LEGISLATIVE COUNCIL

Wednesday 4 May 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.17 p.m. and read prayers.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Industry and Trade on behalf of the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Upper South East Dryland Salinity and Flood Management Act 2002—Quarterly Report for the period 1 January 2005 to 31 March 2005.

QUESTION TIME

EYRE PENINSULA BUSHFIRES

The Hon. CAROLINE SCHAEFER: My questions, which are directed to the Minister for Emergency Services, are as follows:

1. Will the minister guarantee that all those affected by the Eyre Peninsula bushfires—most importantly, the residents of Eyre Peninsula—will be given the opportunity to give evidence to the January bushfires inquiry?

2. Can the minister assure the council that the inquiry into the January fires on Eyre Peninsula will investigate whether the recommendations of the report into the 2002 Tulka bushfires were carried out and, if not, why not?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her question. The independent reviewer appointed by the government has been given broad terms of reference, allowing him to look at all the key issues. It is an independent review, so I certainly will not be able to direct him as to exactly whom he sees and does not see, but I anticipate that he will visit Lower Eyre Peninsula. There has been some discussion that there probably will be a public forum to allow everybody to have input and to have a say, but the contract, if you like, is obviously yet to be signed. That will happen next week, and I would not in any way be concerned that he would not be interviewing those people who were affected by the bushfire. I would have no reason whatsoever to actually think that, so I am not sure why the honourable member would think that at all. There would be individual meetings, I am certain. As I said, he has broad terms of reference, and it is not a concern that I would have at all.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. The minister's terms of reference, or the statement the minister issued yesterday, make no mention of evidence being taken or a facility for confidential evidence, as well as public forums. Will the minister give an assurance that evidence, both public and confidential, will be facilitated?

The Hon. CARMEL ZOLLO: That conversation has not been had, but I would have no reason at all to preclude the independent inquirer from doing his job to the very best of his ability; and also under the very wide terms of reference he has been given. If people present themselves to give confidential evidence, I do not anticipate that will be a problem at all.

The Hon. CAROLINE SCHAEFER: I have a further supplementary question. Will the inquiry be widely advertised?

The Hon. CARMEL ZOLLO: There is no reason why it would not be advertised. He has very wide terms of reference. I would imagine that he would visit Eyre Peninsula and talk to the key agencies, the stakeholders and as many people on the ground who want to see him as possible.

The Hon. CAROLINE SCHAEFER: I have a further supplementary question. Have the terms of reference been drawn up and a contract signed between the person appointed for this inquiry and you as minister?

The Hon. CARMEL ZOLLO: The independent inquirer is aware of the terms of reference. He has agreed to them. I have spoken to him. He will be in Adelaide next week when he will be signing off on those terms of reference.

The Hon. CAROLINE SCHAEFER: I have a further supplementary question. Have we as an opposition seen those terms of reference? Are they the same as outlined in your statement?

The Hon. CARMEL ZOLLO: I hope you have. I read them out yesterday.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: Yesterday I tabled a ministerial statement, which does contain the terms of reference. They are the terms of reference. That is why I made a ministerial statement.

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister table the signed copy of the document once it has been signed off?

The Hon. CARMEL ZOLLO: I think I will take advice on that. I do not think that that is something that one would normally do. This is something which obviously was taken to cabinet; so members do know the terms of reference. The terms of reference are clear and, hopefully, everyone is able to read and understand them. Nonetheless, I will take advice on that matter.

The Hon. J.F. STEFANI: Under the contract terms that have been negotiated, what money has been paid and what resources are being provided to the inquirer?

The Hon. CARMEL ZOLLO: As I said to the Hon. Caroline Schaefer, the final details obviously have not been signed off because the person has not physically been here in Adelaide for him to do that. I do not want to speculate about the exact cost, but as part of this process I put a submission to my cabinet colleagues which was agreed upon. Whatever the cost, I think the government believes this is a good investment in ensuring that we learn from the bushfire so that all South Australians are better prepared for future bushfires.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: Will the minister advise what other resources will be provided to the inquirer?

The Hon. CARMEL ZOLLO: Dr Smith is an expert in not just South Australia and Australia but worldwide in terms of native forests also. I am sure that he will make a judgment about what administrative support he needs to conduct his inquiry. This government will make sure that he has all the resources that he needs, including of course office space.

LIDDY, Mr P.

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question about Mr Peter Liddy's assets.

Leave granted.

The Hon. R.D. LAWSON: On Monday 25 April this year the *Today Tonight* program on Channel 7 revealed that it had located and recovered a cache of antique revolvers, the property of disgraced former magistrate Peter Liddy, who was sentenced to a lengthy term of imprisonment for paedophilia offences. The program showed the weapons which were (on the program) handed over to the police who expressed gratitude for the fact that these weapons were being handed to them.

In subsequent programs, the police have indicated that they have been searching for these revolvers and that they have recovered certain other assets previously the property of Mr Liddy. Mr Liddy's property was the subject of an injunction issued by the court at the instigation of his victims who indicated that they proposed to take civil action against Mr Liddy for the recovery of substantial compensation. Those claims were defeated when the assets were dissipated in circumstances which were not publicly revealed.

This matter was first raised by *Today Tonight* in July 2002, and the program was denigrated by the Attorney-General in a ministerial statement in August of that year. He referred to a report prepared by the Solicitor-General and commissioned by the Attorney-General which had rejected a number of allegations made by a well-known fraudster, Terry Stephens. On that occasion, the Attorney not only denigrated Channel 7 and *Today Tonight* and, in particular, its executive producer on that occasion, Graham Archer, but in June 2003 he wrote to the former executive director of the Law Society of South Australia, Mr Barry Fitzgerald, inviting Mr Fitzgerald to provide him with information that the Attorney might use in the house for the purpose of denigrating *Today Tonight*. In that letter he said:

> I recently made a detailed statement to the house concerning the Keough case, criticising the current affairs program *Today Tonight* for its sensational, unbalanced and gruesome treatment of the case. I might make another statement as a result of a further broadcast. If you care to provide me with your comments on—

a certain reference to Mr Fitzgerald—

> I would be happy to consider including them in my response.

My questions are:

1. How can the government explain the fact that a television crew was able to locate a missing cache of valuable antique weapons which had been missing for some time, and the police, with all their resources, were unable to do so?

2. Will the government commission an inquiry or an investigation and report to the parliament on serious concerns which have been raised in the public mind about the effectiveness of the protection of Liddy's assets for the benefit of his creditors?

3. Will the Attorney-General now apologise to *Today Tonight* for his outrageous attacks upon that program?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Attorney-General 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 questions about the Metropolitan Fire Service.

Leave granted.

The Hon. J.S.L. DAWKINS: I understand that Metropolitan Fire Service personnel, who are members of the United Firefighters Union of South Australia, undertook protracted industrial action from Monday 18 April in response to a lack of any official response to the union's log of claims presented to SAMFS on 10 February this year. The UFU bulletin *Word Back* indicates that the industrial action involved the banning of all report writing by all operational firefighters and officers, including the CommCen staff; and bans on all promotional activities as described in service administrative procedure 40, including meetings of committees; and bans on all multi-appliance drills scheduled after 1800 hours on any weekday or at any time on a weekend. My questions are:

1. Will the minister indicate what action she has taken to ensure that SAMFS management communicates with the UFU, and particularly its enterprise bargaining agreement representatives, in relation to the log of claims?

2. Will she also indicate what effect the protracted industrial action has had on the effective running of the MFS?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The industrial action was purely administrative bans, and they had absolutely no effect on the response by the MFS to any fires. I can tell the honourable member that cabinet has now endorsed the negotiations to take place and they are taking place. Obviously, I have had some discussion with all the relevant parties and those negotiations are now progressing.

The Hon. J.S.L. DAWKINS: I have a supplementary question. I understand the minister was not in the job when this started, but will the minister come back to the council and indicate why SAMFS management did not respond in any way at all to the UFU's log of claims from 10 February until the middle of April?

The Hon. CARMEL ZOLLO: I am not really certain that is the issue that the honourable member is suggesting it is. These things do take time, and meetings do have to happen between different parties. They were negotiated in good faith. As I said, there may have been a time lapse with my taking over as minister—these things do happen as well—but they are all in hand and all the parties are talking around the same table.

The Hon. A.J. REDFORD: I have a supplementary question. Who on the part of the government is responsible for these negotiations?

The Hon. CARMEL ZOLLO: Clearly I am the duty minister, but the Minister for Industrial Relations (Hon. Michael Wright) is the minister responsible.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! The Hon. Mr Redford knows his responsibilities with respect to making derogatory remarks about people in this council or another place.

CHALLENGER GOLD MINE

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the Challenger gold mine.

Leave granted.

The Hon. R.K. SNEATH: The Challenger gold mine in the north of the state is perhaps the most isolated mine. After initial open pit mining, the mine has moved to underground mining methods. Does the minister have any information on the progress of this mine, and has the company made any progress towards an extension of the life of the mine?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): Dominion Mining Limited recently announced that it had made a strong start to underground production at its 100 per cent owned Challenger gold mine in South Australia with mining of the first high-grade underground ore achieving positive initial grade reconciliations of 108 per cent with a head grade of 11.7 grams per tonne of gold. This compares with the modelled reserve grade 10.8 grams per tonne of gold. The tonnages being achieved are also in line with the model. Full-scale underground production is now under way at Challenger, with stoping commencing on the upper levels of the mine during January. Ore is currently being extracted from between the 1055 and the 1040 levels using up-hole stoping methods. Grades achieved during development at these sublevels were also excellent, with mill reconciliation of this development ore indicating an average grade of 11.2 grams per tonne of gold. This represents a very positive start to underground production at Challenger with mined head grades so far exceeding expectations.

Underground production for the period from January to June 2005 is forecast at 34 000 ounces at an estimated cash operating cost of $A390 per ounce. At the same time, Dominion has achieved excellent results from Challenger development drilling. Recent advanced diamond drilling of the next two stoping panels at Challenger carried out to assist with stope design has confirmed the high grade nature of the principal M1 shoot with best intersections of three metres at 40 grams per tonne of gold, 3.75 metres at 12.44 grams per tonne of gold and one metre at 129.5 grams per tonne of gold. Detailed percussion drilling targeting the folded keel of the M1 shoot returned excellent intersections including 2.25 metres at 161 grams per tonne of gold, 2.25 metres at 67.19 grams per tonne of gold and 3.75 metres at 24.56 grams per tonne of gold. This ore will be included within the current stope design.

Diamond drilling and underground development has also taken place on the M2 and M3 shoots. The result from the M2 shoot, which has generally returned lower grades than the M1 shoot, were particularly strong, returning intersections of three metres at 219.8 grams per tonne of gold, 1.62 metres at 141.8 grams per tonne of gold and 2.28 metres at 28.33 grams per tonne of gold. This material will be incorporated into the mine design. Development along the M3 shoot has also encountered some areas of abundant visible gold within narrow quartz veins, which will now be incorporated into the current mine plan.

Planning is currently at an advanced stage for a deep underground drilling program to commence from surface at Challenger early in the June 2005 quarter. This drilling, which was foreshadowed last year, is designed to increase the current underground reserve of a half a million tonnes at 10.4 grams per tonne of gold (which is equivalent to 171 000 contained ounces of gold) and extend the current mine life well beyond 2007. The program will include deep drilling to delineate depth extensions of the M1 shoot below its current down plunge length of 1 100 metres. A wildcat drill hole last year returned four metres at 22.03 grams per tonne of gold some 140 metres below the previous deepest hole, indicating the potential for significant depth extensions to the mineralisation. An inferred resource of 136 800 ounces has been delineated below the existing mine plan and the drilling will aim to upgrade this resource to reserve status. In addition, the drilling will target depth extensions to the M2 and M3 shoots with a view to achieving a substantial increase in the overall Challenger resource and reserve inventory.

