to emerging issues and build the capacity of the health system to respond to men's health needs.

DH, in collaboration with the South Australian Community Health Research Unit, is also developing a 'Primary Health Care Approach to Men's Health and Wellbeing' framework, which is due for release later this year and will showcase examples of best practice in the delivery of health services to men. This project, with a focus on primary health care, health promotion and illness prevention, will strengthen future men's health and wellbeing activities and initiatives by providing better practice benchmarks that will inform future funding allocations and service development.

2. Over 19,000 men accessed key health services during 2000-01 (latest available figures), representing an expenditure of some $57m, an outline of which is provided in the table below. Comparisons to access by women are also provided as relevant.

Condition	Gender	Number	Percent
Prostate cancer	Males	1,097	100 per cent
Colorectal cancer	Males	1,213	52 per cent
	Females	1,106	48 per cent
Lung cancer	Males	1,147	65 per cent
	Females	627	35 per cent
Type 2 diabetes	Males	1,936	54 per cent
	Females	1,617	46 per cent
Depression	Males	2,412	36 per cent
	Females	4,232	64 per cent
Ischaemic heart disease	Males	8,530	64 per cent
	Females	4,767	36 per cent
Stroke	Males	2,478	52 per cent
	Females	2,281	48 per cent
Chronic obstructive pulmonary disease	Males	2,622	56 per cent
	Females	2,075	44 per cent

3. It is concerning that men do not access health services at the same rate as women, particularly in that men tend to present to services later in the disease process. It is important that men continue to be encouraged to seek medical services earlier, and that they make use of the services that are available to them. Experience at the Commonwealth and State level has shown that additional funding for specific men's health services will not guarantee uptake; changing men's and communities' attitudes about going to a doctor or attending a community health service is likely to be more effective.

Men access mental health services at the same rate as women. Similarly, men attempt suicide at the same rate as women; the higher suicide rate for men reflects a higher death rate as a result of suicide attempts.

Supplementary question

Suicidal and self-harming behaviour are symptoms of a sense of despair and/or hopelessness that may be caused by a variety of issues, not just mental illness. Improving the effectiveness of a comprehensive and integrated mental health service is one way to assist early and appropriate intervention for mental health problems, minimising the escalation of a situation that may lead to increased suicide risk.

Suicide prevention activities should be based on best practice evidence regarding effectiveness, consistent with significant national research work, informed by local experts, clinicians and other stakeholders and broader community concerns and government responsibilities.

At the national level, the National Suicide Prevention Strategy, the National Advisory Council and a State Steering Committee have overseen expenditure for SA initiatives. National priorities for SA include:

- improving pathways to care for people with suicidal intent, which link GPs and specialist services;
- increasing community capacity to reduce suicidal behaviours in metropolitan and country areas; and
- reducing Aboriginal suicidal risk behaviours in country areas.

Total Commonwealth funding for SA is $2.4 million, which has been committed to community awareness and capacity building, Indigenous programs, improving clinical pathways to care and the

evaluation of these streams. The Commonwealth has recently increased national funding for the National Suicide Prevention Strategy to $48 million, $9 million more than the original funding level. This additional funding is yet to be allocated among States and Territories.

In regard to State services:

- Child and Adolescent Mental Health Services (CAMHS) provides statewide specialist assessment, intervention, liaison and support for children and young people with mental health problems, which includes a focus on adolescent depression and self-harming behaviour;
- services for adults and older people have recently introduced a revised risk assessment format, which will improve early detection and intervention for depression and suicide;
- in collaboration with beyondblue (the national depression initiative), DH has developed a mental health first aid booklet with specific reference to early assistance by the community to suicidal behaviour, and is sponsoring a series of initiatives to raise awareness of depression in the workplace; and
- the Department of Health will provide suicide prevention programs and services in consultation with its Men's Health Officer to ensure these programs and services are delivered as a part of the overarching men's health framework.

HALLETT COVE BEACH

In reply to **Hon. T.G. CAMERON** (9 November 2004).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has advised that:

1. In recent years the EPA has carried out investigations into the environmental effects from two large discharges of sewage into the Field River. The water was unsafe for recreational contact for several days in both the river and the adjoining beach and some minor impacts on the fish and invertebrate community were noted.

The impact from these incidents was temporary as the organic wastewater was diluted and mixed throughout the lower reach of the river and nearby marine environment, thereby minimising the impact that concentrated sewage would have caused.

2. SA Water has gathered information and undertaken a risk assessment of its infrastructure in the Christies Beach Sewage Treatment Works drainage area and access will be provided to the EPA.

SA Water will be installing three back up generators at three critical pumping stations as soon as they are able to procure or hire the units required.

3. One spill is recorded by the EPA, on 15 November 2004. Material from a burst water main entered the stormwater system and exited onto the Brighton Beach. The water was discoloured due to sediment and stagnant water flushed from the stormwater system by the sudden increase in flow from the burst water main.

4. The performance of wastewater treatment plants along the coast is not related to the cause of the spills in and around the Field River. Generally the coastal wastewater treatment plants have performed well over recent years and in light of this I am advised that the EPA sees no reason to audit them.

KOALAS

In reply to **Hon. T.G. CAMERON:** (16 February 2005).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has been advised that:

1. This year's budget will allow us to sterilise up to 650 Koalas and translocate up to 550 of these to south east South Australia. Given current Koala densities in highly-preferred habitat, this will reduce Koala browse pressure in one third (250 ha) of that habitat. While this will reduce the severity of degradation, koalas will continue to migrate into three areas so ongoing management will be necessary. Koala population densities and results from management programs will continue to be monitored within an adaptive management framework. This will enable the available resources from any one year to be strategically invested to maximise outcomes and enable movement towards a sustainable Koala population on Kangaroo Island.

2. The current program is costing $400K this year to achieve the management results mentioned earlier.

3. The current cost of a charter flight from Kangaroo Island to Mt Gambier is $1911, which, with an average load of 25-30 koalas, costs around $70 per koala.

4. The government has no plans to cull Koalas.

5. No, the government has no plans to cull koalas on Kangaroo Island.

6. No, there has been no consideration given to inoculating the animals prior to translocation. The likelihood of Koalas encountering Chlamydia-infected animals in South East of South Australia is extremely low as the population is almost entirely comprised of Koalas relocated from Kangaroo Island. In pre-release surveys in the South East, the only koalas sighted have been from Kangaroo Island (identifiable by their ear tags).

*Supplementary Question asked by the **Hon. SANDRA KANCK**:* The Koala population on Kangaroo Island did not jump from 5,000 in 1996 to 30,000 in 2001. The figure of 5,000 koalas was estimated for the area surveyed in 1996, which was limited to the lower Cygnet valley and parts of Flinders Chase National Park only. However, when extensive population surveys were conducted across the Island in 2001, Koala populations on Kangaroo Island were found to be far more widespread and abundant than previously thought, and a revised estimate of 27,000 was obtained. The current program will make a difference because it is specifically targeting areas of significantly damaged habitat. Given that there is around 750 hectares of high priority habitat on the island, with average densities of 2 koalas per hectare, ongoing management at current levels will make a significant impact in these areas.

DOMICILIARY CARE

In reply to **Hon. CAROLINE SCHAEFER** (28 February 2005).

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

1. All cases of service reduction are examined by the Department of Health wherever possible. In this particular case, the decision regarding changes was made without consultation with either the Department of Health or Wakefield Health, who has the responsibility for Lower North Health.

2. This case has nothing to do with funding. In the case of Lower North Health, they have no waiting lists and funding for such services is not in question, rather Lower North Health changed their policy on service delivery.

3. It is not the funding that is in question in this case, but a change of policy at a local level, without consultation with either the Department or the Regional Authority.

4. The Minister for Health has requested that the Lower North Board immediately cease the implementation of the policy and has requested that the Regional General Manager of Wakefield Health investigate the matter and provide her with a full report.

LAND, FREEHOLD

In reply to **Hon. CAROLINE SCHAEFER** (17 February 2005).

The Hon. T.G. ROBERTS: The Minister for Environment and Conservation has been advised that:

1. Requests for applications to be reviewed by the Review Panel have been received from 586 lessees. No appeals against the process have been received.

2. The amount of funding currently available for the Review Panel to allocate to eligible lessees is $549 000. This amount has been determined according to the formula proposed by the Select Committee. Distribution to individual lessees has not yet commenced.

3. The process has been developed according to the recommendations of the Select Committee and are within the parameters proposed by the Select Committee.

4. Since the process began, approximately 2100 freehold titles (23 per cent) have been completed. Applications have been received and are being processed for a further 11,120 leases to be transferred to freehold.

OVINE JOHNE'S DISEASE

In reply to **Hon. CAROLINE SCHAEFER** (25 November 2004).

The Hon. T.G. ROBERTS: The Minister for Agriculture, Food and Fisheries has provided the following information:

Dr Vandegraaff did not denounce the new OJD credit scheme as "flawed". In fact Dr Vandegraaff, as a member of the national Animal Health Committee that approved it, is a strong supporter of the scheme. Rather he clarified how the Animal Health Statement should be completed in line with the nationally agreed implementation guidelines. As the changes were operational in nature the Minister was not advised.

There was no reversal in implementation policy at State level at the time. However, both PIRSA and the State OJD Committee recognised that minor changes in South Australia's approach were necessary to ensure consistency with national guidelines and, at the same time, preserve traditional, low-risk trade in sheep near the Victorian border.

Following the 30 November 2004 press release, PIRSA Animal Health staff and industry groups on both sides of the border have worked hard to resolve all the issues. An amended implementation strategy, involving some changes to clarify the Animal Health Statement so it provides better information, has now been approved by the SA OJD Committee and will be put in place in 2005.

In his comments, Dr Vandegraaff made it clear that the Risk Based Trading Scheme is an industry-driven initiative. While the SA Government has worked hard with interstate authorities to provide the framework for the scheme, mandated the Animal Health Statement and has legislation in place to provide penalties for false declaration, farmers are responsible for completing the details.

DRUG REHABILITATION PROGRAMS

In reply to **Hon. A.L. EVANS** (21 July 2004).

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

1. Alcohol and other drug misuse remain a significant area of concern for the South Australian community. The most recent available data on the drug use patterns of South Australian school children highlights that while achievements have been made in reducing most illicit drug use, further work is required in order to reduce underage drinking and dance party drug use.

The government is providing support to a range of projects aimed at preventing drug-related harm. The Department of Health, through the Drug and Alcohol Services Council (DASC) is focused on providing opportunities for young people for recreation in safe environments and has implemented significant projects to assist young people in making healthy choices.

DASC is working in partnership with multiple agencies to assist in:

- the development of strategies to reduce illicit drug use in licensed premises;
- increasing parent awareness about safe partying strategies, including managing parties;
- increasing the understanding among parents and young adults about the alcohol content of pre-mixed drinks through point of sale promotions in retail liquor outlets;
- developing alcohol management strategies for sporting clubs and assisting with codes of conduct within these facilities; and
- the management of Schoolies Week events in consultation with the Victor Harbor community, in order to reduce alcohol and other drug-related harm.

Directly related to outcomes from the government's Drugs Summit is the development of an initiative, by schools throughout South Australia, to implement effective practices to address drug issues and drug education within the education system. This initiative aims to contribute to the reduction of drug related harm throughout the South Australian community.

445 Department of Education and Children's Services (DECS) schools so far have embraced the implementation of a whole of school drug strategy to be incorporated in their curriculum and policies and procedures. The strategy will aim to provide a supportive and disciplined environment, whilst developing partnerships with other relevant stakeholders.

The government provides funding to Life Education SA Inc through the Department of Health. This program provides a drug and health educational resource for primary and secondary schools throughout South Australia. The program aims to promote a greater awareness and participation by the wider community in confronting the problems caused by the inappropriate and indiscriminate use of drugs including tobacco, alcohol, illicit and pharmaceutical drugs. The program provides a positive early intervention to develop young people's social skills and knowledge, to assist them to avoid the harms caused by the misuse of drugs and is integrated with, and complements, the School Drug Education Strategy. Apart from student involvement in the program, there are also specifically designed sessions for targeted groups including parents, school staff and community groups.

In addition, the Department of Health has actively sought the collaboration of other government and non-government agencies to address alcohol and other drug issues. Examples of this collaboration include:

- working with DECS to train teachers, school counsellors and other school staff on managing drug incidents within schools;
- providing input to the Office of the Liquor and Gambling Commissioner in assessing guidelines for underage events and developing industry standards;
- working with SAPOL and community agencies through community action projects with Drug Action Teams and universities, to address young women's alcohol consumption.

Projects have been developed focusing on the specific subcultures of young people within our community and the substances they may come into contact with. These include the Heroin Overdose Project focusing on reducing the incidence of overdose among young people, Vietnamese and Aboriginal populations and the Psychostimulant Project addressing the use of dance party drugs.