I am also happy to be able to tell the council that Dominion has been successful in its application for funding in the latest round of PACE grants (the Plan for Accelerated Exploration). It will use this money for high-risk deep drilling that will better define the local geology. I congratulate Dominion on its efforts so far, and I wish it all the best for its future expansion.

UNDERPASS

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about the proposed underpass at the South Road, Grange Road and Port Road intersection?

Leave granted.

The Hon. SANDRA KANCK: The minister recently announced the building of a 600 metre underpass running underneath South Road from Grange Road to beyond the Outer Harbor railway line on the northern side of Port Road. Maps released detailing the plan showed that a number of residential buildings could be affected by the plan. My office has been contacted by a resident whose home is in that area. Naturally, she is anxious to discover whether this means that her house will be compulsorily acquired to facilitate the project, yet she has been told she must wait until July for further information. My questions to the minister are:

1. At the time the Infrastructure Plan was released, was it so lacking in detail that the width of the proposed underpass had not been worked out? If so, why was an Infrastructure Plan released for public comment when the width had not even been calculated?

2. What formula will be used to calculate compensation for any properties compulsorily acquired?

3. Will the minister guarantee that, should any property be compulsorily acquired for the development of the underpass, the owners of the property will be fairly compensated?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): For some time now the Hon. Sandra Kanck has been attacking the government for not releasing the Infrastructure Plan; but no sooner do we have it than she wants to go into the most intimate detail of it. In terms of planning for any road, I am sure that the honourable member would understand that there are—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The honourable member would, I am sure, understand that, in planning these major infrastructure developments, various degrees of refinement are contained within those plans from the original concepts to firming up the project in principle, and then to the detailed planning. That is the way things go, and I think that anyone

who has followed major public projects would understand that. I will refer the question—

The Hon. A.J. Redford: No vision for the future.

The Hon. P. HOLLOWAY: The Hon. Angus Redford does have some vision for his future and, obviously, it is not in this place. His vision is down there. That is the only vision we have ever heard from him. In fact, when one thinks about it, his plan to transfer to the lower house is probably the only tangible suggestion to come out of the opposition in this parliament in the past three years. I will refer the question to the Minister for Infrastructure in another place and see whether he can provide some further information. I am sure that the detailed engineering plans are advancing. Those sorts of engineering plans are extremely expensive and detailed, and I am sure that people will be talking to the individuals concerned.

The Hon. A.J. REDFORD: As a supplementary question: is there anything in the Infrastructure Plan for the residents of Bright?

The Hon. P. HOLLOWAY: I suggest that the Infrastructure Plan is one for the entire state. A number of projects will benefit people across the state. This is a very important question, because some comments have been made in country areas—sometimes put mischievously, no doubt, by opposition members (but there is also some interest from others)—that, essentially, the plan is one for Adelaide. The bridges over the Port River, the rail bridge, the road bridge and the dredging of the Port River are essentially a benefit to the whole state because Port Adelaide is the principal point of exit for this state's exports.

To the extent that we can reduce the costs of the transport of goods to our ports and we can bring in larger ships, that will benefit all our export industry in this state, particularly those bulk commodity goods, such as the grains industry and other industries, and the mining industry and others that are based in the regional areas of the state. So that infrastructure down there will be of benefit to all people of the state, because it will increase exports, reduce costs and make our state more competitive, and the benefits will flow on to everyone.

Of course, in relation to the South Road tunnel, which has been discussed, and the other roads, I am sure there are many residents of Bright, and other areas, who will directly benefit, as well as indirectly benefit, from that infrastructure. As for the finer detail, the state Infrastructure Plan has a 10-year vision. I suggest the honourable member read it in detail.

Members interjecting:

The PRESIDENT: Order! There is too much hubris in the council.

GAMBLING, MINISTERIAL COUNCIL

The Hon. NICK XENOPHON: My questions, which are directed to the Minister for Industry and Trade, representing the Minister for Gambling, are:

1. Will the minister provide details of the matters raised, proceedings and outcomes of the Ministerial Council on Gambling held in Adelaide last Thursday, 28 April?

2. Does the minister concede that, despite his criticism of the Federal Minister for Community Services over the lack of action on ATMs at gambling venues, the state government has the power to remove ATMs from venues or, at the very least, to reduce access to cash from such machines at venues?

3. What steps has the Liquor and Gambling Commissioner's office taken since May 2001, when amendments to the Gaming Machines Act were passed in relation to restricting ATM access?

4. What advice has been received from the banking industry, in particular, with respect to the legislative measures passed in May 2001?

5. What undertakings has the minister received from the federal government in relation to funding for problem gambling rehabilitation services in this state?

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

SOUTHERN SUBURBS, INFRASTRUCTURE

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Planning a question about the Southern Metropolitan Growth Management Stage II PAR.

Leave granted.

The Hon. T.J. STEPHENS: Recently the government released the Southern Metropolitan Growth Management Stage II Draft Plan Amendment Report. It canvasses the release of further land parcels through Aldinga, Aldinga Beach and Sellicks. The report acknowledges a lack of infrastructure in the south. Media reports also highlight a lack of essential services and facilities. My questions are:

1. Will the minister agree to upgrading infrastructure in the southern suburbs before unfreezing the current controls and making further land releases?

2. Will the minister undertake to produce a scorecard that details the infrastructure needs in the south and present that to the parliament?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The honourable member's colleague the Hon. David Ridgway and I have just attended a lunch with the Urban Development-

Members interjecting:

The Hon. P. HOLLOWAY: No, we did not talk about that, but there was a very interesting discussion in relation to the very issues about urban containment, and growth boundaries, and the impact that that will have on infrastructure. There is no doubt that if we are to be successful in containing growth within the metropolitan area of Adelaide, within those boundaries, that will provide a number of challenges for the government.

One of the benefits was discussed by the planner for the City of Adelaide who spoke at the Urban Development Institute of Australia lunch that we have just been to. The point that he made was that, of course, the City of Adelaide has had quite significant growth in terms of increasing the number of residents. I was not aware of that growth until then. There has been significant growth in the area and, of course, the city itself has a significant role to play in terms of easing the pressure on those boundaries.

The honourable member asked about the provision of infrastructure. Of course, that is one of the choices we must face in terms of urban development. If we were to allow the urban sprawl to continue, that will put significant pressure on existing infrastructure. On the other hand, if we have some forms of urban consolidation increasing the population density within areas, then we can make more efficient use of the infrastructure that exists within the areas. These are all

challenges that will have to be faced by this city over the next 10 or 15 years.

I will look at the particular issues raised by the member in his question. Obviously, it does not matter whether it is in the south or north, or anywhere else. If we are to release land for residential development we need to do so in an ordered, sequential way that has minimal impact on infrastructure. We need to sequentially release that land so we can deal with those issues and the provision of infrastructure.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Well, the Infrastructure Plan and the Planning Strategy have to integrate. That is one thing that has not been done in the past. One of the things this government has done through the Building SA suite of documents was a housing plan, and the Planning Strategy I released recently for metropolitan Adelaide and the outer metropolitan region.

The Hon. A.J. Redford: Nothing for the south!

The Hon. P. HOLLOWAY: There is plenty. Those two volumes of the Planning Strategy, and the Infrastructure Plan and the housing plan as part of the Building SA suite documents are all integrated. That is one thing we did not see in the past. Under the previous government we did not have an infrastructure plan. It did not exist. There was no infrastructure plan, let alone trying to integrate infrastructure needs with a planning strategy. The two should go together. This government has put in an enormous amount of work. It is an enormously complex and difficult task to develop these plans for the whole of Adelaide and to integrate all the planning strategies. This government has done it—and it is the first government to do it. It is filling a huge void that existed under the previous government.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I think that adequately answers the question. Unlike the honourable member's government, which let the market decide and which had no proper planning strategy or infrastructure planning at all, this government has integrated the planning and infrastructure strategies to ensure that we do get that sort of desirable outcome for the people of this state.

The Hon. T.J. STEPHENS: I have a supplementary question. Given the minister's long and extensive answer, do I take it that it was an acknowledgment that we do have an urgent need for upgrading infrastructure in the southern suburbs?

The Hon. P. HOLLOWAY: There is demand on infrastructure in many areas, not just the metropolitan area. We have members opposite who are asking continually for these and demanding at the same time that we cut taxes. They are saying that tax levels are too high. The Leader of the Opposition wants to give away tens, maybe hundreds, of millions of dollars in tax. That is what he is talking about. Other members want it spent in all sorts of other areas.

The opposition will have the opportunity over the next 10 months as we approach the election to work out its priorities. It will be able to come up with a plan. Members opposite will know what is in the documents. They will be able to put their plan—if they have one—to the people of the state and say where they will spend their money. What they cannot do, and what they will not be able to get away with doing for much longer, is keep demanding more services and people paying less tax. Sooner or later the day of reckoning will come.

The Hon. J.F. STEFANI: I have a supplementary question. Does the minister admit that other plans previously were provided and produced? I refer to the volume—

The PRESIDENT: The honourable member cannot do that. That is debating the issue. You have asked whether there were other plans. That is a legitimate question.

The Hon. J.F. STEFANI: Were there other plans, in particular the plans published in 1994, Volume 1 of the South Australian Planning Strategy?

The Hon. P. HOLLOWAY: Lots of plans and strategies have been produced, and a lot of this planning began in the early 1990s with the new Development Act. The point I was making earlier—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: No. The point I was making is that this is the first time there has been integration. I was talking about a detailed infrastructure plan for this state over the next decade. Not only do we have this infrastructure plan for the state, but also it has been integrated with the planning strategy so that the two work together rather than being at cross-purposes. Something that you hear all the time from people in the development industry is that in the past there has been conflict between plans and the actual delivery of services. In fact, sometimes the two have been at cross-purposes: a plan might say one thing but actions that have been taken by government have been completely at cross-purposes. What we have now is a planning strategy and an infrastructure strategy which will complement our state objectives.

LAW AND ORDER

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Attorney-General, a question about correspondence received from the former DPP.

Leave granted.

The Hon. J.F. STEFANI: The Rann Labor Government has been promoting its tough stance on law and order, promising the South Australian community protection from serious criminal offences. I refer to an article in *The Sunday Mail* of 1 May 2005 headed 'Trials derailed—Rofe warning'. In the article, the former DPP, Mr Paul Rofe QC, indicated that he had warned the state government of flaws in the legal system that allowed defendants to escape convictions for major crimes. Mr Rofe specifically referred to rules that allow defence teams to call expert witnesses with little or no notice. He is quoted as saying, 'Its derailed quite a few trials'. He further said, 'Psychiatric evidence can be used to absolve the defendant of responsibility. It's quite hard to find someone to contradict that evidence if you've only had a day's notice'. In view of these statements, my questions are:

1. On what date did the Attorney-General or the Rann Labor government receive representations from the DPP?

2. What steps has the Attorney-General taken to address the concerns of the DPP, and on what date?

3. Will the Attorney-General table the correspondence that the Rann Labor government has received in relation to these issues?

4. What action has the Attorney-General taken on behalf of the Rann Labor government to correct the problems identified by the DPP?

5. Will the Attorney-General advise the parliament how many trials have been derailed before and since the receipt of this correspondence from Mr Rofe?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): First, in relation to the latter question, I am not sure what the honourable member means by 'trials that have been derailed', and I do not know whether that can be easily measured. However, I will refer those questions to the Attorney-General and bring back a reply. Mr Rofe's comments came out of the Eugene McGee case. Of course, those matters are all going to be part of the royal commission into the matter which has now been established by the government.

INTERNATIONAL FIREFIGHTERS DAY

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about International Firefighters Day.

Leave granted.

The Hon. J. GAZZOLA: Today is International Firefighters Day. This day is to recognise the fine work of our salaried and volunteer firefighters as well as remembering those who have died while serving the community. Will the minister provide some details to the council about the make-up of our fire services in South Australia and the number of firefighters who have died on duty?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): Each year, 4 May is the day on which millions of firefighters throughout the world are honoured for their tireless commitment to the safety and security of their communities. Today is the seventh occasion on which International Firefighters Day has been celebrated. It is also known as Saint Florien's Day. Saint Florien is the patron saint of all firefighters, and I am told he was the first known chief of a firefighting squad during the days of the Roman empire.

While the day is an opportunity to pat our firefighters on the back, it is also a chance to remember those firefighters who have died in the line of duty. In South Australia, we have 755 full-time and 237 part-time or retained firefighters employed by the Metropolitan Fire Service. Of the 755 full-time MFS firefighters, 751 are men and four are women; and 212 men and 25 women make up the fire service's part-time or retained firefighters. Four members of the Metropolitan Fire Service have died in the line of duty, while two MFS firefighters were killed on active duty during World War II.

The first recorded death of a Metropolitan Fire Service firefighter on duty in South Australia was in 1886, while the last was in May 1977. The South Australian Metropolitan Fire Service is considered to be one of the oldest government-funded fire services in the world—a fact of which I am sure all members are very proud. Our Country Fire Service has close to 16 500 volunteers throughout the state. Their role in the community was never so apparent than on 11 January this year when a devastating bushfire swept through around 78 000 hectares of lower Eyre Peninsula, leaving nine people dead and destroying more than 90 homes. Of course, two of the victims of that fire were CFS volunteers—Trent Murnane from the Cummins CFS brigade and Neil Richardson from the Ungarra brigade.

As my colleague Patrick Conlon, the former emergency services minister, wrote in the most recent edition of the CFS *Volunteer* magazine: 'They lost their lives trying to protect the community. Their community will never forget them.' Since 1979, 13 CFS volunteer firefighters have lost their lives in the line of duty. Along with our MFS and CFS firefighters, the Department for Environment and Heritage also has firefighting crews based around the state. The DEH employs 265 firefighters and has recorded no deaths in the line of duty. The DEH firefighting crews are invaluable support, particularly for the Country Fire Service when CFS crews are engaged in battling fires throughout the state.

International Firefighters Day (or Saint Florien's Day) is celebrated in many countries of the world, including the United States, the United Kingdom, Germany and New Zealand. Recognition of firefighters and, indeed, the international brotherhood of firefighters is growing all the time. South Australian governments (past and present) have acknowledged and have expressed the highest level of respect for our volunteer and salaried firefighters. I would encourage all members of parliament and all South Australians to take a moment today to reflect on the vital community role of our firefighters and remember those who have lost their lives while serving their community.

GROCERY MARKET

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Agriculture, Food and Fisheries, a question about competition in the grocery market.

Leave granted.

The Hon. IAN GILFILLAN: The most recent issue of the Apple and Pear Growers Association of South Australia newsletter (a well read and widely circulated publication) carried on its front page an article reproduced from *The Weekly Times*. The article written by Kate Adamson is entitled 'Import Threat to Growers'. The article notes that, with the expansion of Coles and Woolworths home-brand ranges on their shelves, local growers and producers are likely to be squeezed out of the market. The article states:

> A supermarket push into home brands will see cheap imports knock Australian products off the shelves, an expert has warned. Coles announced this month it was expanding its home-brand labels to deliver high profits.
>
> While it will keep best-selling brands in each retail category, smaller brands of the third or fourth best selling products face the boot. Woolworths plans to follow suit.

The Murray Goulburn Cooperative is the largest cooperative dairy company in Australia. It makes the Devondale dairy products. Looking at its web site, it says that the cooperative:

> . . . collects more milk from farmers than any other company and is responsible for more than 30 per cent of Australia's milk production. All Murray Goulburn dairy farmer suppliers hold shares, and shareholder directors of the cooperative are elected by fellow farmers.

This company has been the first high profile casualty. Both Coles and Bi-Lo have dropped the popular brand from their shelves. The article also identifies SPC as a casualty. It states:

> Fruit and vegetable processor SPC Ardmona also felt the pressure recently and cut supply contracts to tomato growers. Managing Director Nigel Garrad said the company, a traditional supplier of home brands, would tender to supply the supermarket but it appeared tenders were going to cheaper Italian products. Australian tomatoes make up 45 per cent of the retail market and cheaper Italian imports the other 55 per cent.

Amanda Young, chair of the Australian Centre of Retail Studies at Monash University, has said that major supermarkets have no loyalty to Australian producers. Quoting again from the article, Ms Young said:

> They [major supermarkets] would definitely look at global sourcing.

The Horticulture President of the Victorian Farmers Federation, Colin McCormack, expressed considerable concern about this trend, as follows:

> They are walking away from Australian clean and green products and are going to countries where restrictions are not high and there is cheap labour.

He continued:

> We might be better off selling our farms and buying Coles and Woolworths shares.

There are parallel problems in the grape growing sectors, and many members will have been aware of the meeting of 500 people in the Riverland last week, where serious concern was expressed. The recent report by the Rural Industries Research and Development Corporation clearly found that farmers are losing income because of the relative market power that food product manufacturers have. It highlighted that this was particularly the case for cereal crops. My questions to the minister are:

1. Does he share the concern of local producers about the steeply rising percentage of imported product at the cost of local product on our grocery shelves?

2. Does he agree that there is an enormous imbalance in power between our state's primary producers and the major grocers that dominate the markets?

3. Does he think that it is in the best interests of the state for the grocery market to be dominated, as it currently is, by so few—in fact, probably only two—players?

4. What will the minister do to safeguard primary producers in this state whose livelihoods and those of our regional communities are threatened by the continued expansion and integration, both horizontal and vertical, of the major grocers?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his important questions. They may well have implications for more than one ministry—apart from agriculture, food and fisheries, perhaps consumer affairs and regional affairs and even trade. I will refer those important questions to the ministers in the other place and bring back a response.

CIGARETTES, REDUCED FIRE RISK

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about reduced fire risk cigarettes.

Leave granted.

The Hon. NICK XENOPHON: Material I have recently received from Action on Smoking and Health Australia (and, in particular, from Anne Jones, the Executive Director of that organisation) raises the issue of the fire propensity of cigarettes, given that they contain accelerants that allow them to keep burning. A paper prepared by Professor Simon Chapman, the Professor of Public Health at the University of Sydney, sets out the statistics on fires caused by cigarettes and smokers' material.

The statistics set out by Professor Chapman include the following. In Victoria, 7 per cent of wildfires (or bushfires) are caused by cigarettes, and about 9 per cent of structure fires in Melbourne are caused by cigarettes, which translates in that period to about 30 per cent of fatalities. In Queensland, of the 74 structure fires in 1996 to 2000, 48 per cent involved cigarettes and smokers' materials—i.e. matches, lighters and so on. In South Australia, about 25 per cent of total fires are caused by cigarettes, and the risk for this can be significantly reduced by removing certain materials—certain accelerants—in the cigarettes. Fire brigades have been on side on this issue, and I understand that it was taken to an inaugural meeting of emergency services minister recently, based on the information from Action on Smoking and Health.

In New York and Canada legislation has already been passed for reduced-fire cigarettes, and tobacco companies admitted in industry documents that it is both technically and economically feasible for them to produce self-extinguishing cigarettes. Given that discarded cigarettes are estimated to cause around 7 per cent of bushfires in Australia and 25 per cent of all fires in South Australia, resulting in an average of 21 deaths a year, $80 million in annual costs and immeasurable damage to native species and the environment, what actions will be taken by the minister before the next bushfire season commences to ensure that a national reduced fire risk cigarette standard is developed to save lives, money and bushland?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his important and interesting question. I guess that implications flow across the ministry for health as well as emergency services. In relation to cigarettes causing bushfires, I know that the CFS does have strategies in place. I understand that it is continuing to develop and extend community fire safe and bushfire blitz programs. Also, of course, the MFS in urban South Australia has education programs (in particular with school children) targeted at those who offend to ensure that they do not reoffend and that they understand the significance of carelessness. Sometimes, regrettably, children have access to their parents' cigarettes. In relation to any particular—

The Hon. Ian Gilfillan: They will have to roll their own.

The Hon. CARMEL ZOLLO: That is probably not a good example, either.

The Hon. Nick Xenophon interjecting:

The Hon. CARMEL ZOLLO: The problem is the cigarettes. I will have a conversation with the Minister for Health in the other place and bring back a response for the honourable member, as well as taking some advice in relation to any other campaigns we may have other than those I have mentioned.

WORKCOVER

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Minister for Administrative Services, a question about WorkCover.

Leave granted.

The Hon. A.J. REDFORD: Members may recall that, during the last sitting week, I pointed out that taxpayer liability for workplace injury under the stewardship of this minister had blown out to nearly $1 billion. Members might also recall that the poor journalist who wrote my question in *The Advertiser* was vilified by the minister as a consequence of writing the story. Last Sunday's *Sunday Mail* reported that one of the four claims managers for WorkCover is now closing its business and leaving South Australia. I know that Vero, the claims manager that is leaving, wrote to its clients and said that it would be working closely with WorkCover to determine an appropriate transition plan.

It also said that the 'dates for leaving South Australia are yet to be determined'. I understand that the board of WorkCover met on Thursday and last Friday. Notwithstanding that, the Minister for Administrative Services has remained strangely silent. I have heard that Vero wants to leave by the

end of June this year. It cannot wait to leave—some 12 months before new contracts for claims managers begin; in other words, a 12-month void for the 20 per cent of WorkCover employers who are currently with Vero.

I am also told that significant numbers of Vero employees are already looking for other employment opportunities and may well be lost to the industry if this issue is not resolved in a timely fashion. In light of that, my questions are:

1. Does the government agree that Vero employers have the right to choose whatever claims manager that remains, that is, CGU, Alliance or QBE?

2. What assurance can the government give that workers will not be affected by Vero's decision?

3. What will be the impact on the claims manager contract tendering process that is currently under way?

4. Will the minister assure this parliament that no other claims manager is thinking of leaving South Australia?

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

SENIOR EXECUTIVE COMMITTEE

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government a question about the very powerful cabinet Senior Executive Committee.

Leave granted.

The Hon. R.I. LUCAS: Questions were asked yesterday about the bold move, as described by the Premier, to appoint non-elected and non-government people to members of the very powerful Senior Executive Committee of cabinet. The minister will know that, as a publicly elected member of parliament, he is required to publicly list a register of interest which is available for all to see, and that he also has separate requirements, as a minister of the Crown, to lodge a register of interests with, I presume, the cabinet secretary or the Premier, depending on the arrangements of the new government. Secondly, the member will also be aware, as a member of the cabinet committee, that he is bound by cabinet confidentiality, that is, he is not to discuss, outside the bounds of the cabinet committee any issue which is discussed within it. Thirdly, as a member of cabinet committee, he is bound by cabinet solidarity, that is, if his decision happens to be in a minority, which, for this minister may well be the case, he is nevertheless bound by the position of cabinet solidarity, and publicly must support the decision of the majority in the cabinet. My questions are:

1. What conditions has the Premier required of the two non-elected non-government members of the very powerful Senior Executive Committee of cabinet in relation to the issue of pecuniary interests?

2. What are the requirements on the two non-elected non-government members in relation to cabinet confidentiality?

3. What are the requirements on the two non-elected non-government members of the committee in relation to the principle of cabinet solidarity?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The Leader of the Opposition has asked what requirements the Premier has made in relation to those matters. I will seek that information from the Premier.

The Hon. A.J. REDFORD: I have a supplementary question. What parts of the Ministerial Code of Conduct apply to these two people?

The Hon. P. HOLLOWAY: I would imagine none of them in the sense that neither is a minister, but usually ministerial codes of conduct apply to ministers. Let me just say that the chair of the Economic Development Board has in his capacity, like a number of other people in similar positions—for example, the chairs of government boards, the chair of WorkCover or other boards—access to confidential information. There are no examples where any of that information has been improperly dealt with, to my knowledge, and I do not expect there would be. Really, I think the Leader of the Opposition was essentially trying to beat up something out of nothing here. The fact is that the record shows that the Chairman of the Economic Development Board and the Chairman of the Social Inclusion Board, just as a number of other senior board appointments made by this and other governments, are quite capable of understanding and doing their public duty.