Community education remains an important component of the government's Drugs Strategy and complements a range of strategies being implemented within SA to improve the health and well-being of young people.

2. As a result of the 2002 Drugs Summit, the government has supported the development of a range of initiatives that address the issue of drug misuse within our community. The government has identified prevention and timely intervention as key directions for prioritising Drugs Summit recommendations. Community education is addressed within the strategic priorities of active prevention, building resilience in young people, community protection and strengthening support.

In response to the supplementary question asked by Hon. T.J. STEPHENS:

The SA Drugs Summit provided the government with 51 recommendations for consideration. Analysis by the Social Inclusion Unit has identified 227 sub-parts to the recommendations.

To date, the focus of the government's response has been on programs to address the more important sub parts of recommendations. The Minister for Health advises that this has resulted in 80 per cent of recommendations having some program implemented in response to them.

The government has so far allocated an additional $22.2 million over the six years to 2007-08 to fund this response. 35 Drugs Summit Initiatives have been announced.

Of the 227 sub-parts:

71 (or 31 per cent) are being specifically addressed through:

- Drugs Summit Initiatives;
- other government initiatives or departmental programs;
- a combination of the Drugs Summit and other processes;

62 (27 per cent) sub parts of recommendations are the subject of further investigation through the Drugs Summit initiatives. In several instances this involves the development of detailed business cases to test the viability of particular solutions recommended by the Summit.

The following are examples of Drugs Summit recommendations that have been implemented*:*

- Recommendation 37 about whole of school drug strategies. To date 73 per cent of DECS schools are engaged in this process and by the end of 2005 all DECS schools will have a whole of school drugs strategy in place. Catholic and Independent schools are also being supported to implement whole of school drug strategies.
- Recommendations 22 and 26 both called for increased drug substitution therapy in prisons. Through Drugs Summit initiatives funding 200 extra places for such treatment in prison have been provided.
- Recommendation 43 called, in part, for education programs to help prevent the unintended use of paramethoxyamphetamine PMA (often sold as ecstasy). In response the government has funded DASC to implement a very successful peer education program which is focused on the dance party scene. This initiative is reducing drug problems at these events.
- Recommendation 44 from the Summit called for programs to address dependence on amphetamine-type drugs. Internationally, very little is known about how to treat amphetamine dependence. As part of the government's response to this recommendation groundbreaking work is being done in SA to develop and implement new treatment methods. Already, 35 clients have been enrolled in the trial of these methods. This group is the first of four trial groups being established

under this initiative. This is the beginning of a long-term commitment to really make a difference to SA's ability to respond effectively to amphetamine dependence.

· In response to aspects of recommendation 11, 44 and 46, the government has provided funding to SAPOL for the Chemical Diversion Desk. This initiative involves Police working with pharmacists and chemical supply companies to collect information which can be used to investigate and dismantle clandestine drug laboratories. This initiative is already producing some impressive results. In 2003 SAPOL discovered and closed down 47 backyard clandestine laboratories, compared with a total of 27 in 2002. This represents a significant reduction in the number of laboratories able to manufacture these dangerous substances. Already this year, 25 clandestine laboratories have been discovered and shutdown.

· Recommendation 18, which in part called for "an annual award for recognition of excellence and merit in reporting of drug issues." The Department of Premier and Cabinet has successfully negotiated with the Institute of Justice Studies for the creation of a new award category (excellence in illicit drug reporting by the media) within their Annual Awards for Media Excellence. The inaugural award will be presented at the annual award ceremony in October/November 2004.

The government remains committed to an ongoing response to the Summit. As the Premier said at the close of the Summit, and reiterated in announcing the Government's initial response to the recommendations, there are no simplistic solutions to the complex problems associated with drug misuse. The government's response is the beginnings of a way forward; the seeds of a long-term strategy to really make a difference in tackling drugs.

GLENELG RIVER

In reply to **Hon. J.S.L. DAWKINS** (28 October 2004).

The Hon. T.G. ROBERTS: The Minister for Agriculture, Food and Fisheries has provided the following information:

South Australia has had no direct input into the development of a carp management plan in the Glenelg River, as it is essentially a Victorian issue. Only 3.5 kilometres of the Glenelg River passes through South Australia and carp have only been located in the upstream storages of the catchment, specifically Rocklands Reservoir, but no lower than Harrow, in Victoria which is over 200 km away from the SA section of the river. Management of carp in the Glenelg River is presently a priority at the location of the infestation in Victoria.

As the problem is essentially related to the upstream storages located in Victoria, South Australian government departments have had no input at this stage. Regional stakeholders including the Glenelg Hopkins Catchment Management Authority, Department of Primary Industries (Victoria), Fisheries Victoria, Wimmera Mallee Water, Department of Sustainability and Environment Victoria and the wider community were involved in the development of the management plan.

PIRSA is assisting with the management of carp in the Glenelg River through community awareness by Primary Industries and Resources SA (PIRSA) Fishcare Volunteers and enforcement of the *Fisheries Act 1982*, which states that it is an offence to return carp or any other exotic fish to the water or move any fish (exotic fish/aquarium species or native fish) from one site to another.

PIRSA supports the findings of the 2002 report prepared by the Department of Sustainability and the Environment (Victoria) recommending:

· The release of water from storages as near as practical to mimic natural flows
· The provision of managed flows that are variable, not stable for extended periods
· Ensuring swamp areas are not inundated for extended periods
· Undertake targeted eradication in the reservoir and downstream of the storage when carp are reported, and
· Undertaking of river rehabilitation throughout the catchment to improve native freshwater fish communities.

The State Government has consulted the National Carp Task Force through the Native Fish Strategy Coordinator in South Australia and maintains regular contact with both the Murray-Darling Association and National Carp Task Force, assisting with the development of educational materials and raising public awareness of the issues related to all exotic species, as well as carp. The National Carp Task Force is aware of the infestation in the Glenelg River, and participated in the development of the plan and its associated management actions.

GENETICALLY MODIFIED CROPS ADVISORY COMMITTEE

In reply to **Hon. IAN GILFILLAN** (14 September 2004).

The Hon. T.G. ROBERTS: The Minister for Agriculture Food and Fisheries has provided the following information:

The GM Crop Advisory Committee has been established to provide advice from expertise assembled across the whole of chain. While it is recognised that international marketing expertise is a vital element for the Committee, not every member needs to have an international marketing focus. Members may still quite properly bring to the table an understanding of supply chain management from their sector's perspective, and how that sector articulates with those sectors before and after it. The Act establishes the Committee's structure by mandating eight sectors that must be represented on the Committee. Some members that have been appointed to the Committee have experience and expert knowledge in international marketing in relevant sectors.

The Minister for Agriculture, Food and Fisheries has invited AWB Pty Ltd to take up the remaining existing vacant position on the Committee, and they will also bring, as a major grain marketer and exporter, great expertise to the Committee.

The Minister for Agriculture Food and Fisheries has every confidence in this Committee, which has been specifically structured to provide comprehensive expert advice across the supply chain, including not only international grain marketing expertise but also expertise in other key areas such as seed supply, grain production, transport, handling, and processing.

ABORIGINAL EDUCATION

In reply to **Hon. KATE REYNOLDS** (14 February 2005).

The Hon. T.G. ROBERTS: The Minister for Education and Children's Services has advised that:

The Senior Secondary Assessment Board of South Australia (SSABSA) recorded SACE completion for six Aboriginal students in schools in remote and very remote communities in 2004. Communities are determined as 'remote' and 'very remote' using the MCEETYA (Ministerial Council on Education, Employment, Training and Youth Affairs) Geographical Locations Index.

In addition, there are six Wiltja students who achieved the SACE in 2004. These are students from the Anangu Pitjantatjara Yunkunytjatjara (APY) communities who are part of the Wiltja program, which is the urban annexe of the secondary programs being offered by schools in the APY communities. These students attend Woodville High School.

SCHOOL BUSES

In reply to **Hon. KATE REYNOLDS** (27 October 2004).

The Hon. T.G. ROBERTS: The Minister for Education and Children's Services has provided the following information:

The Department of Education and Children's Services (DECS) has met all obligations as agreed by the school bus operators representative group, the SA Bus and Coach Association (BCA), resulting from the previous review of the Index in 1998. This includes the agreement to review the Index after a 5 year period. DECS requested from the BCA a paper outlining any suggested changes to the current contracts and indexation in September 2003. A formal detailed submission was received from the BCA in May 2004.

Since then, a review of the Index has been undertaken and the following changes have been approved:

1. That Diesel fuel price movements be included in the Index (replacing unleaded petrol)

2. Safety Net wage increase be paid from the date that they become effective.

3. Payment adjustments be made for the 2004 Safety Net Increase at a cost of $61,639 (increased payment effective from 13 July 2004).

All contractors were notified of these approvals on 18 October 2004.

Discussions between DECS and the BCA have not stalled. Five meetings were held in 2003/04 and DECS intends to continue liaising and working productively with the BCA.

SCHOOLS, FINANCIAL REPORTING

In reply to **Hon. KATE REYNOLDS** (22 September 2004).

The Hon. T.G. ROBERTS: The Minister for Education and Children's Services has advised that:

1. Specific details of the new funding model were released in October 2004 and included information about the processes that will be introduced and the increased support to school leaders through a new management tool and financial support offices based in districts. Following the release of this information, District Directors had a fully coordinated information package to work with in their Districts to inform and coach site leaders on key aspects of the new funding model. This work is done in conjunction with the Office of Business Improvement and Strategic Financial Management.

2. Support for the new funding model will include a new School Budget Planning Tool. The new tool will be accompanied by supporting documentation and training. The Learning Resources and Services Team will provide this training support. The Learning Resources and Services Team has already provided training on 'Monitoring & Reporting' to schools who will be new to local management in 2005. This training will be extended to all schools during 2005.

3. The department is provided with utility data from the various utility companies and these charges are passed on to the schools. It is expected that schools will raise any issues regarding these charges with the designated central office staff who will assist in resolving the issues in an expeditious manner.

The department is in the process of providing schools with consumption information that will give them a better insight into utility usage and charges.

The department is also in the process of providing a record of utility charges and usage over time, which may show major variations by comparing usage and charges over the various periods.

4. The department has introduced a product called FABSNET, which will deliver financial reports and other information electronically to schools via the Internet. This will enable the department to provide timely, accurate reports to schools, as well as enable a more responsive and timely resolution of any issues as they arise.

TAFE, OUTSOURCING

In reply to **Hon. KATE REYNOLDS** (21 September 2004).

The Hon. T.G. ROBERTS: The Minister for Employment, Training and Further Education has provided the following information:

1. "TAFE SA is involved in a range of international activities including the delivery of programs offshore and arrangements whereby private registered training organisations can deliver programs that are auspiced by TAFE SA.

The Australian Vocational Education and Training system allows the use of auspicing, which involves an organisation entering into partnership with a registered training organisation in order to have the training and assessment that it undertakes recognised under the National Training Framework. In such an arrangement, the auspicing RTO has responsibility for assuring the quality of the assessments conducted by the other organisation.

An auspicing arrangement between an RTO delivering programs overseas and TAFE SA enables the continuity of pathways to the University of South Australia degree courses. This may lead to students who complete these programs coming to South Australia as international students to gain higher level qualifications.

2. Activities in which TAFE SA participates may involve the use of TAFE SA learning materials. TAFE SA licences the use of its learning materials to other RTOs in their training programs. In these circumstances, the Minister for Employment Training and Further Education has given approval under a limited licence, subject to intellectual property provisions, for TAFE resources to be used to provide training programs overseas.

Any specific arrangements should be specified in a contract between the training provider and TAFE SA.

3. Lecturing staff in TAFE Institutes are either employed under the Technical and Further Education Act 1975 or under casual arrangements as an Hourly Paid Instructor. Staff employed under the TAFE Act are required to adhere to relevant administrative guidelines and seek appropriate approval to work outside the department

If the honourable member has details of any specific concerns, then the Minister for Employment, Training and Further Education would be pleased to investigate.

GOVERNMENT ADVERTISING

In reply to **Hon. D.W. RIDGWAY** (25 November 2004).

The Hon. T.G. ROBERTS: The Minister Assisting the Premier in the Arts has advised that:

1. The cost of the most recent edition is $18,861. The publication *Extra Extra* is the flagship marketing newsletter of the State Library of South Australia. It is produced twice a year with a large print run to enable a wide distribution throughout South Australia.

2. The budget line is number 6112623 from the Libraries Board's Mortlock Bequest Fund.

3. All cabinet ministers were invited to participate. All those who chose to respond by

the publication deadline were included.

ROCK LOBSTERS

In reply to **Hon. D.W. RIDGWAY** (14 October 2004).

The Hon. T.G. ROBERTS: The Minister for Agriculture, Food and Fisheries has provided the following information:

A closed fishing season is in place for the southern zone rock lobster fishery between 1 May to 30 September each year to protect breeding females during the annual spawning period. This closed season was established many years ago when the fishery was managed under an input control system (eg. a closed season, restrictions on fishing gear, vessel size and power). A quota management system was introduced in 1993 to improve management of the fishery through a direct control on the annual catch.