The Hon. J.F. STEFANI: I have a supplementary question. Is the minister aware that the appointment of Monsignor Cappo is potentially in conflict with canon law?

The Hon. P. HOLLOWAY: I certainly would not wish to pass any opinion at all in relation to canon law. It is not a matter in which I have any expertise whatsoever. I was going to say nor could one expect it of the Attorney, but it is a matter in which the Attorney is very well versed in relation to that. However, I do not think it is really appropriate. I think canon law is best left to the church. I think it is more appropriate that it be left to the church to interpret its laws rather than the government.

The Hon. A.J. REDFORD: I rise on a point of order. I note that no ministerial statements were tabled today in relation to the normal practice of ministerial statements being given in another place. Can the minister assure us that there were no ministerial statements, or are they likely to be coming later?

The PRESIDENT: There is no point of order in that. That is the Hon. Mr Redford wanting to ask some questions.

The Hon. P. HOLLOWAY: I will certainly endeavour to find out for the honourable member.

MATTERS OF INTEREST

INDUSTRIAL RELATIONS

The Hon. G.E. GAGO: I rise today to highlight the adverse effects that the Howard government's proposed industrial relations changes will have on Australian workers. Last time I spoke in this debate on the impact that it would have on women workers, in particular, but today I would like to talk more broadly about its impact on Australian workers. From July the Howard government will have control of both houses of federal parliament. It will be able to implement a range of changes that will put at risk the high standard of living and job security enjoyed by many Australian workers. It is already clear that the Howard government wants to use this new power to tear apart our industrial relations system for the good of the corporate elite, but to the serious detriment of workers and families. These changes have been referred to as reforms, although I will refrain from using that word, which is more often reserved for use when improvements are made. Clearly, in this case, rather than improvements, we will be taking several very large steps backwards.

These reforms include diminishing the role of the Industrial Relations Commission to resolve disputes and set fair minimum standards; pushing people to sign individual contracts, which means if a person is not skilled in negotiating or simply not aware of their rights they may find themselves signing a contract which binds them to wages and conditions lower than their co-workers who perform the same or similar duties and who have the same education, training and experience; and exempting small businesses with fewer than 20 employees from unfair dismissal laws. This change will affect around 3 million workers, and it will mean that anyone can lose their job without a reason and without notice. It will mean that employers will be able to get away with all sorts of improper behaviour, such as bullying and harassment, with little recourse available to employees. Another serious step backwards will be the federal government's attempts to restrict union workers in terms of entering workplaces.

These changes will affect up to 8 million people, who will be brought under this proposed single national system through the scrapping of a century-old state-based Industrial Relations Commission, which provides strong union rights and protects around half the work force. Such changes will represent a major blow to the living standards of working Australians.

One of the most critical threats in relation to the proposed IR changes is the government's intention to have a final say over the establishment of minimum wage rates. This is particularly worrying, as the employment minister Kevin Andrews recently was quoted as saying that he thinks minimum wages in Australia are about $70 too high. I repeat: the federal employment minister believes that minimum wages in Australia are $70 too high. Clearly, he has never had to live on the minimum wage. This translates to Andrews' believing that people working full-time in minimum wage positions, such as hotel workers, cleaners and sales assistants, should be paid less than $400 a week—or less than $10.50 an hour. I would love to see the minister survive on those rates of pay!

The federal Liberal government's justification for such a move is that the IRC lacks economic rigour, and, of course, it continually cries wolf, repeatedly claiming that increasing minimum wages will lead to job losses. However, this argument, we know, is clearly flawed. The IRC has a legal requirement to consider the economic impact of its decisions and there is no substantial evidence that such increases cause job losses. For example, over the past five years minimum wages have increased by 2.9 per cent in real terms in Australia but have fallen by nearly 12 per cent in real terms compared with the United States. In the same period, employment growth has exceeded that of the US threefold.

Any IR changes that give government more control over establishing minimum wages would lead us into an environment similar to that of the US, where there has been no pay rise for people on minimum wages for eight years, resulting in further inequity. As I have said previously in this place, the federal government simply cannot be trusted to deliver a decent working wage to low income workers. We have clear evidence of this. For instance, the Coalition has opposed every claim that the ACTU has sought to increase the minimum wage since 1996. This means that, if the Howard government had succeeded, workers would be $2 200 worse off a year. The federal Howard government has an appalling track record when it comes to looking after workers, and its looming control of the Senate only spells more hardship and pain for ordinary working Australians.

ARTS/BUSINESS PARTNERSHIP

The Hon. J.F. STEFANI: Today, I wish to speak about a joint arts/business partnership between Parallelo and the Italian Chamber of Commerce and Industry, which was launched by the Hon. Paul Holloway on 28 April 2005. I was pleased to be one of the invited guests who attended this function in the foyer of the Adelaide Festival Theatre. The partnership between these two organisations reflects the spirit of the community and the culture and commerce which has been promoted over many years by both Parallelo and the Italian Chamber.

This new initiative will provide further opportunities for the two entities to continue their work in facilitating links with the state of South Australia and the City of Adelaide in the areas of the arts and business. Adelaide will be promoted as a city of culture and the arts as well as a city which offers many business opportunities. The cultural diversity of our community will be utilised to further achieve international, cultural and economic exchanges through the promotion of business, trade and cultural productions and through new performances to showcase South Australia both nationally and internationally.

The Italian Chamber of Commerce, which has been established for many years, has facilitated many millions of dollars worth of export from South Australia. Parallelo and the Italian Chamber of Commerce and Industry will engage in new markets in a new and dynamic way. In his speech at the launch, the Chairman of the Italian Chamber of Commerce, Mr Robert Berton, said that there is a large demographic of children and grandchildren from an Italian background who are professionals, artists, business leaders and educators with an entrepreneurial spirit and a substantial disposable income and who also retain a deep passion for their heritage. They are the Australians of Italian origin, who are pursuing excellence in their field of business and personal endeavour and who, through their journey of discovery in other parts of the world, are becoming the ambassadors for our state in the arts and commerce.

Parallelo is a unique Australian performing arts organisation which, since its inception, has embraced cross-cultural forms of artistic expression. From its humble beginnings within the Italo-Australian community in 1984, Parallelo has achieved numerous awards for its groundbreaking work, including the prestigious Sydney Myer Performing Arts Award in 1993 for its distinctive contribution to the Australian performing arts. Parallelo has toured both nationally and internationally and has appeared at arts festivals in Singapore and the UK.

On the other hand, the Italian Chamber of Commerce and Industry has a distinguished record as a member of the Australian network of the Italian Chambers of Commerce and is part of a worldwide network of 71 foreign Italian Chambers of Commerce. It is a founding member of the Council of International Trade and Commerce of South Australia and a recipient of several awards, including an award for International Chamber of the Year in 2004.

I take this opportunity to offer my sincere congratulations to the Chairman of Parallelo, Mr Rodin Genoff, and the Chairman of the Italian Chamber, Mr Robert Berton, for taking this initiative. I would also like to acknowledge the work of the Artistic Director of Parallelo, Ms Teresa Crea, and the Secretary General of the Italian Chamber, Mr Teodoro Spiniello, who together with the support of

members of their respective boards have achieved outstanding success for both organisations. I wish them all every success for the future.

GREAT AUSTRALIAN OUTBACK CATTLE DRIVE

The Hon. R.K. SNEATH: Today I would like to talk about some Outback events which I recently attended. On the weekend, I attended the Great Australian Outback Cattle Drive, which started on 30 April at Birdsville.

The Hon. J.S.L. Dawkins: How many tyres did you lose?

The Hon. R.K. SNEATH: Tyres? Visitors get to join genuine drovers and move up to 530 head of cattle and 120 horses 514 kilometres down the traditional Birdsville Track stock route to Marree. The journey will wind down along the Diamantina River, on the edge of the Simpson Desert, through spectacular wetland areas which I must say are very dry at the moment and which feed into the Lake Eyre National Park and into the 'gibber country'—and that gibber country was responsible for a couple of tyres—of the Sturt Stony Desert.

Building on the success of South Australia's 2002 Year of the Outback events, the 2005 Great Australian Outback Cattle Drive will provide a great opportunity to further promote South Australia as the 'Gateway to the Outback'. The handover of the cattle function is a symbol of having the cattle handed from the suppliers to the boss drover for his duty of care for the journey from Birdsville to Marree. It has been described as a spiritual transfer, and the ceremony includes a religious blessing, with three ministers attending from Whyalla and Port Augusta. The cattle are officially counted, with paperwork completed to confirm the weight and condition of the cattle. This is important as there needs to be as many cattle in Marree at the end of the journey as leave from Birdsville. I do not know whether that was the case in the old days—I think they used to eat one or two along the way, but they might have picked up a couple of strays as well.

The majority of cattle on this drive were female cattle, and the 530 cattle for the event were supplied by four nearby stations. I was fortunate enough to meet many legends of the Outback, including Eric Oldfield whom most members would know and who is certainly a legend of the Outback, as well as the Oldfield family for that matter. They own many stations (many of which are tourist stops as well) and roadhouses in the area, and they have supplied all sorts of provisions to visitors to the Outback. Of course, we all know Keith Rasheed from Wilpena Pound, and he was heavily involved as well. I congratulate the many volunteers. Many young people from TAFE volunteered their time to look after the visitors. Many of the visitors who paid their money to participate in the cattle drive came from the United States, France, the United Kingdom, Canada, Poland, New Zealand and most Australian states.

I was also delighted to witness the cooperation between the South Australian government and the federal government and the community, and the fantastic support from the partners and sponsors, resulting in making this a wonderful event and a reality for the participants. In 2004, the Flinders Ranges and Outback tourism region attracted an estimated 609 000 overnight visitors who stayed nearly 2.1 million nights in the region. I understand that the next cattle drive is in 2007, so we can all put our names down for it. This is a—

The Hon. Carmel Zollo: Do you have to ride a horse?

The Hon. R.K. SNEATH: Yes, you have to ride a horse if you participate and if you pay your money. This is a great opportunity to relive the spirit of Australia's famous drovers about whom Lawson and Paterson wrote so much, witness spectacular sunrises and sunsets and clear night skies full of bright stars, and sit around the camp fire and hear the stories of Aboriginal culture and life on an Outback station. I thoroughly recommend it.

The Hon. R.D. Lawson interjecting:

The Hon. R.K. SNEATH: Yes, they had a fully equipped bar. It is not quite as rough as when the old drovers did it. The tents and accommodation were magnificent with septic toilets, hot showers, a bar and also a very good chef. There was plenty of food and big breakfasts, as you would expect in the Outback. However, on the way home, I also ran into the Bikes on Wheels: 37 riders of all mixed ages tracking the route Burke and Wills took to the cape, travelling from Port Augusta through the Birdsville Track. I congratulate those riders on their effort and I hope that they all arrive safely.

Time expired.

GOVERNMENT CONVENTIONS

The Hon. R.I. LUCAS (Leader of the Opposition): I raise two issues in relation to the Treasurer's breaching longstanding conventions that have governed the behaviour of treasurers over many decades. The first has been raised in this chamber before and refers to the issues relating to the appointment of senior public servants within the Treasury department. The opposition has put its position on a number of occasions, but Treasury has always had a position where the Under Treasurer and the two deputy Under Treasurers (where there have been two) have always been seen to be completely bipartisan in terms of their operations—and, indeed, that is the way it ought to be. As I have indicated before, Mr John Hill, who I think is an outstanding Deputy Under Treasurer, is the perfect model of the public servant who serves loyally governments of all political persuasions.

I have highlighted before that the Treasurer has referred, not only to caucus members but also to others outside the caucus, to having been pleased that the Rann government appointed two Labor people to the deputy under treasurer positions. I also note that the Treasurer over two years now has refused to answer a series of questions in relation to the advice he received and discussions he had in relation to those appointments. I note that there has been an advertisement for a deputy under treasurer's position in recent times, and I hope and trust that the Treasurer, having seen the error of his ways and the ways of his government, will now ensure that the government and the government processes will make sure that the role model of Mr John Hill—and, indeed, others who have gone before him in the role of deputy under treasurer—will be followed and that whoever is appointed will be able to loyally serve governments of all political persuasions, whether that be the current government or, indeed, a different government.

The second area where this Treasurer has broken longstanding convention has been through the use of section 32 of the Public Finance and Audit Act to revisit past decisions of former governments. As you will know, Mr President, the Treasurer, together with the member for Elder (the then minister for emergency services, I think), took up the issue of a section 32 Auditor-General's investigation of decisions in relation to ambulance services in the southern suburbs and related issues. As I said, treasurers before this current Treasurer never used the very powerful provision of sec-

tion 32 under the Public Finance and Audit Act to revisit past decisions of former governments. It has been a convention that clearly has been broken in a political way, in my view, by this Treasurer.

Over the past six months, significant concerns have been raised with me about four particular issues, and they are as follows. First, the Treasurer's handling of the National Wine Centre negotiations and investigations and his refusal to answer questions as to whether or not he or other officers breached Treasurer's Instructions or other government guidelines in the handling of those negotiations. Secondly, the current Minister for Transport's handling of the green building tender arrangements (that was a proposal that did not go to open tender) and the minister's refusal to again answer questions as to whether or not Treasurer's Instructions have been breached in any way. There is also the matter of the current Minister for Infrastructure's handling of two other issues: the Port River crossing proposals, which have been quite complex (and concerns have been raised about aspects of that), and also the ICT tender contract arrangements (and, again, concerns have been raised about delays and processes that have taken place). All three of those issues have been handled by the current Minister for Infrastructure.

Given that the government has indicated that any breach of Treasurer's Instructions is, in its view, unlawful and warrants disciplinary action as it relates to public servants, the issue of whether or not either this Treasurer or the Minister for Infrastructure, with respect to any of those four issues, has breached Treasurer's Instructions or, indeed, any other government guidelines and requirements, is a serious issue. I want to flag at this stage (given the precedent established by the current Treasurer) that, subject to further information the opposition receives, there might be the prospect that a future government will be looking at section 32 inquiries in relation to one or a number of the issues that were handled by the current Treasurer and the Minister for Infrastructure.

Time expired.

EQUAL OPPORTUNITY ACT

The Hon. KATE REYNOLDS: Mr President, you will remember that the ALP's millennium year state convention called on the party to review and broaden the grounds on which discrimination would be outlawed. This was reflected in the party's platform statement at the time and became an ALP election promise in the lead-up to the 2002 state election. In November 2002 (after that election) the Attorney-General, when announcing that the Equal Opportunity Act was to be reviewed, said:

> This review is an important step on the path to fulfilling the government's pre-election commitment to ensure all South Australians are protected against unjustified discrimination.

Further he said:

> This government is committed to modernising the laws.

Finally, in November 2003, the Attorney-General (Hon. Michael Atkinson) and the then social justice minister Stephanie Key released a framework paper for comment. The Attorney said:

> We are committed to modernising our laws to ensure they comprehensively protect South Australians from unjustified discrimination.

I note that this implies that the Attorney believes that some discrimination is justified; perhaps that is why, six months before, he had abandoned a discussion paper issued the previous year which resulted in more than 3 000 submissions being received to outlaw discrimination on the grounds of religious belief. Instead, he announced that the Christian churches would 'enter into dialogue' with groups who had supported such a move. Needless to say, that dialogue has not occurred and, instead, the church has been given a seat at the table of executive cabinet. The Attorney also said:

> Our state's Equal Opportunity Act was among the nation's pioneering legislation when it was enacted in 1984, but now it is time for a fresh look at the challenges, difficulties and downright unfairness that can still face many South Australians going about their daily lives.

The Attorney said:

> Discrimination can be an emotionally crippling experience whether it arises from age, disability, sexuality, race or family and caring responsibilities, just to name a few.

So, at the time, it sounded as though the Attorney and the Rann Labor government understood and cared. They talked big. In fact, they even talked about how they could not support my amendment to the act to outlaw discrimination on the basis of a person's caring responsibilities because, they said, they were nearly ready to introduce their own swag of amendments.

Members will remember in 1994 that Brian Martin QC (as he was then) published a review of the Equal Opportunity Act at the request of the Liberal government. He recommended many changes to the act. I do not have time to outline all those now, but it was a decade old and a number of changes were needed, including amendments to the definition of sexual harassment, changes with respect to access to premises and particularly changes around mental illness. Specifically, the report recommended that the 1993 commonwealth definition of disability be adopted because the South Australian definition was so limited.

The discussion paper issued by the Rann Labor government canvassed some of these changes and asked interested South Australians to spend their summer break preparing a submission due by mid January 2004. In the framework paper, the Attorney said:

> The government is concerned that amendment to South Australia's equal opportunities laws is long overdue. Whereas South Australia was once a leader in equal opportunity matters, it now lags behind other Australian jurisdictions.

He said that the Equal Opportunity Act of 1984 would be amended by the end of 2004. They talked big but they did little. We have not heard how many submissions were received or what those submissions recommended. We do not know what the Attorney thought about the submissions, nor what the Minister for the Status of Women thought. We do know that some ALP backbenchers and members were keen to fulfil the ALP's election promise. We knew that parliamentary counsel was busy drafting a new bill. So, in good faith, we waited. But, today, on behalf of the Rann Labor government (which has not had the courage to do it itself), I am announcing that cabinet has decided to break that promise.

It decided back in March that the bill would not see the light of day until well after the state election next year. So, 21 years after the act was first proclaimed, five years after committing to update it, four years after making a public pre-election promise, three years after it was elected, two years after announcing that it would take action, 18 months more talking about it, one year after receiving submissions and a year following the one where it said that the law would be changed, cabinet has resolved to dump the idea of updating

our equal opportunity laws. So much for a fair go. So much for keeping their promises. It is no wonder that support for the Rann Labor government is at its lowest ever.

Time expired.

Members interjecting:

The PRESIDENT: Order!

ROADS TO SURVIVAL PROGRAM

The Hon. T.G. CAMERON: Mr President—

An honourable member interjecting:

The Hon. T.G. CAMERON: I will leave the question of David Feeney for others to comment. I would not be too happy about David Feeney being appointed to run the next state election campaign. If I was in your shoes, I would have hoped like hell that Ian Hunter would run it. Fortunately for the Legislative Council, they have not done the preselection yet, otherwise we would all be congratulating the Hon. Ron Roberts. The preselection will be done in December, but you can be assured that Ian Hunter will be gracing the red leather of the Legislative Council following the next election.

The Hon. R.I. Lucas: He loves red leather, I am told.

The Hon. T.G. CAMERON: I thought his colour was always black, but you might know more than I do.

The Hon. J. Gazzola: I hope this is all going on the record.

The Hon. T.G. CAMERON: That is okay. Is there anything else that the Hon. Mr Gazzola would like me to put on the record? When it comes to Mr Ian Hunter there is a lot more that I could put on the record but I will not. I will put it on the record before I go, perhaps in November just before his preselection. I forgot to congratulate him on his recent marriage. Well done, Mr Hunter.

I actually wanted to talk about road maintenance. My speech today is entitled Survival Program. I am not talking about Ian Hunter's survival. For those on this side of the council, I have survived, and will continue to do so. I wanted to talk about a survival program not for current MPs or new MPs, because there is one new MP coming in here who will need a survival program.

The Hon. R.K. Sneath: Tell us about the opposition.

The Hon. T.G. CAMERON: Shut up, Bob. Why don't you just shut up and let me get on with my speech? I wanted to speak today about something that I know the Hon. Bob Sneath is very concerned about.

The PRESIDENT: And we want to hear you.

The Hon. T.G. CAMERON: I refer to the deaths on our roads and the Roads to Survival Program, and this includes you, Mr Sneath. The Roads to Survival Program is a web site developed by young people, parents and community members to help families discuss and manage issues involving young drivers and road crashes. The program is all about decreasing the rate of death and injury of young people on our roads. It does not rely on heavy fines, seizing young drivers' cars, sending them to gaol, etc. It is a program which talks about discussion, family, trust, responsibility and choice—all words which I would have liked to see this current Labor Government embrace when it comes to road safety.

There is one thing I will say about road safety. I do not know who should be congratulated, but the current television advertisements that the State Transport Authority is running on fatigue, and becoming tired, is something I think that every member of this parliament would welcome. It is a welcome departure from speed cameras, laser guns, ripping drivers' licences off them, punishing them, etc. It is an excellent series of commercials that is being run. It does not have a lot to do with the Roads to Survival Program, but it is an excellent set of television commercials that they are running and, if the new minister is responsible for it, I congratulate him.

Time expired.

McGEE, Mr E.

The Hon. R.D. LAWSON: I wish to discuss elements of the government's disgraceful performance in relation to the case of Eugene McGee. McGee was charged with causing death by driving in a manner dangerous to the public, and failing to stop and give assistance in respect of an incident which occurred on 30 November 2003, in which a cyclist Mr Ian Humphrey was tragically killed. McGee was tried before a jury in the District Court and acquitted of causing death by driving in a manner dangerous to the public. He was convicted of the alternative offence of driving without due care. He had previously pleaded guilty to the charge of failing to stop and give assistance. For these offences he was fined $3 100 and disqualified from holding a driver's licence for 12 months.

These proceedings have given rise to considerable disquiet in the community and, in particular, outrage at the apparently lenient sentence. Very early on, it appeared that there were elements of the police investigation which required examination and, in particular, the failure of police to obtain a breath analysis from Mr McGee when he surrendered to police some six hours after Mr Humphrey had died. There were other witnesses who said they had testimony to give, but that testimony was not presented to the court. There was widespread scepticism about the evidence given by Professor Sandy McFarlane, which suggested that McGee's conduct after the collision could be explained by reason of a psychiatric condition known as a disassociative state.

The opposition called for an inquiry. We believed it was appropriate that the organs of government which were responsible for this prosecution ought be subject to examination. These were the police and the prosecution service, both of which are government agencies for whom the Premier and the Attorney-General have ministerial responsibility, as well as the Minister for Police. The way in which the Premier has approached this issue has been appalling.

Claiming to be the champion of law and order, the Premier has done everything possible to undermine public confidence in our judicial system. He has undermined our confidence in the jury system, and undermined confidence in the rule of law. He has been insulting and offensive, and the terms of reference with which the government has come up are a typical sleazy effort in order to divert attention from the government's own failures. These are narrow terms of reference which focus on minor issues, such as why the police did not take an alco test. They do not require the royal commissioner to engage in a comprehensive examination of the investigation that was undertaken.

The Hon. T.G. Cameron: It is just a bit more politics for the next election—a half a million dollar campaign.

The Hon. R.D. LAWSON: As the Hon. Terry Cameron says, it is a bit more politics. The Attorney-General was on the air this morning saying that the purpose of this inquiry, according to the Attorney-General, is to allay public concerns about this matter, and in particular to allay fears that there was some impropriety or corrupt activity. That is what the Attorney-General is saying the purpose of this inquiry is to

rebut. However, the terms of reference do not require the commissioner to investigate the question of whether there was any impropriety—he is not entitled to go outside the terms of reference.

The terms of reference have been drawn up in a narrow fashion, because the government thinks it has the answers and so that the focus of criticism will not fall upon itself. These terms of reference are a cover-up and a whitewash. The government refuses to allow these witnesses, these citizens and this family—in fact, the government will not provide legal assistance and support for the family of this victim.

The Hon. R.I. Lucas: Shameful!

The Hon. R.D. LAWSON: It is shameful conduct on behalf of this government. It will not provide suport for those citizens who have come forward and said they were witnesses. This government and this Attorney-General are more inclined and very happy to bag those people—blame others—but it does not take responsibility itself.