In recent years the stock has recovered substantially in the fishery and increases in the total allowable catch (TACC) have occurred in recent years to ensure the resource is being utilised at optimal levels. The current strong position of the fishery is due largely to the conservative constant catch strategy employed in the fishery since 1993, under the quota management system.

Given the current strong position of the fishery, the Southern Zone Rock Lobster Fisheries Management Committee (the FMC), in partnership with the commercial industry, has turned its thinking to ways in which management of the fishery can be modified to deliver greater commercial flexibility for the industry and maximise economic benefits. This has involved the FMC reviewing some of the long-standing input controls in place for the fishery, such as the length of the closed fishing season. I have supported these FMC initiatives and will continue to encourage the FMC and the industry to think innovatively about how to best manage the fishery and optimise economic returns.

Last season, I supported an FMC proposal to undertake a trial extension to the fishing season, to allow commercial fishing in May. A preliminary biological and economic impact assessment has been undertaken to report on the May fishing trial. By and large, the preliminary results of this trial showed that positive biological and economic outcomes could be achieved for the fishery by allowing fishing in May.

Before I finalise a decision on the proposed continuation of May fishing trials, I have requested that the FMC consult further with licence holders to gauge the level of industry support for further May fishing. I consider it is necessary for the FMC to demonstrate a majority of licence holders support the new management measures, as they may lead towards structural reform.

I am currently awaiting the results of an industry survey undertaken by the FMC and will promptly advise the FMC and the commercial industry, as soon as I have considered the survey results and made a decision. I am acutely aware of the economic imperatives for the industry associated with this decision, given the current market conditions being faced by fishers and will ensure that a decision is made as soon as possible. However, I am sure everyone can appreciate the need to consult effectively with industry to ensure there is strong industry support for a move towards any structural reforms.

ATTENTION DEFICIT HYPERACITIVITY DISORDER

In reply to **Hon. SANDRA KANCK** (8 February 2005).

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

1. At 11 February 2005, 656 children aged 9 or under, were authorised for treatment in South Australia. The number of children within this age group varies from time to time.

2. The Department of Health has no aggregate data to determine the incidence of deaths due to specific drugs.

3. A working party has been established comprising representatives from the Department of Health, Department of Education and Children's Services, a specialist clinician and a person from the ADHD support group, Attention Disorders Association of South Australian (ADASA).

4. The answers to the previous questions asked by the honourable member will be provided as soon as possible.

SUPPLY 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.

This year the government will introduce the 2005-06 budget on 26 May 2005. A Supply Bill will be necessary for the first few months of the 2005-06 financial year until the budget has passed through the parliamentary stages and received assent. In the absence of special arrangements in the form of the Supply Acts there would be no parliamentary authority for expenditure between the commencement of the new financial year and the date on which assent is given to the main Appropriation Bill. The amount being sought under this bill is $1 700 million.

Clause 1 is formal, clause 2 provides relevant definitions and clause 3 provides for the appropriation of up to $1 700 million. I commend the bill.

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

STATUTES AMENDMENT (LIQUOR, GAMBLING AND SECURITY INDUSTRIES) BILL

Adjourned debate on second reading.

(Continued from 12 April. Page 1590.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank honourable members for their contributions to the second reading of this bill. I take this opportunity to respond to some of the comments made by others. I shall deal first with the comments of the Hon. Robert Lawson.

In respect of lay assessors, the Hon. Mr Lawson mentioned that disciplinary and licensing appeals are heard in the District Court, and very often there is a lay assessor who sits with a District Court judge. He asked whether criminal intelligence would be divulged to a lay assessor who happened to be sitting with a judge on one of these applications. Section 28 of the Security and Investigation Agents Act 1995 provides that in disciplinary proceedings the court will, if a judge of the court so determines, sit with assessors selected in accordance with schedule 1. Assessors are not used when a person is appealing against the refusal of a licence application. An appeal is not a disciplinary proceeding. When they are used in disciplinary proceedings they sit with the court: they are not the court.

The bill places responsibility on the court to maintain the confidentiality of information classified by the Commissioner of Police as criminal intelligence, so the presiding judge of the court would need to decide at the relevant time how best to maintain the confidentiality of such information. Presumably, the presiding judge would take note of any submissions on that subject made at the time by or on behalf of the Commissioner of Police.

In relation to assaults on crowd controllers, the Hon. Mr Lawson quoted from a letter received by solicitors Lawson and Fletcher written on behalf of clients who employ crowd controllers. The solicitors concerned did not provide their comments to the Attorney-General during the consultation period for this bill. The government agrees that the presence of highly visible, well trained, polite, calm and observant crowd controllers reminds patrons that their actions are being scrutinised and discourages anyone who might be considering theft, damage or personal injury. That is precisely why the government has introduced this bill: to raise standards, as envisaged in the letter, and to make it possible to rid the security industry of crowd controllers who fall sufficiently short of acceptable standards.

While the letter made vague accusations about exploiting fears, it did not, nor could it, dispute the information provided by the Commissioner of Police about the infiltration of bikie gangs into the liquor, gambling and security industries. I note that the opposition supports this bill and accepts the need for it. Nevertheless, by quoting the comments that it has, the opposition seeks to have a bob each way by supporting criticism of the very propositions it intends to support.

The Hon. Mr Lawson made complaints about the difficulty of laying complaints and prosecuting intoxicated persons who assault crowd controllers. However, neither the honourable member nor any passage in the letter he quoted made any positive suggestions for changes in the law or police procedures. The government understands and accepts that occasionally crowd controllers may be assaulted while on duty. Legislation alone cannot eliminate this occupational hazard. The risk can be minimised by proper training, supervision and responsible management of licensed venues—which this bill encourages—but it would be foolish to suggest the risk could ever be entirely eliminated.

In relation to appeals to be heard within one month, the Hon. Mr Lawson during his second reading contribution misquoted the Premier and gave a misleading impression of the effect of this bill when, speaking of members of the government, he said:

We will adopt the populace line, which the Premier follows and say, 'Okay, if anybody is associated with those gangs their licence to engage in their own livelihood can be automatically suspended without any right of appeal.'

As the honourable member well knows, this bill does provide for a right of appeal when a security agent, including a crowd controller, has had his or her licence suspended by the Commissioner for Consumer Affairs. The right of appeal is in clause 51 (new section 23E), and the honourable member must know that—because the honourable member has placed on file amendments that seek to amend clause 51. Part of those amendments will be opposed. I will not go into the reasons now. I will explain the government's reasons for opposing those amendments at the relevant time in committee.

I refer now to steroid use. The bill permits alcohol and drug testing for persons authorised to control crowds. The Hon. Mr Lawson in his second reading contribution suggested that it was 'a matter for regret that the government has failed to seize this opportunity to require in certain circumstances that tests be taken for steroid use, rather than for other forms of illicit substances'. New section 23J refers to prescribed drugs. The government envisages that steroids will

be among the drugs prescribed for the purposes of section 23J. The honourable member's regret is, therefore, unnecessary.

In relation to consultation, one of the most curious criticisms made by the Hon. Mr Lawson is that the government has supposedly failed to consult sufficiently on this bill. He said:

> Organisations who represent security agents, and also those who employ them—these are highly respectable and responsible organisations—suggest that they have not been as closely consulted as they should have been in relation to the bill currently before the council.

The government totally rejects that accusation. The Commissioner for Consumer Affairs has set up a security industry advisory panel. This panel includes the National Security Association of Australia (SA), the Australian Security Industry Association Limited, the Institute of Mercantile Agents (SA Division), the Australian Institute of Professional Investigators (SA), the Liquor Hospitality and Miscellaneous Union, SAPOL and the Office of the Liquor and Gaming Commissioner. All these organisations were well aware, throughout 2004, of the development of this bill. In addition, after the bill was introduced in the other place on 9 December 2004, the Attorney-General wrote to all those organisations, and dozens of others, including all providers of training for security agents, with a copy of the bill as introduced and inviting further comments during the summer parliamentary recess. It is difficult to imagine, in fact, how the government might have consulted to a greater extent than it has.

I turn now to the comments of the Hon. Ian Gilfillan. It is not true to suggest, as the honourable member said, that 'the purpose of the bill is to prevent people who associate with motorcycle clubs from being employed in the security industry'. Rather, the purpose of the bill is to prevent persons with criminal convictions, or persons who have criminal associates, from obtaining employment in occupations that require licensing in the liquor, gambling and security industries.

The government intends to clean up licensed venues, and make these industries safer, not only for patrons but also for security agents and crowd controllers. As the Hon. Mr Gilfillan pointed out, many of these people deserve our respect for the dedication and professionalism that they bring to the job. For that reason, reputable security agents and crowd controllers are backing the reforms in this bill because they support the government's moves to sever links that have been established between criminal elements and these particular service industries.

The bill may be opposed by the Hon. Mr Gilfillan, but it is supported by the industry itself. The Hon. Mr Gilfillan seemed to be under a misapprehension about how the Commissioner for Consumer Affairs is to ascertain whether a person is a fit and proper person to be granted a security agent's licence. The reputation, honesty and integrity of people with whom the person associates is but one of many factors to be taken into account. It is not true to suggest that information about a person's associates is criminal intelligence and, therefore, to be kept secret from the applicant.

The definition of criminal intelligence is quite narrow. Much personal information tending to reveal a person's associates is on the public record, for example, company records of joint directorships, previous shared home addresses and previous employment. If the commissioner were to rely on such information, it would be open to an aggrieved applicant or licensee also to rely on these matters of public record to contest an adverse licensing decision. Of course, there will be times when personal information tending to reveal associates is classified as criminal intelligence to protect confidential sources. However, to claim, as the Hon. Mr Gilfillan has done, that most members of parliament could not work as security agents because some of our associates might be of dubious character is mere hyperbole. The honourable member well knows that merely having a conversation with a person does not turn that person into an associate for purposes of licensing legislation.

I turn now to the contribution made by the Hon. Nick Xenophon. In relation to consultation, the government is pleased to learn of the consultation that the Hon. Mr Xenophon has undertaken with Mr Bias and with the Hon. Mr Xenophon's unnamed whistleblower. The government respects the views that the Hon. Mr Xenophon has attributed to his two sources. However, the government has consulted much more widely and has had the benefit of input from more than two individuals. In general, the views attributed to Mr Bias may be characterised as promoting very heavy-handed regulation. The proposals, if adopted, would significantly raise the barrier for entry to security-related occupations and for consumers of security services. The government's approach is much more even-handed.

In relation to failure to keep accounts, the Hon. Mr Xenophon suggests that some security companies might not be keeping proper accounting records and, perhaps, avoiding their responsibilities to pay correct wages, tax, and so on. The government has received this sort of information from other sources, as well. To the extent that these practices occur, they are legitimate sources of grievance for the honest and scrupulous competitive firms in the industry. However, the potential for these practices to occur is not confined to the security or even the liquor and gaming industries.

Any commercial enterprise might seek to obtain a competitive advantage by shirking responsibilities to its employees or to taxpayers. There are government agencies with the responsibility for targeting compliance in taxation, and work place matters. Any evidence of non-compliance should be provided to these agencies. Workplace Services in particular would be most interested to hear about employers who are ripping off their employees, but no matter how many or how few operators are cutting corners in this way, it is not a proper response to place extra burdens of certifying compliance on everyone in the industry.

In relation to graduated licensing, the Hon. Mr Xenophon, relying as he says on the advice of Mr Bias, has proposed new categories of licensing with gradation of responsibilities according to experience, training and expertise. The government agrees that, in general, security tasks requiring a high level of expertise or degree of professionalism should be assigned to those who have demonstrated capacities for them. Nevertheless, it is a significant extra step to propose putting that general principle into legislation. The suggestions attributed to Mr Bias might reflect his view of best practice, however, the role of legislation is not to impose best practice on all operators. Rather, legislation must set minimum acceptable standards and let competitive forces influence the extent to which best practices are adopted. Therefore, the suggestions from the Hon. Mr Xenophon seem excessively prescriptive. There are already various categories of licence for security agents.

Many licensees have licences in more than one category. The act should not descend into unnecessary detail by, in effect, prescribing the internal structure of a security firm's

operations. Provided a person has a level of training and qualifications, recognised as the minimal acceptable for the role, and otherwise meets the criteria for licensing, the act should leave to employers the specific decisions about the functions to be performed by employees.

I turn now to dog handlers. The Hon. Mr Xenophon suggests that there is, at present, no training required for dog handlers or their dogs. I am advised that this is correct. The government has had this matter under review for some years. Although the Security and Investigation Agents Act envisages the provision of training courses for dog handlers, these courses have not been developed. Numerous training courses are available for dogs, including attack and defence training similar to that given to police dogs and their handlers. However, these courses are not compulsory for dogs that are to be used in the security industry.

There are practical reasons for this. First, the government is not aware of any substantiated reports from either the security industry or the public that the use of guard dogs in the security industry is causing any significant problems. There is no need to prescribe training to correct a problem that does not exist. The government does not believe in regulation merely for the sake of it.

Secondly, training might be prescribed under the Dog and Cat Management Act for a dog that is to be used in the security industry, and training might be prescribed under the Security and Investigation Agents Act for a person to be a dog handler, but there is no legislative mechanism to combine training for both the dog and its handler together as a team. A trained dog with an unfamiliar handler, or a trained handler with an unfamiliar dog, would represent little or no advantage for protection of the public. In the longer term, I would agree with the Hon. Mr Xenophon that this issue requires further investigation. In the short term, however, the government is committed to dealing with the significant matters in this bill as a priority.

In relation to licence renewals, the Hon. Mr Xenophon has requested that security agents having their licence renewed should have their renewal subject to a level of scrutiny equivalent to a first-time licence applicant. The government does not agree that this is necessary or desirable. There is no need for a person seeking an annual renewal to have his or her fingerprints taken each year. Licensees are already required to lodge annual returns in which they must disclose any convictions recorded against them in the preceding 12 months. Failure to do so puts them at risk of losing their licence. There is no need to await the process of licence renewal before taking action against a licensee who is no longer fit and proper. Clause 56 of the bill places an obligation on the Commissioner of Police to provide relevant information to the Commissioner of Consumer Affairs as soon as reasonably practical after becoming aware of it.

In respect of use of force and substance abuse, the Hon. Mr Xenophon made the point that the use of force by crowd controllers is unacceptable. He also mentioned that among crowd controllers 'there is still what appears to be unacceptably high levels of substance misuse, particularly with respect to steroids in some cases, or amphetamines.' On both these points, the government fully agrees. The bill contains provisions that deal with these two matters.

I turn now to amendments to ensure that drug and alcohol testing is comprehensive. The Hon. Mr Xenophon has foreshadowed possible amendments under which he has said:

> I will move amendments to ensure that any system of drug and alcohol testing is comprehensive not only on a random basis but particularly where any incident has been involved.

The government has not had the benefit of seeing a draft of what the Hon. Mr Xenophon proposes, but I am surprised that the honourable member judges the provisions of this bill to be deficient in that respect. For the record, the government intends that drug and alcohol testing will be carried out either on a random basis, as resources permit, as are police random breath tests for motorists, or where there is reason to suspect that a particular crowd controller might be working under the influence of drugs. It is not practical and would have immense resource implications to require routine testing of all crowd controllers.

In relation to approved psychological testing for applicants, it is not clear from the Hon. Mr Xenophon's speech whether he intends moving an amendment to deal with psychological testing. The bill already deals with this subject at clauses 44 and 48. The bill does not require all crowd controllers, nor all applicants for a crowd controller's licence, to undergo routine psychological testing. The bill gives the Commissioner for Consumer Affairs the discretion to require such tests. The government's belief is that relatively few psychological tests will be required. A test would probably be required only if the commissioner had a reason to doubt whether a particular person was fit and proper to commence work or to continue to work in the industry. It is not practical or necessary to require routine psychological testing of all crowd controllers or applicants; to do so would impose unnecessary high costs on all and would be a significant barrier to entry into and remaining in the industry.

As to annual returns for security agents and employers, the Hon. Mr Xenophon suggests that both security agents and their employers should provide annual returns to the Commissioner for Consumer Affairs. Security investigation agents are already required to provide annual returns. These returns require individual licensees to disclose whether they have been convicted of or charged with a criminal offence, other than a minor traffic offence, or suspended or disqualified from carrying on any occupation, trade or business. If the licensee holds a licence in which the conditions are not all restricted to acting as an employee, he or she must also disclose whether:

- civil or bankruptcy proceedings have been commenced against them;
- judgment has been entered in relation to any proceedings, civil or bankruptcy;
- they have entered into an arrangement with creditors in relation to compromising a debt;
- they have been refused an application for finance;
- circumstances have arisen to make it likely that they will not be able to discharge all their contractual obligations; and
- they were a director of a company at the time of, or within six months of, the commencement of the winding-up of a company for the benefit of creditors.

For a body corporate licence, the disclosures include whether:

- civil or criminal proceedings, other than minor traffic offences, have been commenced against the company or any director;
- judgment has been entered against the company or any director in relation to any proceedings, criminal or civil;
- a controller, administrator, receiver, liquidator or official manager has been appointed to the company;

- the company has entered into an arrangement with creditors in relation to compromising a debt;
- the company has been refused an application for finance;
- circumstances have arisen which make it likely that the company will not be able to discharge all its contractual obligations;
- the company or any director has been suspended or disqualified from carrying on any occupation, trade or business; and
- any director, who was a director of the company at the time of, or within six months of, the commencement of the winding up of a company for the benefit of creditors.

The disclosures made by licensees are backed up by the random and targeted auditing program which checks a wide source of independent information to verify whether the required disclosures have been made by licensees. Information from the general public that may reveal breaches of legislation is also investigated. The disciplinary provisions of the act are available to take action against any licensee found not to be compliant.

The Hon. Mr Xenophon suggests that annual returns should be even more comprehensive. He suggested additional matters, such as a summary of work undertaken in the preceding 12 months, proof of psychological assessment, a credit reference report, a current national police certificate, a further certificate when a firearm is required, and proof that no criminal or even civil matters are pending in the courts. The government's view is that, for most security agents and their employers, these additional matters would amount to intolerable bureaucratic overkill. The bill permits the Commissioner to suspend a security agent's licence when he or she has been charged with a prescribed offence. It also permits psychological testing and drug testing. These powers are discretionary: they are neither needed nor required for every agent every year.

The additional requirements the Hon. Mr Xenophon proposes for inclusion in an employer's annual return are requirements imposed by other legislation. It is beyond the scope of the licensing regime administered by the Commissioner for Consumer Affairs to have the Commissioner acting as a de facto compliance officer for the Australian Taxation Office, WorkCover and other agencies. These proposals would entail very significant extra costs, which would have to be passed on to employers and, ultimately, clients. The government does not believe that is necessary or desirable.

As to firearms, other weapons and restraint devices, the Hon. Mr Xenophon mentioned the regulation of firearms carried by private security agents. The carriage of firearms is regulated under the Firearms Act 1977. This bill does not seek to amend the Firearms Act. Honourable members will recall that the Firearms Act was amended less than two years ago by the Firearms COAG Agreement Amendment Act 2003. That act implemented resolutions made by the Council of Australian Governments (COAG), but it left unresolved a further series of diverse policy questions arising from resolutions of the Australian Police Ministers Council (APMC).

These matters are currently under consideration by the government but are not considered urgent. The APMC has discussed questions of firearms in the private security industry. The APMC discussions will be taken into account at the appropriate time. It may be that the appropriate placement of any amendments will be in the Firearms Act or perhaps in the Security and Investigations Agents Act—it depends upon the view taken by parliamentary counsel. The government does not wish to pre-empt either the consideration of possible amendments nor the separate question of which act might be amended.

The Hon. Mr Xenophon also proposed that a new weapons licence be introduced to permit private security agents to use handcuffs, batons and other implements. It should be strongly emphasised that security officers are not police; their legal authority to forcibly restrain a suspect is no greater than the authority that may be exercised by any citizen. The government does not intend to license security agents to become de facto private police and, therefore, any proposed amendment to introduce a weapons licence will be opposed.

In relation to impersonating police, the Hon. Mr Xenophon made the assertion:

> There is nothing to stop some mobile patrol officers using the uniforms of SAPOL so that they look like police officers, and I think it could be misleading in some situations.

That suggestion must be firmly rejected. Under section 74 of the Police Act 1998 it is an offence, without lawful excuse, to wear what is or appears to be a police uniform or to represent, by word or conduct, that one is a police officer. The maximum penalty is $2 500 or six months imprisonment.

Finally, in terms of poor or fraudulent services, the Hon. Mr Xenophon suggests that some security companies respond slowly to alarm calls or patrol on fewer occasions than they are contracted to, and they hide their non-performance with doctored records. These are either contractual matters between service providers and their clients or else allegations of fraud, which may be referred to the police. The bill does not and cannot deal with these matters.

I trust that rather lengthy reply addresses all the issues that were raised during the second reading contribution, and I again thank members for their contributions and look forward to the committee stage of the bill.

Bill read a second time.

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

In committee (resumed on motion).

(Continued from page 1669.)

Clause 10.

The Hon. R.D. LAWSON: When the committee last met, I did seek leave to conclude my remarks. There are some other remarks I wish to make on my amendment, but I would seek an answer from the minister on the matters I have raised thus far.

The Hon. P. HOLLOWAY: My advise is that culpable negligence is criminal negligence and, if the honourable member wishes, we are happy to replace the word 'culpable' with the word 'criminal' throughout the bill. In relation to the ordinary incidents of life, the case law is discussed at page 143, chapter 5, 'Model Criminal Code: Non-fatal offences against the person'. I will set out the government's view on the honourable member's amendment. As explained in detail in my second reading speech, the government strongly opposes this amendment. It is based on the opposition's inaccurate assertion that by this bill the government is newly incorporating criminal negligence into the criminal law: it is not. That concept has long been incorporated in our criminal law as a mental element in cases of causing death.

Indeed, this parliament has recently enacted two new offences of criminal negligence. One may be found in the Criminal Law Consolidation (Intoxication) Amendment

Act 2004. Under that act, a person may be found guilty of manslaughter or causing serious harm, if, even though his or her consciousness was or may have been impaired by self-induced intoxication to the point of criminal irresponsibility at the time of the alleged offence, the person's conduct in causing that death or serious harm, if judged by the standard appropriate to a reasonable and sober person in his or her position, falls so short of that standard that it amounts to criminal negligence. The other may be found in the Criminal Law Consolidation (Criminal Neglect) Amendment Bill 2004, which was given royal assent on 7 April 2005 and which will come into operation today (14 April 2005).

The bill was passed without amendment and with opposition support. It establishes an offence of criminal neglect for failing to take steps to protect a child or vulnerable adult for whom one has assumed responsibility from an unlawful act that results in serious harm or death. Had the bill we are now debating been enacted before these two previous bills, it would have broken new ground in South Australian law by introducing criminal negligence for non-fatal harm. That ground has now been well and truly broken. This bill will bring us into line with the model criminal code, laws in other Australian states and territories, and laws in New Zealand and Canada about causing serious harm by criminal negligence. Each jurisdiction uses different words to describe the concept of criminal negligence, but the test for it is the same everywhere.

It is based on the test for criminal negligence/manslaughter adopted by the High Court in Wilson and developed in later cases, and that is the test set out in the bill. I repeat what I said in my reply: South Australia is the only Australian jurisdiction not to have a statutory offence of causing serious harm by criminal negligence. The opposition is asking this parliament to reject a clear proposal to bring South Australia into line with other Australian jurisdictions on a matter of basic criminal liability. To support its position, the opposition cites the Mitchell committee's recommendation that negligence be retained as a basis for criminal responsibility in summary offences only. But does the opposition really support this proposition? Does it understand that, in making that recommendation, the Mitchell committee was also recommending—and I refer to the committee's fourth report, page 21—that manslaughter by negligence be abolished? The opposition's rejection of the offence of causing serious harm by criminal negligence is ill-conceived.

I now add to those comments. The opposition's position is ill-conceived because there are circumstances of a serious non-fatal harm where a criminal negligence offence is appropriate. Where we would be wrong would be not to have such an offence. Let me give an example. In October 2004, in central Victoria, a man was found guilty of the offence of negligently causing serious injury. Having finished 12 cans of bourbon and coke between them, he and a mate left their fishing spot and walked to the nearest town to restock the esky. They decided to return by car, even though the driver was unlicensed and had been drinking and the ute was uninsured. On the way back, the ute's chassis got stuck on a train crossing. As the train approached, the pair abandoned the ute and the train collided with it: 34 train passengers were hurt, five of them seriously, including one who remained in a critical condition for weeks.

The damage bill was more than $3 million. This was not a simple accident. It involved a serious criminal breach of the driver's duty of care to others. Had there not been an offence of negligently causing serious injury in Victoria, the driver would not have been guilty of any offence of causing serious injury to the unfortunate passengers because his conduct in causing it, although seriously negligent, was neither intentional or reckless. Of course, he may have been found guilty of the minor offence of driving without due care which takes no account of whether the driving caused injury and which carries a minor fine and no penalty of imprisonment. Imagine if that train crash happened in your electorate. Imagine having to explain to your constituents that you voted for the driver not to be criminally liable for the injuries he caused. Imagine having to admit to a constituent seriously injured in that crash that the reason the driver received a small fine was that you failed to take the opportunity to create an offence that would ensure he was appropriately punished for his conduct.