Time expired.

ROBERTS, Hon. T.G.

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

That 10 days leave of absence be granted to the Hon. T.G. Roberts on account of illness.

Motion carried.

SELECT COMMITTEE ON THE STATUS OF FATHERS IN SOUTH AUSTRALIA

Adjourned debate on motion of Hon. C. Zollo:

That the report of the committee be noted.

(Continued from 13 April. Page 1628.)

The Hon. J.S.L. DAWKINS: I support the motion. The committee was established on the motion of the Hon. Andrew Evans in October 2003 and tabled its report early last month. Initially, I thank the Minister for Emergency Services for ably chairing the committee. I also express my gratitude for the work of the Hons Andrew Evans, Kate Reynolds, Michelle Lensink and John Gazzola. I also put on record my thanks for the hard work of the research officer Ms Monika Schofield and, of course, the committee secretary Ms Noeline Ryan. When moving that the report be noted, the minister said:

Evidence to the committee highlighted not only similarities between the needs of fathers but also the diversity of experiences between fathers. The committee recognised the importance of services that have the capacity to cater to the diverse needs of fathers, especially those in crisis. The report also highlighted changes in traditional parenting roles as many families today do not conform to traditional nuclear family stereotypes.

The committee has made 18 wide-ranging recommendations. The council will probably be pleased to know that I will not speak on these individually. However, I will take a few minutes to discuss recommendations 8 and 9. The committee received evidence about a fathers project conducted by Child and Youth Health. As part of the universal home visiting program, the Department of Health allocated an additional $20 000 towards research targeting new fathers in the southern suburbs. A male health worker attended the home visits, along with a Child and Youth Health nurse, and discussed the needs of fathers.

Over the course of the 3-month project, 45 fathers were visited, mostly in the evening, and an additional 37 expressed an interest in being visited at the conclusion of the project. The aims of the study included increasing contact with fathers through the universal home visiting program, identifying fathers' expectations of fatherhood, identifying the types of services needed by fathers, referring fathers for support where required and increasing fathers' participation in new parenting groups. While the project was conducted on a small scale, the overall response of fathers to the attendance of a male health worker was positive. Furthermore, the aim of assisting fathers and families in forming links with other support services at the crucial point of family formation was successfully met.

Evidence to the committee emphasised that, while Child and Youth Health wished to recruit many more male nurses, there was a sheer lack of male applicants. With the increased demand for service providers to become more responsive to men's and fathers' needs, the committee agreed that the lack of men within caring professions required a long-term recruitment and work force development strategy. Recommendation 8 states:

The committee recommends that the state government provide recurrent funding for the continuation of the Fathers Project [within Child and Youth Health] and that similar programs be delivered to families of all regions.

I strongly endorse the rolling out of similar programs across the state. Recommendation 9 states:

The committee recommends a targeted recruitment and work force development strategy that aims to increase the number of men in the caring professions (including nursing) and social services.

The committee learned a great deal about the role of fathers in a wide variety of situations around the state. These included fathers who are separated, those in step families, and those who, as grandfathers, are taking key roles in the development of our young people. I agree with the minister, who during her contribution said:

I think we have ended up with a report that will assist the government to build on existing services and contribute to stronger support for fathers and their families in this state.

I look forward to the government's response to this report. In my view it is important that one minister—possibly the Minister for Families and Communities—be charged with implementing the committee's recommendations. I will conclude by quoting Mary Gallnor, a former chair of the Men's Information and Support Centre (as I did when supporting the establishment of the select committee). In speaking of the benefits to the whole community from organisations which assist men, she said:

This encompasses women, children, young and old, disabled, rural and urban. Not only men benefit because men belong to the society in which we all live. Men's emotional, psychological and physical wellbeing is essential for the common good and it needs more attention and help.

I support the motion.

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

CONSTITUTION (OATH OF ALLEGIANCE) AMENDMENT BILL

Second Reading.

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

That this bill be now read a second time.

This bill, introduced by Kris Hanna in the other place, was passed on 21 July 2004, and it is my pleasure to introduce it in the council today. The bill as received allows members to choose between taking the current oath or an alternative oath upon taking office. My principal reason for supporting and moving this bill in the council is not that I will necessarily be swearing an oath of allegiance under the provisions contained in the bill—I may well do so, and other members may do so, as well—but, rather, it is more about giving members of parliament a choice as to whether they would prefer to swear an oath to the Queen and her successors according to law, or swear an oath which states that they will faithfully serve the people of South Australia and advance their welfare, and the peace, order and good government of the state.

Of course, the essential vein running through this bill is about choice. This may be taken as an oath or an affirmation under the Oaths Act. The bill reflects upon our constitutional history, as well as taking into account current laws. For example, the Citizenship Oath is made to Australia and the people. New South Wales is considering an amendment to allow MPs to take an oath to the people as an alternative to the Crown—as an alternative, not as a choice.

Kris Hanna is the one who should be given the credit for moving this bill. As an Independent like he is, I have agreed to move the bill with my total support in this house. New South Wales is considering an amendment to allow MPs to take an oath but only as an alternative to the Crown. Queensland combines the oath of loyalty to the Queen with an oath of service to the people. They have incorporated the oath that we swear with the oath that Kris Hanna is proposing; they have put the two together. In Western Australia, Victoria and Tasmania an oath of allegiance to the monarch is required.

The proposed oath is far more relevant and accessible to South Australians than the current oath. That may be a matter of opinion and a matter of choice, but that is what this bill is about: the provision of choice. We may be a constitutional monarchy with the Queen at its apex, but we should never forget that it is the ordinary people who are at the base of that apex, and it is basically through their democratic will that we are governed.

I submit to the house that the basis of this bill is sound. Whilst an oath of loyalty to the monarch was—and for many people still is—relevant and vital, it was more relevant and more vital if you go back in history to when the Queen wielded executive power. It is now 2005, times have changed, and the situation today is quite different. Members of parliament, who are elected by the people to represent the people and their interests, should be able to swear an oath to the people whom they represent. I take this opportunity to remind members of what the oath says:

I swear that I will faithfully serve the people of South Australia and advance their welfare and the peace, order and good government of the state.

Members of parliament (elected by the people to represent the people and their interests) should not have any problem with being able to swear an oath to the people whom they represent. It may represent a symbolic change, but it does reflect the constitutional evolution of democracy and, in particular, the South Australian parliament. It is an expression of the reality of a modern parliamentary democracy that has a symbolic head of state. This bill allows members of parliament to have a choice. All those members who are monarchists and who wish to continue to swear the current oath may well be able to do so.

The Hon. J. Gazzola interjecting:

The Hon. T.G. CAMERON: The Hon. John Gazzola interjects: 'Swear an oath to Queen Camilla.' I should point out that the oath would be sworn to King Charles, but I take his point.

The Hon. J. Gazzola interjecting:

The Hon. T.G. CAMERON: Yes. The Hon. John Gazzola says that we have been talking about queens. I have spent quite a bit of the day talking about them, but I was talking about the Queen of England and Queen Camilla. We will leave all the other queens out of it. This bill allows members of parliament to make a choice. It allows them to elect whether they want to support the current oath or whether they would like to embrace this oath. If members are a bit enamoured with the Queen and want to support the Queen because that is how they are disposed, I have no problem with that. If Ian Hunter wants to come into this place and swear an oath to the Queen, good luck to him—I would expect that—but if he wants to swear an oath (as this bill provides) to the people of South Australia, he should have that choice. All I want to do is give people like—

The Hon. R.I. Lucas: Ian Hunter.

The Hon. T.G. CAMERON: As a new member, Ian Hunter would have a right to swear an oath to the Queen, if that is his disposition, or an oath to the people of South Australia.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I wish you would stop baiting me and let me finish this speech.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The chair is not baiting anybody.

The Hon. T.G. CAMERON: Did I say 'the chair'?

The ACTING PRESIDENT: You said 'you'. Obviously, you meant another member of the chamber.

The Hon. T.G. CAMERON: I must address my comments through the chair. I was not referring to you, Mr Acting President, but to those who were interjecting from the other side of the council, not the rabble on this side of the council who were also interjecting. No doubt members will be able to draw upon both their conscience and the views of their electorate when choosing which oath to take.

I will end on this point. We have heard a lot in politics over the last five or six years about providing choice for the Australian electorate. If members of the council are serious about providing choice, then on this occasion they will support this bill and provide choice for future members of parliament. I believe that choice should be available. I commend the bill to the council.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

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

A quorum having been formed:

PARTNERSHIP (VENTURE CAPITAL FUNDS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 April. Page 1432.)

The Hon. R.I. LUCAS (Leader of the Opposition): On behalf of the Liberal Party, I indicate our support for the second reading of the bill, indeed, our support for the passage of the legislation. The shadow minister with the responsibility in this area is the member for Waite, Mr Martin Hamilton-Smith, and he very adequately put the Liberal Party's position in the House of Assembly. During his contribution, he indicated that he had circulated a copy of the bill widely in mid-December to a number of stakeholders in the venture capital innovation and information technology industry. He indicated that all the responses he had received supported the bill. He also noted that a number of the respondents had taken the opportunity to comment on some problems in the local venture capital industry and he proceeded to outline some of those concerns in his second reading contribution.

However, in so far as his comments relate to the legislation before us, he indicated support without amendment for the legislation. Put simply, what this government is seeking to do, as I understand, together with all other state and territory governments (although not all of them have acted as yet) is to change their partnership laws to try to assist the venture capital industry in terms of investment in small start-up companies. The government's advisers have indicated that complementary legislation has already been passed in Victoria, New South Wales, Queensland and the Australian Capital Territory; that the approach being adopted in this bill in South Australia is largely identical to the New South Wales, Queensland and ACT bills; and that the Victorian government took a slightly different approach in the drafting, nevertheless achieving the same purpose in the passage of its legislation.

The situation has evidently arisen as a result of tax changes instituted by the federal government in the 1992-93 budget which indicated that limited liability partnerships would be taxed as companies. At the same time, we are advised that amendments were made to the Corporations Law to require limited liability partnerships to comply with the fundraising provisions—for example, the issuing of prospectuses, etc.—and these changes reduced the attractiveness of the vehicle of the limited liability partnership for venture capital purposes and, as a result of those budget and tax changes in 1992-93, the vehicle of a limited liability partnership became less attractive for venture capital purposes and Australian venture capital funds have been structured using either unit trust structures or company structures.

Prior to that 1992-93 budget (just going back in history), we understand that the limited liability partnership structure was possible and popular during that period in relation to venture capital arrangements. As a result of lobbying over a long period from people interested in this area, in 2002 the commonwealth government enacted legislation which was aimed at attracting venture capital funds into Australia. A number of different groups lobbied the federal government for changes to federal law. In particular, the Australian Venture Capital Association (AVCAL)—which is the peak representative body for venture capital investors in Australia—led the way in terms of the discussions and negotiations. As a result of those 2002 changes, as I said, states and territories have been required to make changes to their laws to become compliant with the new tax arrangements.

Without needing to go into all the technical detail, which was very adequately outlined in the second reading explanation, the explanation of clauses and other briefing notes the government advisers have provided to the opposition and shadow minister, I think that, put simply, what the new structures and arrangements are seeking to do is ensure, for those arrangements where the venture capitalists want to limit their liability to the extent of their investment, that that is indeed possible. Also that the taxation arrangements, as would apply to the particular investments and the company arrangements, would be advantageous and would encourage venture capitalists from within Australia and overseas to invest in a number of start-up opportunities for small companies in Australia.

I will not go through the detailed technical provisions as outlined in the second reading and the explanation of the clauses. All they do is outline in technical detail, as I said, simply how the legislation achieves both the limitation on the liability for those who are investing and the maximising of the taxation advantage arrangement again for those who are investing in this way.

The opposition position simply is to support the legislation. We do not intend to move any amendments. As I conclude my second reading contribution, I intend to ask a small number of questions. I am happy for the minister to take them on notice and give an undertaking that they will be responded to within a reasonable period of time. I do not wish to delay the minister—or, indeed, the minister's adviser—at this time during the committee stage of the debate, or the passage of the legislation. I am interested to receive from the government, in relation to the $10 million that has been provided to the Venture Capital Board in the 2004 financial year—

The Hon. Ian Gilfillan: When are you expecting this information?

The Hon. R.I. LUCAS: In writing, and an undertaking, sooner rather than later. Is that okay with the Hon. Mr Gilfillan?

The Hon. Ian Gilfillan: Certainly, I would approve of that.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan has approved of that process. I am indeed grateful that he is happy with my position in relation to that, and I will proceed. With respect to the $10 million for investment that was asked for in the 2004-05 budget, the opposition's position, as outlined by the member for Waite, is that at this stage no decisions have been made to invest—although he was speaking back in March and we are now in May. I seek an update from the government in relation to whether or not the board has reached any decisions in relation to the investment of that amount.

The opposition has been advised that, thus far, $1.5 million has been spent on administration costs broadly—although the member for Waite highlighted that, within that definition of 'administration costs', there were a number of costs in relation to organising networks and forums and other things which, in the view of the member for Waite, were seen to be beneficial by the venture capital industry. So, he was not necessarily being critical of all the $1.5 million. However, I seek a breakdown from the Venture Capital Board and the minister of how much money so far has been spent broadly in this area of administration costs, in particular, with a breakdown as to the salaries in relation to the costs of the organisation of any networking arrangements and, specifically, whether or not consultants have been taken on board, what the costs of those consultancies have been and who was appointed; and whether open tender processes were followed or whether short-circuited processes were adopted, for whatever reasons that might have been contemplated. I also specifically ask whether or not any of the $1.5 million (or

whatever the number is now) has been spent on overseas travel by either board or staff members. If it has been, I specifically ask which board and/or staff members travelled overseas, at what cost, to which countries and locations they travelled and the purposes—

The Hon. T.G. Cameron: They were looking for venture capital.

The Hon. R.I. LUCAS: They might have been. I do not even know whether they have travelled. It is a question without prejudice—at this stage, anyway, because I am not aware whether or not there has been travel. But, certainly, in relation to the administration costs, I am interested, if there has been travel, in obtaining some detail as to the purpose of the travel, who was met, the countries and cities that were visited and the general detail that is provided in relation to public accountability for the expenditure of public funds.

If it is anticipated, as some are suggesting, that there will be under spending of the $10 million this year, has any assurance been given by the Treasurer that the funding will be carried over into the 2005-06 financial year or, under the strict interpretation of the government's carryover policy, will the Venture Capital Board lose access to some or all of the funding which has been provided in the 2004 financial year and which might be underspent as at 30 June this year?

I repeat that I am happy for those questions to be taken on notice and for an undertaking to be given by the minister to bring back a reply sooner rather than later. I am prepared to take the minister at his word in relation to this. The opposition has been waiting for answers on notice for up to three years. I seek an undertaking from the minister that he will ensure that the opposition receives an early response to the questions that have been outlined. With that undertaking, as I said, I am happy not to delay the committee stage of the debate.

The Hon. IAN GILFILLAN: I indicate Democrat support for the bill. It seeks to amend the Partnership Act 1891 and to make a related amendment to the Business Names Act 1996. The changes that have been proposed by the government are similar to those that have already been passed in Victoria, New South Wales, Queensland and the Australian Capital Territory. The minister also indicated an expectation that other states and the Northern Territory were expected to follow.

The bill establishes a mechanism for the registration and administration of incorporated limited partnerships, and it will allow South Australian venture capital funds to access the new commonwealth taxation regime. This taxation regime came into effect in 2002 and was an attempt by the commonwealth parliament to attract venture capital funds into Australia. Senator Andrew Murray, a Democrat Senator from Western Australia, in debating the commonwealth legislation, indicated strong support for the commonwealth bill. As recorded in the commonwealth *Hansard*, he said:

> The Australian Democrats welcome the venture capital legislation. It is something that should have come forward some time ago and is overdue. Venture capital is the term used to describe investments in businesses at various stages of development, but is particularly important in the early stages. Venture capital includes start-up and seed capital, expansion-stage capital, later-stage development capital and finance for management buy-outs and buy-ins of established businesses.
>
> Venture capital is an essential catalyst for new industries, for jobs, for a healthy economy and for dynamic wealth creation. While venture capital is available regardless of legislative incentives, it increases enormously if there are legislated incentives. Venture capital in Australia has helped small enterprises which began with seed capital, with some notable examples being Energy Development Limited, Austal Ships Ltd, LookSmart, ResMed and Cinema Plus Limited, the Imax cinema venture.

To take advantage of these taxation arrangements, limited partnerships must be established under Australian law. The proposed legislation before us will encourage venture capital investment firms to locate in South Australia. It is beyond question that more investment in local start-up businesses would be of great benefit to South Australia, and venture capital is a catalyst for this.

What is of some concern is that the commonwealth legislation was enacted in 2002, and the state government waited until 2004 to bring the legislation before the state parliament. I understand that economic analysis undertaken by Econotech for the Australian Venture Capital Association has estimated that the limited partnerships and the tax changes would attract an additional $1 billion in foreign capital. It is essential that South Australia secures a substantial slice of that cake. Our consideration of this state bill, however, is not without some concern. We are uncomfortable with the provision that limited partners of venture capital vehicles get a complete exemption for any liabilities that the partnership incurs, as spelt out in clause 57.

The Hon. T.G. Cameron: Are you happy with that?

The Hon. IAN GILFILLAN: We are unhappy with it, and I think I made that plain. We have a concern, and we are unhappy with it. On balance, the bill offers to do far more good for South Australia, and we do not want to be mean-spirited about it. We look forward to hearing some explanation either in the second reading summing up or in committee. I indicate that the Democrats will be supporting the legislation and look forward to the benefits that will flow to our community.

The Hon. T.G. CAMERON: I rise to support this bill. Unfortunately, when you come at the end of these debates some of the other speakers have covered areas that you intended to cover. In fact, the Hon. Ian Gilfillan effectively wiped out about 90 per cent of what I was going to say. He may assume from that that I agree with at least 90 per cent of what he said. I think that some of the comments made by the Hon. Ian Gilfillan in relation to this bill are particularly salient. I do not want to repeat what was said by the Hon. Ian Gilfillan and the Hon. Robert Lucas and what the government outlined when it introduced its report on this bill, but it may well provide the catalyst for a significant injection of venture capital into South Australia.

The Hon. Ian Gilfillan has already outlined what has happened elsewhere around Australia, who has done what and who is about to do what. If the figure of $1 billion is correct, that means that there is a potential $80 million to $100 million of venture capital that may be available to Australia. One could be a little churlish and say that we could well have moved on this legislation earlier, but later is better than never. I, too, like the Hon. Ian Gilfillan (perhaps with a little more hope than he has expressed) hope that we can attract venture capital to South Australia for South Australia to continue to rely on manufacturing, particularly manufacturing related to the motor vehicle sector.

I do not want my comments to be interpreted as being in any way unduly negative, but I think that any realist with any knowledge of manufacturing would accept the fact that, sooner if not later, South Australia will lose its motor vehicle industry. Sooner or later Mitsubishi will close, which will throw up to 10 000 people in South Australia out of the work

force. Anything we can support that might attract capital, industry and technology to South Australia to provide a foundation to what is, basically, a weak employment base here is to be welcomed. This bill will provide certainty as to the relationship between these general and limited liability partners.

That is what business is looking for. They must deal with the uncertainty of governments coming and going but, in relation to the law, and particularly laws administered by the Corporate Affairs Commission, they like to see certainty; they like to know the legal and corporate regime under which they are operating. I commend the government for introducing the bill, and the sooner we pass it the better.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank all members for their indications of support for this bill. The Leader of the Opposition did ask some questions that related to the Venture Capital Fund, which is under the responsibility of the Treasurer. I will have to see whether I can get that information from the Treasurer. This bill has been handled by the Attorney-General. Whilst we have an officer from the Attorney-General's office present, that information will have to come from Treasury. I will try to get that information for the leader from the Treasurer.

Again, I thank members for their indications of support. I trust that this bill will have a speedy passage; and, along with other members, I hope that it will contribute to further venture capital funds being established in this state.

Bill read a second time.

In committee.

Clauses 1 to 56 passed.

Clause 57.

The Hon. IAN GILFILLAN: I refer to a matter I raised in my second reading contribution with respect to clause 57. We expressed some concern that this clause appeared to exempt the silent partner from any liability of the activity. Perhaps the minister will explain just how wide any restrictions are on that, if any.

The Hon. P. HOLLOWAY: I understand that the venture capital industry asked for two things in relation to this legislation: first, the taxation changes; and, secondly, certainty on the limitation of liability. Specifically, to get back to the question: yes, the silent partner does have some exemption from liability provided that they do not involve themselves in the day-to-day operations of the partnership. Clause 59 (which inserts new section 65A) is the relevant part of the legislation ('Limited partner not to take part in management of incorporated limited partnerships'). Obviously, to receive the benefit of that limited liability they must comply with that section, that is, they are not to take part in the management of the partnership.

Clause passed.

Remaining clauses (58 to 72), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

INDEPENDENT COMMISSION AGAINST CRIME AND CORRUPTION BILL

Adjourned debate on second reading.

(Continued from 6 April. Page 1488)

The Hon. IAN GILFILLAN: I sought and was granted leave to conclude my remarks. It does not require extensive further remarks from me at this stage. I will just repeat that I believe that current events have shown quite clearly the benefit that a permanent, independent commission would offer to South Australia. I will spare the chamber by not going into all the details, but I feel that, although it may be of more sensation and interest if matters such as the recent hit-run case are dealt with in the way it has been, my judgment is that, on balance, respect for and the effectiveness of the justice system in this state are not advanced by such procedures. We are convinced that an independent commission against crime and corruption would be a vehicle that would much more satisfactorily deal with some of the questions which, quite clearly, should be investigated in relation to that matter, and several other matters as well.

I gave the main substance of my argument in my earlier second reading contribution on 6 April and I do not intend to continue further today. However, I urge honourable members to support the passage of this bill. I believe there has been plenty of time for the matter to have been considered, and that is why I urge members to take a second reading vote today.

The Hon. R.D. LAWSON: I rise on behalf of the Liberal opposition to speak on the second reading of the Independent Commission Against Crime and Corruption Bill introduced by the Hon. Ian Gilfillan. I pay testament to the honourable member's persistence. He has been banging his head against this particular wall for some considerable time. My party has not, in the past, ever favoured the establishment of a permanent commission against crime and corruption in South Australia, for the simple reason that we never believed that it was necessary. We believed that the establishment of a standing commission of this kind was not necessary in a small state like South Australia, and that the expense of such a commission could not be justified. They were, however, in earlier times.

Since the coming to office of this government, there have been many incidents, occasions and events which have suggested that it would be appropriate if we did have an independent commission against crime and corruption to investigate matters, to produce reports, to restore and maintain public confidence in our institutions. This government, more than any other in recent memory, has sought to undermine some of the cornerstones of our democratic structures, and the honourable member said that we were living in a fool's paradise in South Australia if we believed that we did not need such a body here.

He described it in his second reading speech on 6 April as a sanctimonious position. I would not see it quite in that light, but it is a position which is rather one of apparently blind ignorance of what might be staring us in the face. There are a number of models of commissions of this kind, and I want to say at the outset that the Liberal Party has not yet determined that it will support the establishment of a commission of this kind. However, we will be supporting the second reading of this bill. We think in the current circumstances it appropriate that there be a full, complete debate and discussion in the community about a commission of this kind.