There is another thing that members might like to know about the opposition's amendment. This bill repeals section 40 of the Criminal Law Consolidation Act, which establishes the offence of assault occasioning actual bodily harm. That offence in its basic form carries a maximum penalty of five years imprisonment, the maximum penalty proposed for the new offence of causing serious harm by criminal negligence.

The offence of assault occasioning actual bodily harm does not require proof of intention and it does not require proof that the bodily harm was serious. The nearest equivalent to that offence in this bill is that of causing serious harm by criminal negligence. With the opposition's amendment, the only possible criminal charge for a person who assaults another without an intention to cause harm, and whose action causes that other person to suffer serious harm, is assault. The offence of assault does not require proof that the defendant's actions caused harm, and its maximum penalty—two years' imprisonment—reflects this.

The opposition's amendment will make a gap in the law. An example may help. Two men are arguing by the side of a busy road. One pushes the other, who falls awkwardly and unexpectedly into the path of a passing car and suffers severe fractures to his leg. Under the law now, the defendant could be charged with assault occasioning actual bodily harm and, if convicted, face a penalty of up to five years' imprisonment. Under this bill as introduced by the government, the man could be charged with causing serious harm by criminal negligence, for which (as for assault occasioning actual bodily harm) the maximum penalty is five years' imprisonment. But under the bill as amended by the opposition the man can be charged only with assault, which carries a maximum penalty of two years' imprisonment.

One might well wonder why the opposition would want people who have acted so negligently as to cause serious injury to another to escape any criminal liability for it. The answer is simple: the opposition has not thought this through. It is unable to tell the difference between mere negligence and criminal negligence, that is, negligence that is so serious that it warrants a criminal penalty, or to understand why that is necessary. Others much wiser than the opposition have understood this area only too clearly and have made it an offence to cause serious harm by criminal negligence. They include the parliaments of all other Australian states and territories and the parliaments of the UK, Canada and New Zealand, and the Model Criminal Code Officers Committee has included this offence in the National Model Criminal Code.

The government will not let the opposition weaken the criminal law in South Australia. We are not ashamed to take the position that the criminally thoughtless who cause serious

harm to others should be guilty of a criminal offence. I strongly urge members to oppose this retrograde amendment.

The Hon. R.D. LAWSON: I deplore the example given by the minister representing the Attorney-General. The Attorney's attitude is reflected in his press release issued today, in which the Attorney said:

> Under Robert Lawson's approach, the likes of the unlicensed drunk fisherman who abandoned a utility on a rail crossing in central Victoria last October, injuring 34 people and leaving a damage bill costing millions, could only be charged with driving without due care.

And the Attorney says, through the minister's response: and any member of parliament facing their constituents, if they had allowed that to occur, would be unable to justify it. The press release continues (and I think it is important, because it shows the level to which this Attorney and this government will go to misrepresent the position):

> There was a similar case in Los Angeles earlier this year. It involved a man who planned to commit suicide by driving onto a train track. He changed his mind and abandoned his car in time to see his actions derail a train, which ended up in the path of a moving passenger train before hitting a stationary train. Eleven people died and 200 others were injured.

The implication of the paragraphs that I read is that the man in Los Angeles also could be charged only with driving without due care—

The Hon. P. Holloway: The point is—

The Hon. R.D. LAWSON: The point is that, in South Australia, people who committed such an offence would be charged with far more than driving without due care. In the Los Angeles example, it would be the clearest case of manslaughter that one could imagine: if not under the existing law of South Australia, it would undoubtedly be caught by section 29 of the Criminal Law Consolidation Act, which deals with acts endangering life or creating a risk of grievous bodily harm.

The Hon. Nick Xenophon: What if he was intoxicated or under the influence of drugs?

The Hon. R.D. LAWSON: I will leave that for the minister to answer. Section 29 of the existing act provides:

> where a person without lawful excuse does not act or makes an omission, either knowingly or intending to endanger the life of another or being recklessly indifferent to whether the life of another is endangered.

The existing penalty is 15 years, and that will continue under this act. There is an aggravated penalty of 18 years, and that will continue. Our existing law and the bill will contain an offence relating to reckless indifference. We believe that reckless indifference is deserving of criminal punishment—undoubtedly—and we have never sought to escape from that fact. However, to add the criminality to the concept of negligence is, we submit, inappropriate.

The minister referred to chapter 5 of the Model Criminal Code, 'Non-fatal offences against the person'. Listening to the minister's response, one would think that this is all cut and dried and that everyone has agreed with the proposition now being reflected. The report of the Model Criminal Officers Code illustrates that that is not the case. Of course, this is a report of a committee of government officials. The Attorney's adviser, Mr Matthew Goode, has been a member of that committee for very many years, and I do not doubt the qualifications and competence of the committee. But it is only a committee, which reports to the Standing Committee of Attorneys-General. This report is dated September 1998. On the subject of negligently causing serious harm, the following appears (it is true that the officers recommended the offence that has now been incorporated: the purpose of my reading this section is to illustrate that even they themselves saw that there were objections, notwithstanding the fact that they did not accept them):

> The second subject of controversy was the existence of the negligence offence.

There is reference to the fact that in Victoria since 1864 there has been an offence of negligently causing serious injury. It continues:

> The committee is of the opinion that an offence of negligently causing serious harm should be included in the Model Criminal Code. There are, in general, two reasons for this. The first is that, because existing judicial decisions decline to attribute subjective fault to result elements of such offences as assault occasioning actual bodily harm, the replacement of the current regime by one based on the results of conduct and criminal fault will leave a gap in the law currently filled by assault based offences. The second reason is that such an offence is necessary in order to criminalise those instances of gross negligence that cause serious harm, such as the removal of safety equipment at a workplace.

The Model Criminal Code Committee considered that an important element would be to cover the situation where safety equipment is removed at a workplace.

The Hon. Nick Xenophon: What is wrong with that?

The Hon. R.D. LAWSON: Nothing at all. Of course, our existing Occupational Health, Safety and Welfare Act makes it an offence to misuse or damage anything provided in the interests of health, safety or welfare, or to place at risk the safety of any other person. This is a duty applicable by section 25 that applies not only to employers, but also to all persons. There is a provision in section 59 of that act for an aggravated offence where one acts with reckless indifference.

By all means, one can argue about the penalties provided for that. We do not doubt that serious penalties ought to ensue. We do not believe that it necessarily means that you need import all these regulatory offences into the criminal law. The officers report as follows:

> Consultation produced some opposition to this recommendation. The opposition was, with one exception, based on the general principle that criminal liability should not be imposed for mere negligence.

That encapsulates our position: criminal liability ought not to be imposed for mere negligence. It continues:

> The committee was of the opinion that the test that it proposed for negligence, based as it is upon the standard for manslaughter, is sufficiently rigorous to justify criminal responsibility.

They go on to acknowledge what the judges of the Queensland Supreme Court said about the then proposed definition of criminal negligence, as follows:

> That definition may be regarded as falling short of the high level of negligence necessary to constitute criminal negligence. Currently 'recklessness involving grave moral guilt' and 'gross negligence', 'culpable conduct' and 'callous disregard' are commonly used in summing up the notion.

The Queensland judges, in referring to section 5(5), which is the relevant provision, said:

> . . . involves a question-begging conclusion, whether the conduct merits criminal punishment.

This is the issue to which the Hon. Nick Xenophon was alluding this morning in his contribution to this committee: whether the conduct merits criminal punishment. We accept, as we must, that intentional conduct must be visited with criminal consequences, and that reckless conduct must be visited with criminal consequences. We do not believe this should be extended to negligence.

I return to the example in Victoria, the example typically chosen by this Attorney-General to be able to tell listeners on talkback radio that the opposition and perhaps the Legislative Council—if this is supported—only want to see the drunken fishermen, who leave their vehicle on the line in front of an oncoming—

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: Well, what is the relevance of the drunkenness or the fishermen? Ask the Attorney why there is a need for verisimilitude in his examples. The fact is that the persons engaging in conduct of that kind would be subject to criminal sanctions under our law. The suggestion that they could be charged only with driving without due care is a preposterous exaggeration designed to mislead the public, and designed to achieve the objective which the Attorney seeks.

The Hon. P. HOLLOWAY: It is all very well for the deputy leader to say that it is preposterous, but I note that he does not suggest an alternative. The government accepts that the MCOCC considered all arguments about criminal negligence, but it decided in favour of including the offence. It disagreed with the approach taken by the Queensland judges. The other point I wish to make is in regard to the deputy leader's reference to section 29 of the Criminal Law Consolidation Act 1935—endangering life or creating risk of grievous bodily harm. Section 2 of that act provides:

> Where a person without lawful excuse does an act or makes an omission—
>
> (a) knowing that the act or omission is likely to cause grievous bodily harm to another and intending to cause such harm or being recklessly indifferent as to whether such harm is caused.

Under that test you have to know and you have to intend. The test is much stricter under that than what is proposed under the bill. There is a gap in the law that the Opposition's position will take. It does leave a gap in there for the sorts of cases like the one in Victoria that was read out. The reason that the Attorney and I referred to the fact that the person was a fisherman and a drinker is that it was the actual case. That is what actually happened. They were the facts that were reported in the particular case. I suggest that this committee would the negligent if, knowing that case, it took no action to ensure that our laws provided adequate penalties in such cases.

The Hon. IAN GILFILLAN: I have had difficulty with the concept of criminal negligence as a logical conjuncture of concepts. The dictionary definition of negligence is 'lack of proper care or attention'—a piece of carelessness. Where that has been clearly the case, it may well be reasonable that a person can be judged to have been guilty in negligence where, in normal circumstances, that person should have applied proper care or attention. The criminality of not applying that proper care or attention would, for me, need to have proved intent. The consequences would need to have been shown to have been part of a conscious intent. If the action has a criminal intention, it is a pure act of criminality, in my view. I find the whole concept very difficult to reconcile logically. I think I have made the contribution previously that it is an area where we have difficulty. Certainly, on the basis of that opinion, we are attracted to the amendment at this stage.

The Hon. A.J. REDFORD: What is the difference between negligence and criminal negligence?

The Hon. P. HOLLOWAY: Criminal negligence is different from civil negligence. The difference is explained in the case of Wilson by the High Court. That is the authority upon which it is based. Criminal conduct is conduct which falls so far short of the standard of conduct that should reasonably be expected in the circumstances that it merits a criminal penalty. That derives from the Wilson case in the High Court, and it has been followed by every authority ever since, I am advised.

The Hon. A.J. REDFORD: If I understand the minister correctly, the difference between criminal negligence and negligence is that, in the former, it involves conduct that falls so far short of conduct that is reasonably expected that it merits a criminal penalty. Would they be the terms that would be used in giving a direction to a jury in answer to a question from the jury or, alternatively, in a general direction in a summing up?

The Hon. P. HOLLOWAY: My advice is that they would be. If there is the offence of criminal negligence, they are the terms that would be used in the new act.

The Hon. A.J. REDFORD: Can the minister or his agency provide us with a list or some examples of conduct which might be negligent but does not necessarily fall into the class of criminal negligence?

The Hon. P. HOLLOWAY: In some earlier comments on the deputy leader's amendment, I gave the example that under the Criminal Law Consolidation (Intoxication) Amendment Act a person may be found guilty of manslaughter or causing serious harm if, even though his or her consciousness may have been impaired by self-induced intoxication to the point of criminal irresponsibility at the time of the alleged offence, if the person's conduct in causing that death or serious harm, judged by the standard appropriate to a reasonable and sober person, in his or her position, falls so short of that standard that it amounts to criminal negligence.

The other form may be found in the Criminal Law Consolidation (Criminal Neglect) Amendment Bill, which was recently passed and assented to today. That act establishes an offence of criminal neglect for failing to take steps to protect a child or vulnerable adult, for whom one has assumed responsibility, from an unlawful act that results in serious harm or death. As an example, almost all motor vehicle accidents are negligent, but they are not, in most cases, criminally negligent.

The Hon. A.J. REDFORD: From the way I understand it, the sole determinant—and I will be corrected if I am wrong—of whether conduct falls so far short of conduct reasonably expected that it merits criminal penalty, will be a decision for the jury. There will not be specific directions as to what conduct does or does not fall within that category. I will be interested to know whether my understanding, in that sense, is correct or not.

The Hon. P. HOLLOWAY: I am advised that there are several steps. First of all, there could be a direction about whether the conduct is reasonable. There is an objective test for that. Secondly, there is the question about standards, whether the standards of conduct fell so far short of reasonable behaviour as to merit a criminal penalty, and that is where there also could be a direction in relation to that. In other words, the first test would be whether the action was negligence. The second test, and this is where there is a new part to this, is whether the negligence is so far short of the standards expected that it merits a criminal penalty. So that is the next step.

The Hon. A.J. Redford: And that is a jury question. Is that the case?

The Hon. P. HOLLOWAY: Yes.

The Hon. A.J. REDFORD: The difficulty that we have in relation to this concept—and it might work, I do not know—is that you are asking the jury to determine what is a reasonable standard of conduct, not that I think that is a problem. I think juries are quite capable of doing that. Then it has to make a determination as to what sort of conduct would be reasonably expected; maybe it can manage that. Then it has to determine whether or not the conduct that is before the court warrants a criminal penalty, and that is almost getting to the point where judges start intervening. They determine what penalties, etc., apply, and I am not trying to be disingenuous, and I know what the response to that comment would be, but, if you marry those very complex concepts with the presumption of innocence and the burden of having to prove the standard beyond a reasonable doubt, the conduct that might reasonably be expected beyond a reasonable doubt, and whether the conduct is going to fall short of beyond a reasonable doubt, I just wonder what we are really seeking to achieve in relation to the bill, as presented, on this particular clause.

It just seems to me that it is going to be so hard for the prosecution to prove all these nebulous concepts beyond a reasonable doubt, and then you have almost to prove beyond a reasonable doubt that something has fallen short of conduct reasonably expected. It is not clear about reasonably expected from whom. Is that an objective standard or is that a subjective standard? I might engage in conduct with my mates in a motor car where we have pretty low standards of conduct expected.

On the other hand, they might be much lower than the community expects, or they might be the same. However, at the end of the day, the prosecution will have to prove some of these issues beyond reasonable doubt. I am concerned about what sort of evidence might need to be called to prove these things and where it might take a criminal trial. Quite frankly, I think that this provision will not be used very often by prosecutors, because it will be so difficult to convince juries to apply it.

The Hon. P. HOLLOWAY: I think that the behaviour that would lead to that sort of charge would not happen very often. The honourable member may not agree with the test but, nonetheless, it is what the jury is being asked to apply, and the High Court has stated that in its decision, and it is now set as the test. I understand what the honourable member says, but the reality is that, in the Victorian case of the drunken fisherman, the charge was similar to that proposed here; it was laid and the person was convicted. It is probably a rare case, and one would hope that such cases would be rare, but the argument of the government has been that, if we do not address it, and do not support the bill in the form proposed by the government, there will be a gap in the law for those hopefully rare cases in which this level of criminal negligence applies.

The Hon. NICK XENOPHON: I support the government in relation to this and cannot support the opposition's amendment. We have already gone some way in terms of the abolition of the drunk's defence or, by way of shorthand, the issue of criminal neglect this parliament dealt with not so long ago. As I see it, there is a distinction between negligence and criminal negligence, and that was acknowledged in the decision of the High Court in the case of Wilson in 1992. I see this as a case in which, if serious consequences, such as serious injury, occurred as a result of an act, this clause would capture that behaviour.

As to the train incident, I think it is unfortunate that the Attorney-General has used so much hyperbole and seemed to politicise this so much, but I think that would have been an instance that illustrates gaps in the current law. There will be some instances determined by a jury (and we have the case law relating to criminal negligence in the Wilson case) where there are current gaps in our law. For example, somebody may commit an act but does not necessarily intend the consequences of that act. Although there ought to be a legal consequence of doing something that could cause serious harm to others (notwithstanding that there was no intent to cause that actual harm but, by way of an objective test, there was such gross negligence or, rather, criminal negligence that harm flowed from it), it is still an issue for the jury to determine.

It is a different standard but, as I understand it, other jurisdictions have dealt with it for quite some time—for example, Victoria has done so since the 1860s. I believe that it is not an unreasonable step for the government to take. I cannot support this amendment.

The Hon. R.D. LAWSON: Can I ask the minister to confirm for the committee that the common law elements of manslaughter will remain unaffected by this bill, so that the test in Wilson will continue to apply to manslaughter in South Australia?

The Hon. P. HOLLOWAY: That is the case.

The Hon. R.D. LAWSON: Is it not the case that the common law test in Wilson contains, as an element, a requirement that the 'conduct merit criminal punishment', which are the words used in Wilson and recommended to be included by the Model Criminal Officers Code, namely, conduct which merits criminal punishment?

The Hon. P. HOLLOWAY: Yes; that is correct.

The Hon. R.D. LAWSON: Can the minister then indicate why the notion of conduct that merits criminal punishment and, in particular, those words, do not appear in the new test that has been developed for this bill—namely, the two-stage test in clause 23(5), which provides:

> (a) a reasonable person in the defendant's position would have been aware of a substantial risk that the conduct could result in serious harm; and
>
> (b) the conduct fell so far short of the standard of care a reasonable person in the defendant's position would have exercised that the conduct should not be treated merely as a civil wrong but as a criminal offence. . .

The point I am making is that the jury is here asked to decide whether or not certain conduct should be regarded as a civil wrong or as a criminal offence, and the notion of meriting criminal punishment seems to have been abandoned.

The Hon. P. HOLLOWAY: My advice is that it essentially means the same thing; what we have here is just a different form of drafting. I am advised it is a drafting matter, a distinction without a difference, as it has been elegantly put.

The Hon. R.D. LAWSON: Can the minister offer an opinion as to how a jury could determine whether something should be treated merely as a civil wrong? What would a jury know about what is the appropriate standard for a civil wrong, as against what should be treated as a criminal offence?

The Hon. P. HOLLOWAY: The judge would describe the difference; that is what happens in courts all around the country.

The Hon. IAN GILFILLAN: I indicate Democrat support for the amendment—I am not sure whether that helps

reduce the degree of agony in the machinations of the committee. Probably not, but I would like to assure the committee that we are sympathetic to the amendment. We do not pretend to have the detailed background knowledge of precedent and the High Court or any other court; it is really our attempt to analyse what appears to be very close to an oxymoron, and I refer to the term 'criminal negligence'.

If negligence is to be determined in a criminal context then surely it is best to be defined as a crime. If it is to attract a criminal penalty, the only justification for that is if it is a crime. To confuse the interpretation of what action is or is not a crime by blending it with neglect is very confusing. It is very difficult for a lay person to try to understand the law, which is pretty tricky under any circumstances, and I think it is inappropriate to load a term which is very difficult to understand in the normal use of English into our legislation.

I go back to the earlier point: if the neglect is loaded with an intention, it is a crime, because there is a malicious intent—if that is established then surely it is a crime. Therefore, I again indicate that we will support the amendment and I suggest that, unless there are more academic rewards to be achieved by further debate, the matter can be put to a vote.

The committee divided on the amendment:

AYES (12)

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

NOES (6)

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

PAIR

Ridgway, D. W.	Roberts, T. G.

Majority of 6 for the ayes.

Amendment thus carried.

The Hon. P. HOLLOWAY: I move:

Page 12, line 21—Delete 'reasonably'.Clause 10 introduces a new section 25 which describes the process of reaching an alternative verdict in trials of offences of causing serious physical or mental harm. This bill reconstructs non-fatal offences into causing harm offences that are distinguished both by the seriousness of harm and by intent. It also includes in these new offences penalties that depend on the circumstances in which the offence is committed. Although the process of reaching alternative verdicts is not usually spelt out in laws creating offences, it was thought useful to do so here to help courts and counsel apply the process to the new scheme of offences and penalties.

In consultation, the judges pointed out that an alternative verdict is either open or not open to a jury, and that this is a decision of the judge. They suggested that the word 'reasonably' should be deleted from new section 25(b) because it seems to suggest wrongly that the jury has a part to play in determining whether any alternative verdict is open to it. Accordingly, the amendment removes the word 'reasonably' from this subsection.

The Hon. R.D. LAWSON: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clauses 11 and 12 passed.

Clause 13.

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

Page 13, line 21—After 'kidnapping' insert:
and unlawful child removal.

This amendment and the following amendments seek to draw a distinction which is not drawn in the bill between kidnapping, on the one hand, and removing a child from the jurisdiction on the other. Make no mistake, we agree that both kidnapping and removing a child from the jurisdiction are very serious offences meriting extremely high penalties. The offence of kidnapping has a conventional definition that is included in the act—taking a person with the intention of holding the person to ransom, or as a hostage—and it is the most serious of criminal offences. It is at the highest possible end of the criminal calendar—traditional kidnapping.

Taking a child out of the jurisdiction, for example, to Mildura, or overstaying a custody visit and so on in Mildura beyond the jurisdiction and, no doubt, contrary to an order of the Family Court or some other arrangement, is a serious matter, but it is not kidnapping and should not be equated with kidnapping. It should be described as what it is; namely, unlawful removal of a child from the jurisdiction. This amendment and the amendments which are consequential upon this simply draw that distinction. They do not change the elements of either offence, and they do not change the penalties that will be applied to them. They are simply amendments to define the offences appropriately.

We think it inappropriate to call 'unlawful removing of a child from the jurisdiction' as kidnapping. We think that that actually waters down the currency: by broadening it, it actually makes kidnapping a less serious offence. We do believe in calling a spade a spade, and I seek the agreement of the committee to this amendment.

The Hon. P. HOLLOWAY: The government opposes this amendment and the other three opposition amendments that are designed collectively to separate the offence of unlawfully removing a child from the jurisdiction from the offence of kidnapping. Again, I gave reasons for the government's objections in my second reading speech.

By including the general offence of kidnapping and the specific offence of wrongfully taking or sending a child out of the jurisdiction under the one heading, 'kidnapping', the bill follows the structure of the national Model Criminal Code. After considering the UK example of treating these offences differently, the Model Criminal Code Officers Committee (MCCOC) made a deliberate decision to treat them as offences of the same seriousness. It said:

> The committee took the view that child abduction is a very serious matter, which leads to great anguish and consequent international litigation. It sees no reason why this sort of kidnapping should be different to any other. It should be noted, however, that in relation to this issue the custodial parent or a person acting with the consent of the custodial parent commits no offence against this section.

The MCCOC treated the unlawful removal of children from the jurisdiction as a form of kidnapping precisely because it thought this conduct so reprehensible. The opposition takes the opposite view, that it should be distinguished from kidnapping, because it thinks kidnapping is a more serious offence. The government does not agree and is not prepared to say that it is worse to kidnap a person and hold that person hostage than to kidnap a child and take the child out of the jurisdiction. It will depend on the individual circumstances of each case.

A common example of kidnapping is a man holding a spouse hostage to demands about family law matters during a suburban house siege. This offence is likely to be resolved with the release of the victim within hours or days. By contrast, a child who is taken out of the jurisdiction may never be returned, or the return may take years, while the child remains isolated from family and friends. The anguish caused by each criminal act is acute, but is often protracted in cases of taking children out of the jurisdiction. The government would prefer our laws like the Model Criminal Code to treat each offence as seriously as the other, and I urge honourable members to oppose these four amendments to clause 13.

The Hon. NICK XENOPHON: Perhaps I am missing something, and it may be that the mover of the amendment and the minister can illuminate this. As I understand it, the elements of the offence are the same and the penalties are the same. Firstly, I put this to the Hon. Mr Lawson: is it the case that the penalties for the offence of taking a child outside the jurisdiction are the same?

The Hon. R.D. LAWSON: No. Perhaps I did not make myself clear. The elements of the two offences are different and the penalties are different. That is in the government's bill. In our amendment we have not changed those elements at all. They remain the same as in the government's bill, which is separate elements for kidnapping and unlawful removal of a child from the jurisdiction, and separate penalties. The government's bill provides:

> (1) A person who takes or detains another person, without that person's consent—
>
> (a) with the intention of holding the other person to ransom or as a hostage; or
>
> (b) with the intention of committing an indictable offence. . . is guilty of an offence. . .
>
> (3) A person who wrongfully takes or sends a child out of the jurisdiction is guilty of an offence.

Certain rules apply. I hope I have clarified that for the honourable member.

Our amendment does not change the elements of the offence or the criminal law or the penalties that apply in the government's proposal; we agree with them. We are merely changing the description. The government calls all these offences kidnapping. We think they should be called kidnapping and unlawful removal from the jurisdiction. Contrary to what the minister said as to the recommendations of the Model Criminal Code officers, their proposed heading to these sections had the distinction 'kidnapping, child abduction and unlawful detention'. They proposed that that heading appear. The government's bill, however, only has one heading, namely, kidnapping, and all these offences are lumped together under the one heading.

The Hon. NICK XENOPHON: I thank the Hon. Mr Lawson for that. Looking again at the government's bill and the amendment, that seems to be the case. Basically, the elements and the penalties are the same. It is just that the government categorises it as kidnapping, as the minister pointed out. Regarding the elements in the government's bill with respect to subclauses (3), (4) and (5), effectively, what the opposition has done is to create an offence with a different name, but the elements and the penalties are the same. For the reasons set out by the opposition, and unless I can be convinced to the contrary, while I think that it is still a serious offence, I think that the reasons outlined by the Hon. Mr Lawson for his amendment are quite compelling.

The Hon. IAN GILFILLAN: I indicate Democrat support for the amendment. I believe it is a much more accurate use of terminology. Although it may carry a certain emotive impact to be able to use the word 'kidnap' in the circumstances of unlawful child removal, we do not support sensationalism by using an emotive word. We prefer the accurate description that the amendment will put into the legislation. We support the opposition's amendment.

The Hon. A.L. EVANS: Family First also supports the amendment. I think the term 'kidnapping' in the mind of the public is far more serious than a family problem where a child is taken when it is illegal to do so. That is also pretty serious, but I do not think the public would accept putting the two together.

The Hon. P. HOLLOWAY: The last contribution shows exactly why the government moved the amendment. The Hon. Andrew Evans said that the perception of the public is that one is less serious. The point is that a child abduction, such as the case which the government calls kidnapping—because it believes it is—where a child was removed for some years—and there have been a number of prominent cases where children have been taken out of the country away from their mother—what could be more distressing for a child than being removed from its mother for many years in some cases? Is that not more serious than the case I gave earlier, where someone is kidnapped, in the definition of the honourable member, for an hour or so during a hostage incident?

The point that the government is trying to make is that those cases of child abduction can be even more serious and devastating to the person concerned. That is why we seek to call it kidnapping—perhaps to try to change the public perception that this can be a very damaging offence. Nonetheless, I see where the numbers are. The government is disappointed, but it will not divide.

Amendment carried.

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

Page 13, after line 21—

Insert:

38—Interpretation.

In this Division—

child means a person under the age of 18 years;

detain—detention is not limited to forcible restraint but extends to any means by which a person gets another to remain in a particular place or with a particular person or persons;

take—a person takes another if the person compels,entices or persuades the other to accompany him or her or a third person.

Page 14—

Lines 2 to 23—

Delete subsections (3), (4) and (5)

After line 23—

Insert:

40—Unlawful removal of a child from jurisdiction.

(1) A person who wrongfully takes or sends a child out of the jurisdiction is guilty of an offence.

Maximum penalty:

(a) for a basic offence—imprisonment for 15 years;

(b) for an aggravated offence—imprisonment for 19 years.

(2) For the purposes of subsection (1), a person acts wrongfully if—

(a) the person acts in the knowledge that a person who has the lawful custody of the child (either alone or jointly with someone else) does not consent to the child being taken or sent out of the jurisdiction; and

Note—

As a general rule, the parents of a child have joint custody of the child (see Guardianship of Infants Act 1940, section 4).

(b) there is no judicial or statutory authority for the person's act.

These amendments are consequential upon the amendment just carried.

Amendments carried; clause as amended passed.

Remaining clauses (14 to 30) and title passed.

Bill reported with amendments; committee's report adopted.

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

That this bill be now read a third time.

I record on behalf of the government our great disappointment that, as a result of the amendment made to this bill, South Australia is now out of step with the rest of the country in relation to this matter of criminal negligence; and that a situation not tolerated anywhere else in Australia will be permitted here. We believe that a gap will remain in our criminal law. We are very disappointed about that. However, the bill will now pass to the House of Assembly and the government will consider what to do with it from there, but we are disappointed.

The Hon. IAN GILFILLAN: I repeat the Democrats' opposition to this bill in its entirety. Mr Ian Leader-Elliott, an academic, indicated that in his assessment it was a bill of mindless ratcheting up of maximum penalties. In spite of the anguish over the loss of criminal neglect and other minor amendments which have been made, our view is that this is unfortunate legislation. It is bound to increase the pressure on our prison system. Although a lot of time has transpired, it is appropriate to say that Mr Peter Severin, the Director of Correctional Services, was at an OARS meeting on 20 May last year. He indicated that the prison system was designed for 1 359 inmates and it currently had 1 445. The increasing load on the prisons was reflected on 8 June 2004 in an article in *The Advertiser* headed 'Overcrowding crisis feared as gaols delayed'. There has been no further building of gaols. The crisis will be exacerbated by the impact of this legislation.

It is important to read to the council a letter written by Kathy Bradley of Whyalla Norrie. It was printed in *The Advertiser* of 12 June last year. I apologise for the time gap, but that is not of my making: it is because there has been so much delay in dealing with the bill. The letter in *The Advertiser* is as follows:

Labor needs new policy on prisons. I write in response to the report, 'Overcrowding crisis feared as gaols delayed,' (*The Advertiser* 8/6/04). I deplore the reported comments of Treasurer Kevin Foley: 'There is not a lot of sympathy from this government for people who break the law and find themselves in prison. We are tough on law and order and, quite frankly, we don't shed a tear for those who are incarcerated in this state.'

As a former long-serving and active member of the ALP Whyalla branch, I find his comments repulsive. They reflect a crude and shallow form of populism, which is an insult to the efforts of former Labor ministers such as Frank Blevins when he was minister of correctional services to have a sophisticated and enlightened view of prison management.

Where is the emphasis on rehabilitation? What kind of message is this passing onto those who work in the prison system?

Most people spend short periods in prison and at some point return to live in the community. They are not incarcerated forever. We have, in South Australia, a state Labor government in which some members, despite representing disadvantaged areas, seem to have little or no class perspective. Why not just call themselves the Populist Party and be done with it?

KATHY BRADLEY,
Whyalla Norrie.

That letter very succinctly and, I think, rather poignantly reflects the feeling of a lot of disenchanted Labor members of how on earth the Labor government is behaving in this way in dealing with offenders and the prison system. With that, I repeat that the Democrats oppose the third reading.

The Hon. R.D. LAWSON: Speaking briefly on the third reading, I agree with some of the remarks made by the Hon. Ian Gilfillan in relation to the government's law and order agenda. However, I do not agree with his proposition that amendments of this kind will lead to a higher prisoner population in the state. Over the past two years, the experience has been that, notwithstanding all of the huff and puff, all of the Premier's rhetoric about being tough on law and order, and all of the increase in penalties and the like, the South Australian prison population has remained remarkably static. The average number of prisoners in our gaols, according to the report of the Department of Correctional Services for the year ended 30 June 2003, was 1 469. The following year, 30 June 2004, the prisoner population, on average, was 1 469—exactly the same.

Over the past two years there has been an increase in the prisoner population in this state of some 21 or 22 prisoners, which is a very small increase. The point is, notwithstanding all of the huff and puff, the changes in legislation and penalties, there are no more people behind bars than were behind bars, in relative terms, before the government began its so-called law and order campaign. We will not have a safer community until this government does more about actually catching criminals and putting them behind bars. All the increased penalties in the world will not lead to people being put behind bars, or a safer community.

The whole of the government's exercise and emphasis has been on public relations and media spin, as is evidenced by the Attorney-General's release today concerning aggravated offences. Whilst we are completely cynical about the hypocrisy of this government in relation to law and order, we do not think that this bill, or any of the other bills, are going to have the effect that the Hon. Mr Gilfillan contends. We do not think it will have any effect. We, in fact, do not even believe that it is intended to have any effect. Its only effect is to impress those people in the community who are being told what they want to hear, not what they need to hear.

Bill read a third time and passed.

The Hon. J.S.L. DAWKINS: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

PARLIAMENT, REGIONAL SITTINGS

The House of Assembly passed the following resolution to which it drew the attention of the Legislative Council:

That standing orders be so far suspended as to enable messages to be delivered to and received from the Legislative Council by the Clerk by alternative means during the sitting of the house at Mount Gambier from 3 to 5 May.

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

That standing orders be so far suspended as to enable messages and bills to be delivered and received from the House of Assembly

by the Clerk by alternative means during sittings of the House of Assembly at Mount Gambier from 3 to 5 May 2005.

The Hon. R.I. LUCAS (Leader of the Opposition): Mr President, the opposition—I am not aware whether I am speaking on behalf of all my colleagues—has not been made aware of this particular motion and, indeed, the discussions and background to it. So could the Leader of the Government outline to other members what is contemplated here and, in particular, does it require any change in terms of our normal operating procedures as a Legislative Council?

The Hon. P. HOLLOWAY: My understanding is that, obviously, if the House of Assembly is sitting in Mount Gambier and we are sitting here in Adelaide, there needs to be means of receiving messages. As I understand it, work will be transmitted by electronic means, and I think there has been some work done to permit that, but probably the clerks would be in a better position to provide detail on that matter than I am.

The Hon. A.J. Redford: Fax or email?

The Hon. P. HOLLOWAY: The advice in relation to bills is that that can be done electronically but, otherwise, messages will be done by fax.

The Hon. A.J. REDFORD: Through you, Mr President, I would be interested to know what additional costs might be associated with this means of transmitting bills or, indeed, what additional costs there may be associated with the House of Assembly going there.

The Hon. G.E. Gago interjecting:

The Hon. A.J. REDFORD: In response to the Hon. Gail Gago's interjection (and I do love them so much), it is not just simply a matter of what the cost of emails are. It is because we are voting or deciding whether emails are acceptable. We need to take into account the total cost of sending the House of Assembly down to Mount Gambier, and I will be very interested to know whether there is some indication as to what that total cost might be.

The Hon. P. HOLLOWAY: I have no idea. Obviously in the terms of this resolution the cost will be very small, the cost of fax. Some information has been given, but I just do not have that information. That cost is being met by the House of Assembly. The Hon. Angus Redford so often tells us that each house is independent. I understand they have independent budgets. It really is a matter for the house.

The Hon. R.I. LUCAS: I was not asking questions about the costs. I was really wanting to seek an assurance that there has been a debate about the movement of messages between the houses. We have had a particular view in relation to this house being present, in terms of accepting messages. The other house has sometimes had a different view, in terms of accepting messages. So my question is not in relation to the costs. I am just wanting to know whether in this motion that we are being asked to consider, is it simply just the issue of the different method of transmission, or does it involve, as well, any changed procedure in terms of our long-held traditions in relation to this house being present when messages from the House of Assembly come back to the Legislative Council.

The Hon. G.E. Gago interjecting:

The Hon. P. HOLLOWAY: My advice is that the motion seeks to suspend standing orders to enable messages and bills to be delivered and received from the House of Assembly by the Clerk by alternative means during sittings of the House of Assembly at Mount Gambier, so in that sense it does not change the practices. The house has to be sitting.

The Hon. G.E. Gago interjecting:

The Hon. A.J. REDFORD: The Hon. Gail Gago misrepresents me. If she is referring to the leader of the greatest democracy in this world in terms of population, I am not a President Bush hater. If she is referring to our regional areas and other areas, can I assure her, as a person who has spent a considerable amount of time in the bush, as you have Mr President, that I am not a bush hater. In fact, there are parts of South Australia that I have been to that the honourable member probably has not even heard of.

The Hon. G.E. Gago: You are only upset that this is not happening in Bright.

The Hon. A.J. REDFORD: Can I suggest that, when the time comes, I will encourage every member in this place to go out and meet the people in Bright. The Hon. Gail Gago has a considerable amount to learn when it comes to the good people who reside in the electorate of Bright.

Members interjecting:

The Hon. A.J. REDFORD: I will not be diverted. Should this motion not succeed, what would be the consequences?

The Hon. P. HOLLOWAY: My advice is that messages and bills would not be delivered, so we would have to wait.

Members interjecting:

The Hon. P. HOLLOWAY: I believe the bills would simply pile up and would have to be done when the parliament reconvened together in the same location. That is my assumption, but I could be wrong on that. That seems a logical assumption.

The Hon. A.J. REDFORD: Can the minister indicate whether there are any other motions that we need to pass in order to facilitate our 47 lower house colleagues travelling the 420 kilometres to Mount Gambier, staying there for three or four nights and having various events in order to shore up the local member's reputation?

The PRESIDENT: I do not think that was really a question.

The Hon. A.J. REDFORD: Are there any other motions?

The Hon. P. HOLLOWAY: I am not aware of any. Why is it that other parliaments in this country can go and sit in various places around the country? Why are we the only place, not just in this country, perhaps the only place in this world, where issues like this become subject to pedantic argument? It really is a sad reflection on this state; a sad, sad reflection.

Motion carried.

ACTS INTERPRETATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 April. Page 1569.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank honourable members for their support of this bill. The Hon. Mr Gilfillan raised an issue in relation to clause 17, which provides that a person will not have complied with an obligation to produce information until or unless the information is produced in a form capable of being understood. The Hon. Mr Gilfillan believes that there are situations in which it would be unreasonable to require a person to produce information in a form that is capable of being understood. He spoke of the need for an escape clause that provides for these situations. The government has

examined his comments and does not believe that an amendment to produce a general defence is necessary or desirable.

Across the statute book, there are many acts and regulations that require a person to maintain information and make it available; the Children's Services (Child Care Centre) Regulations 1998 is but one example. Regulation 33 states that a licensee of a child-care centre must, at the request of the director, or a person authorised in writing by the director, produce any document, information, or a copy of any documents required to be kept by the licensee under these regulations. Other examples include section 52(1) of the Training and Skills Development Act 2003 and section 104(3) of the Industrial Employees Relations Act 1994.

If a person has a responsibility to maintain a record and keep it available, then the conversion of legacy data or the retention of hardware and software is necessary. There should be an obligation to continue to be able to provide the data in a form capable of being understood, despite the obsolescence of software or hardware. I note that a number of acts and regulations already provide for the production of evidence in a form capable of being understood. Regulation 27(1)(a) of the Security and Investigation Agents Regulations 1996 requires a security agent to produce all the accounts, including accounts that are not trust accounts, relating to the business of the agent and all documents and records relating to those accounts, including written records that reproduce, in a readily understandable form, information kept by computer, microfilm or other process. Other examples include section 361 of the Strata Titles Act 1988 and regulation 17 of the Succession Duties Regulations 1996.

When a person holds information without an obligation to do so, it is more difficult to argue that they should be required to maintain information in a form capable of being understood. In this context, I note that many of the acts that require a person to produce information provide a defence. For example, clause 1(b) of schedule 1 of the Police Act 1998 provides that information need not be produced where there is a reasonable excuse. Another example is section 18 of the Medical Practice Act 2004. While section 18(1)(b) requires the production of any relevant documents, section 18(3) provides a defence of 'reasonable excuse'.

The government is of the view that an act relating to the interpretation of acts of parliament should not provide a general defence. Any defence against a requirement to produce information should work according to the terms of the act that imposes the requirement, as is currently the case. I understand that the Attorney-General will raise this matter with ministers before proclamation to ensure that there are no unintended consequences. I commend the bill to the council.

Bill read a second time.

In committee.

Clause 1.

The Hon. IAN GILFILLAN: I put on the record our appreciation of the minister's response to the points we raised in the second reading debate. We recognise that it is a very sophisticated area, with technology moving a lot faster than most of us are comfortable with or even able to understand. I put on the record that I felt that it was a reasonable and considered response and that I appreciated it.

Clause passed.

Remaining clauses (2 to 17), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

STATUTES AMENDMENT (INTERVENTION PROGRAMS AND SENTENCING PROCEDURES) BILL

Adjourned debate on second reading.

(Continued from 7 April. Page 1538.)

The Hon. R.D. LAWSON: This bill is in virtually identical terms to one that was introduced by the government in September 2003 and which passed through this council with amendments in May 2004. However, a deadlock conference was unable to resolve a difference on one outstanding amendment. I will not repeat what I said on that occasion.

We do support the concept of intervention programs. We support the Nunga Court, the Drug Court and other diversionary initiatives—in fact, we strongly support them. Many of them were begun under the previous Liberal government and were initiatives of the Hon. Trevor Griffin, so we are committed to them. However, we believe that all programs of this kind—which divert resources from health or mental health, or whatever—ought be evaluated for their true effectiveness. There is a cost to these programs and people's lives are involved, but unless there is some form of independent evaluation of their effectiveness one finds that, because everyone supports the concept of the program, governments simply do not bite the bullet and make amendments, if they are necessary, and do not abandon programs that have been found to be ineffective or not cost-effective. We are not suggesting for a moment that any of these programs should be abandoned, but if any of them were found to be not working it is best to put the money into some new program, some new initiative, rather than persist with a program that has not worked.

With that in mind, on the last occasion the Legislative Council supported our amendment to have independent evaluations of the programs. Initially we suggested that they be within a fairly short time frame and, of course, it was suggested against that proposal that we were merely seeking to have evaluations before the election period and that our proposal was for electoral advantage. That was not the case at all; we were happy to move an amendment which would have put the evaluation phase over the horizon to the next state election, and we were delighted that the Legislative Council supported that proposal.

The government has now brought the bill back with an amendment suggested, I believe, by the Hon. Nick Xenophon—but I will let him inform the council of his role in that connection. His amendment removes the element of independent evaluation and puts that responsibility onto the Ombudsman. That was because the government was suggesting that independent evaluation would cost money and it is committed to cutting consultancies, and it did not want to have independent evaluation—notwithstanding the fact that this government had itself commissioned outside consultants to undertake certain evaluations.

So, the government took a highly selective approach. It was happy enough when it was not required to have an evaluation to do so, and to spend the money necessary and to commission the report, but, when it was suggested that that be a statutory obligation and, further, that the evaluation be tabled in parliament to enable parliament to examine it, the government decided that it was not prepared to support the amendment.

The government now appears to believe that the Ombudsman's office is the appropriate office for this form of evaluation. We believe that that is a hypocritical position for the government to adopt, for this reason: the Ombudsman's office is currently under great budgetary stress. We on this side have the greatest respect for the integrity and competence of the Ombudsman's office and for the current Ombudsman and his staff but, in his latest annual report, the Ombudsman did take the extraordinary step of commenting publicly—I believe for the first time—about the under-resourcing of his office and the fact that it is simply unable to function as effectively as he would want because of funding constraints.

The Ombudsman is entirely politically impartial. He is not the sort of officer who wishes to become embroiled in any political debate, but it was significant that he took the extraordinary step of publicly reporting the fact that this government is providing the Ombudsman's office with insufficient funds to enable it to function effectively. For example, in relation to the matter of freedom of information, at page 40 of his report for the year ended 30 June 2004 the Ombudsman states:

> Due to continuing resource constraints in FOI in the Ombudsman's office, it is not uncommon for a review to go on for over six months and sometimes 12-15 month period. The Ombudsman has made efforts in the past to obtain some additional resources to assist him; and has only succeeded in assuring a partly funded extra temporary position for one year. There can be no doubt that it is now a matter of critical significance that at least the temporary position should be permanently funded. The Ombudsman is taking further steps in order to secure such funding without which the practical objectives of the new legislation may be at risk.

A fairly measured statement from the Ombudsman, but I can assure the council that that is a fairly firm position for him to take. For the government then to say, 'We will reintroduce this bill. We expect the council to pass it; and we are handing additional responsibilities to the Ombudsman to enable him to undertake an evaluation of intervention programs and sentencing procedures', is absolutely hypocritical.

There is no commitment of the government to any additional resources for the Ombudsman to undertake this work. However, I also query whether the Ombudsman is the appropriate officer to undertake a task of this kind. Without in any way denigrating the competence, experience, commonsense and practicality of the Ombudsman, I do consider that the evaluation of programs of this kind is a specialist field. I am unaware of whether the Ombudsman has within his office any particular specialist. The Ombudsman has all the powers of a royal commission and can exercise those powers in an investigation; and I do not doubt for a moment that there are any number of inquiries or investigations of the highest complexity that he could undertake, but I do believe that this is a particular specialist area. There are others who may have greater experience in the field. There are others who would certainly be more independent from the government of South Australia than the Ombudsman.

What I fear is that, in order to get through a measure, the government is looking for a cheap option. The evaluation programs that we believe ought to be undertaken should not be seen as some cheap option: they should be seen as a sincere and dedicated commitment to get the best result. I have taken the opportunity to discuss informally with the Ombudsman his willingness to undertake this task; and it is undoubtedly true, as one would expect of the Ombudsman, that he will undertake any task that this parliament gives him and he will undertake it to the best of his capacity, ability and with the best use of the resources he has available to him. We are deeply concerned that the government has reintroduced this bill and has inserted the Ombudsman into the equation, as I say, apparently for the purpose of saving costs, not for the purpose of getting the very best result for the South Australian community.

I indicate that we will be opposing the schedule to this bill which contains the government's Ombudsman compromise. We believe that the council should adhere to the bill that it originally supported. I am looking forward to the committee stage of the debate when I will pursue with the government the resources to be allocated by the government to the Ombudsman, if he is to undertake this task and other related matters.

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

CRIMINAL ASSETS CONFISCATION BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 1460.)

The Hon. IAN GILFILLAN: I indicate Democrat support in the main for this legislation. However, we have some misgivings and I intend to address those matters rather than cover the same ground covered very competently by the Hon. Mr Lawson. We share his surprise that the Law Society of South Australia has not provided an opinion on this bill. I understand that there are some grave concerns in the legal fraternity in this state as to its consequences.

My concern is that this bill comes close to trampling a well regarded, well understood legal principle, as well as a similar social principle, and this is a dangerous direction to take. The first principle, the legal principle, is a simple one: a person is innocent until proven guilty. This principle sets us apart from countries that use the Code Napoleon, where the accused has to prove their innocence. We have had the misfortune in recent times to see how easy it is to make accusations and smear reputations based on little or no evidence. Many honourable members will be watching in mute horror with other members of the community the case in progress where Schapelle Corby stands accused of drug smuggling in Indonesia. The difficulty in proving that someone else placed drugs in her baggage is clearly an immense legal hurdle.

This bill brings the bar a little lower for the forfeiture of property in relation to serious crime. The court need only find on the balance of probabilities that a person has gained that property through illicit means and this forfeiture can take place, even when the prosecution is not able to prove the related criminal offence. We regard this as very close to the Code Napoleon. I understand that this form of the bill is less oppressive than the Western Australian regime where everything is up for grabs where a person cannot prove that they acquired their property through lawful means, but we still wonder about possible outcomes and unintended consequences of this bill.

Members of both sides of the chamber should consider how this legislation may be made to bite. Once one has been charged with a serious offence—illegal fishing, unlawful gaming, trading in native plants or animals, to name a few from the list—the scrutineers can come and look at a person's assets. Is it possible that a person has not been as scrupulous as they could have been in reporting their income to the

Taxation Department? Having a game of poker or going fishing with your mates could have a sudden and serious effect on your lifestyle. The Democrats certainly do not condone tax evasion, but the penalty for doing so may be suddenly magnified by this bill.

Let us keep going with the idea where the combination of fishing and taxation avoidance has you within the government's grasp. In a hypothetical scenario, a person could go out on a boat with a constituent—perhaps even a supporter of your political party. He goes fishing but, due to incompetence on the part of the skipper, he ends up fishing in an area that is a reserve—clearly reprehensible. Unfortunately, the government is looking for some good press on fishing issues, as it has not been doing well on this score, and, as you are its political opponent, the gloves come off. A freeze assets order is issued, followed by a retraining order, and you are now fighting on two fronts: first, the original offence of illegal fishing and, secondly, the civil case for your assets.

There is no problem, of course, because you are a person with means and you can line up a very effective legal defence team. Or can you? You see, the government now has its eyes on your assets (assuming that this legislation comes in in its full form). It wants your assets so that it does not have to put money into the Victims of Crime Fund. Despite the rhetoric, we all understand that money going directly into a fund can be a good measure to reduce the burden of that fund on general revenue. The effect is the same, even if the bookkeeping does not demonstrate it. PR aside, this is another Labor government grab for your money.

Because the government wants your money now, it does not want you to spend it on a legal defence. I mentioned a social principle at the beginning of this speech, but I did not expand on it. That principle is that everyone is entitled to a legal defence. But, further to that, they are entitled to the best defence they can muster. Unfortunately for you (this is the hypothetical you), one of the intended purposes of this bill is to prevent you from spending your assets on a legal defence. Somehow, despite all this, you manage to escape criminal conviction, but your property does not come back. It was forfeited in a manner that did not rely on a conviction for a serious crime, so it still belongs to the state.

Being a resourceful person, and with a lifetime of political experience behind you, you decide to write a book about your experience and, after some preliminary conversations with a publishing house, you are granted an advance against future royalties to pay your living expenses as the book is being written—of course, the book will sell well given your experiences and the publicity surrounding the trials. Bad luck. The government, as a consequence of this legislation, takes out a literary proceeds order against you under this bill and also grabs your advance. This leaves you with no money, no home and owing a publishing house an advance for your book.

Every member of this place needs to contemplate this rather dramatic exposition of the potential of this type of legislation before we accept blithely that the only victims of it will be the most scurrilous and vicious criminals in our society. That is just not the case. Is it really the kind of legislation, as it is currently drafted, that we want in South Australia?

Having raised that rhetorical question, I repeat that the Democrats support the second reading of the bill. We accept that there is this possibility for what I would regard as misuse, and I have outlined it in my second reading contribution. But we agree with the old tenet that crime should not pay, and it is reasonable to look at some way that we can get the balance back towards society's side; in other words, that ill-gotten gains should not be left in the hands of a criminal to enjoy. However, there may be good reason to look constructively at whether there are ways in which the more extreme impact that could come through this legislation, if our interpretation is right, could in some way be fettered without destroying the intention of the legislation; and, taken on face value, the intention is what the Democrats are supporting in supporting the second reading.

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

LAW REFORM (CONTRIBUTORY NEGLIGENCE AND APPORTIONMENT OF LIABILITY) (PROPORTIONATE LIABILITY) AMENDMENT BILL

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

ROAD TRAFFIC (EXCESSIVE SPEED) AMENDMENT BILL

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

ADJOURNMENT

At 6.01 p.m. the council adjourned until Tuesday 3 May at 2.15 p.m.