These commissions are, as the honourable member says, well established. The Independent Commission Against Corruption in New South Wales has operated for quite some years. It has over 100 full-time staff. It conducts a number of investigations and inquiries into high profile cases in the state of New South Wales. We, of course, in South Australia have always been somewhat superior in our view of our state's freedom from corruption and crime, and we have tended to

look down our nose at New South Wales with its convict beginnings. One often hears South Australians make snide remarks about the Rum Corps persisting right to this day in New South Wales.

When one reads the report of the Independent Commission Against Corruption, one sees the vast array and variety of work which it undertakes, and it is important work. There have been investigations into conduct by corrupt councils, for example, Operation Trophy which was conducted into the activities of certain councillors at the Rockdale City Council, where it was found that there was corruption in development approval processes. There were investigations referred to in the annual report of contraband being introduced into the Goulburn Correctional Centre and the Metropolitan Remand and Reception Centre at Silverwater. ICAC uncovered corrupt conduct by specific correctional officers. It also highlighted deficiencies in the implementation of policies and procedures which created opportunities for corrupt conduct. Other investigations referred to, for example, related to the New South Wales construction industry, where safety certification and training was being corruptly engaged in by a number of accredited assessors.

I mention these things simply to highlight the wide range of areas where a commission can be usefully employed. In saying that, I am not denigrating the activities of our police force and its various branches. We have a police force of which we can be proud. But, if we believe that in South Australia there are not pockets of activities which are not being addressed by current law enforcement mechanisms, I think we are kidding ourselves. It is a notorious fact, of course, that for many years the culture of illicit drugs—their production and distribution—has gone on in this state, notwithstanding police activities and occasional great police success—and it continues to carry on. To think that those activities can be conducted without the support, tacit or otherwise, of people in authority is suspending belief.

One of our concerns is that on occasions some of the matters investigated by bodies such as the Independent Commission Against Corruption appear to take inordinate resources and tie up ministers and other officials for a long time with no ultimate result. For example, only last month, minister Craig Knowles, the former health minister in that state, was cleared of charges that he tried to intimidate five nurses who allegedly illtreated patients in a New South Wales hospital. That was an inquiry which endured for more than two years. It was conducted by the Independent Commission Against Corruption. Ultimately, it dismissed—

The Hon. Ian Gilfillan: Isn't that useful?

The Hon. R.D. LAWSON: Maybe it is; maybe it is not. It may be that when such significant resources are devoted to what might not be deemed the most serious of transgressions—which one might not regard as corrupt conduct in the commonly accepted use of that term—one wonders whether the terms of reference of ICAC are appropriate.

The Queensland body is called the Crime and Misconduct Commission. It was established as a result of the celebrated Fitzgerald Commission of Inquiry into the activities of the Queensland government, whose celebrated Premier passed away in the past few days. The Crime and Misconduct Commission is another significant body. It has a full-time staff of 110 people, many lawyers and investigators. Its annual report indicates a very wide range of activities, not only in combating and investigating crime but also in educating the public sector, local government and the community generally in the ways of improving and enhancing integrity.

This government, with some flourish when it was first elected, proclaimed itself to be interested in improving accountability and introduced legislation to that effect. It was legislation which in many respects was flawed. It became bogged down and the government has not been able to progress it to the extent that it claimed it would. In Queensland, for example, the Crime and Misconduct Commission is currently investigating the Speaker of the Queensland parliament in connection with travel and alcohol expenses. I make no reflection upon the Speaker of the Queensland parliament, but I raise that to indicate some of what might be termed the rather trivial complaints that get before these commissions.

We believe that any standing commission of this kind must have appropriately structured terms of reference, as well as powers. The bill introduced by the honourable member contains a structure which will be worth debating in the committee stage. A commission is established. It has functions which allow the appointment of a task force and cooperation with other law enforcement measures. It provides for investigations and gives powers to investigators for the handling of complaints. It envisages both public and private hearings. These are all features that we see in the New South Wales and Queensland models. I will not examine in any great detail the model system adopted in Western Australia following the celebrated WA Inc. royal commission. That is something we will have to examine more closely.

The powers of the commission proposed in the honourable member's bill are very wide, including powers which, at present, are restricted to law enforcement agencies such as the issuing and executing of search warrants. There are provisions for the protection of witnesses. Oversight is provided by a body called the oversight commission, and a parliamentary joint committee has an oversight role in relation to the commission. All these are the sorts of elements one needs. However, we are not at all wedded to the definition of corrupt conduct, because that definition can stretch very widely.

A salutary lesson for any champion of independent commissions against corruption is the fate of the Hon. Nick Greiner, the former premier of New South Wales who introduced the Independent Commission Against Corruption in that state but who himself was subsequently charged by such a commission of corrupt conduct. The commission at the time thought that it could define corrupt conduct, and Mr Ian Temby QC was the chairman. As a result of that finding, Nick Greiner was effectively driven out of office. Of course, the finding was subsequently found to be misconceived in law by the Court of Appeal in New South Wales and set aside. However, it was too late for Mr Greiner, who still suffers the stigma of the false suggestion that he was guilty of corrupt conduct.

The sorts of things that have led us to the belief that we ought to revisit this whole issue are not only this Premier's undermining of the independence of the judiciary and a number of outrageous statements but also the fact that the Director of Public Prosecutions in this state has been driven from office by this government.

The Hon. P. HOLLOWAY: I rise on a point of order, sir. The deputy leader of the opposition has made a totally untruthful allegation.

The PRESIDENT: Order! That is not a point of order. The minister may disagree with the honourable member. If it is a question of an accusation of lying to the parliament,

that is a different matter. Dissent is not a point of order. The deputy leader may continue.

The Hon. R.D. LAWSON: I am happy that the minister wants to hear the reason why the claim is made and widely understood in this community that Paul Rofe QC was driven from office by this government. It is because the Premier wanted to see Elliot Ness installed in the position of director of public prosecutions. It was his government that chose to give a direction to Mr Rofe, which he required the government to do before he would take certain action. This government came to power because of a deal between the government and the member for Hammond, the circumstances of which were never fully revealed to the public. An independent commission against corruption would have a great deal of interesting work to do in sorting out the aspects of that little deal.

It is extraordinary that in this state at this time currently awaiting trial for allegedly corrupt behaviour is the Premier's own chief adviser, Randall Ashbourne. I say nothing, of course, about whether he is guilty or innocent—the presumption of innocence applies—but that is an extraordinary thing, the first of its kind in my experience in public life in South Australia. We have had the 'cash stash' affair where the knowledge of the Attorney-General of illegal activities has been the subject of extensive inquiries by two parliamentary committees which, to some extent, are circumscribed by the limitations of parliamentary committees. Would it not be better for an independent commission against corruption to investigate that matter? I mention, of course, that the Attorney-General himself had an involvement in the matter which brings Mr Randall Ashbourne before the courts.

Ministers regularly misapply the freedom of information legislation to evade or avoid the requirement to divulge information. Of course, there is also the ongoing inquiry, the secret police investigation into the alleged activities of a member of the government. An earlier inquiry led to a finding of no evidence last year, but there are many rumours circulating. These are all matters which might well be properly the subject of an investigation by a commission against crime and corruption. We agree with the Hon. Ian Gilfillan: if we think South Australia is immune from the sorts of things that have been found in other states, we are living in a fool's paradise.

However, as I have indicated, whether or not a standing independent commission against crime and corruption is warranted must be examined. A cost benefit analysis has to be done. We have to ensure that any such mechanism will comply with the rule of law, that it will not be a free-for-all and enable members of the public with an axe to grind against people of any political persuasion to use this mechanism to prevent the wheels of government from turning. As I said, we commend the Hon. Ian Gilfillan for pressing ahead with this matter over the years. In the past we have never thought it necessary, but we are now prepared to look seriously at it. We support the second reading but, as I emphasised earlier, we will reserve judgment until the committee stage.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The government does not support this bill. We have just heard from the Deputy Leader of the Opposition, who made a number of entirely false allegations about what this government has done. However, he did get one thing right when he talked about the history of ICAC in New South Wales and some of its failings. Fundamentally, what we often see in the parliamentary system is the opposition of the day coming up with all sorts of proposals to get governments to spend millions of dollars of taxpayers money to investigate themselves. That is the opposition's thrust.

At the same time, the opposition and the Independents will accuse the government of not spending enough money on the legitimate services which the government is expected to provide. You cannot have it both ways: you cannot spend millions of dollars on investigations—as the deputy leader indicated, often we will spend years on these things and come up with no useful result—and at the same time call on the government to be efficient and to provide the sort of base services that governments need.

Surely, before one would consider supporting a bill such as this, one would need to see, first, a need for it established. I do not believe that need has been established. The Hon. Rob Lawson made a few frivolous allegations. He claimed that Paul Rofe was driven from office. That is a completely false allegation. In fact, the situation regarding Mr Rofe is well known by everyone here. To try to suggest that that has some connection with an ICAC is totally false. There is no credible argument that one could put to say that anything in relation to that case has given rise to any concern that an ICAC would look at.

In fact, regarding the whole situation with the former director of public prosecutions, I think most members of the community would be well aware of the Nemer case, the detailed report by Chris Kourakis, the Solicitor-General, and Mr Rofe's health problems, which have been given a lot of publicity. Let me put this on the record. I was intimately involved with some of those details, and I had (and still have) the utmost respect for Mr Rofe. He behaved with the greatest integrity at all times in my dealings with him.

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: The Deputy Leader of the Opposition is trying to play politics. That is what this is all about. How could anybody say that the case of Paul Rofe would justify or warrant spending on a permanent basis millions of dollars each year on an independent commission against crime and corruption. He then talked about—

The Hon. Kate Reynolds: Just endless royal commissions.

The Hon. P. HOLLOWAY: Endless royal commissions on what? Why would you need a royal commission or any sort of investigation in relation to the DPP? There is not a shred of evidence. It is just garbage. Nothing has been established—

An honourable member interjecting:

The Hon. P. HOLLOWAY: The arguments of members opposite. The case he talked about was the agreement with Peter Lewis. This was the agreement to which the Liberal Party of Australia signed up. It signed up to the same agreement—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: I have a copy of it here, and it is signed by Peter Lewis, Rob Kerin and Dean Brown. This was the agreement that was signed. Let us go back to the situation at that time. What we had was a hung parliament. We had—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: The honourable member says 'A corrupt deal.' It was a deal to which he signed up—and I have a copy dated 30 March, if anyone would like to see it. If it was a corrupt deal, the Liberal Party of Australia was part of it. Mr President, what are you supposed to do? You have a hung parliament with 23 seats each and one person has

the balance of power. They have to side with one party or the other to determine the government of South Australia. That is the situation we were in and, at the end of the day, the former speaker made the choice.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: That sort of interjection is just totally false.

Members interjecting:

The Hon. P. HOLLOWAY: I am glad these interjections are happening—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! The Hon. Mr Redford is joining the debate at a late stage.

The Hon. P. HOLLOWAY: They show that this is all about political issues. No justification whatsoever has been put forward in relation to ICAC. There is no evidence whatsoever. All this body would do—

The Hon. A.J. Redford: You would be on first name terms with all of them.

The Hon. P. HOLLOWAY: The Hon. Angus Redford will find that, when he goes to the lower house, the words he says, the throwaway lines, will be scrutinised much more carefully than ever before, and he will find that he will talk himself into a whole lot of trouble. Let us start putting some of these things on the record because, when he stands for a lower house seat, the electors will scrutinise what he believes much more thoroughly than ever is the case in this chamber. I will be quite happy for him to place those things on the record. The government has had to prioritise the budget for crime and corruption, and the choice of this government has been to put more police on the ground where they can have most effect in the community.

If others want to go to the next election saying, 'We will cut the number of police. We can put the money into some high paid commission which can lock itself away for years, like ICAC in New South Wales', then let them do so. Let them put that before the people of this state. The government has faith in the Police Complaints Authority to perform the role that this independent commission may carry out. The Police Complaints Authority operates in a low key yet practical way towards any issues raised before it.

Members interjecting:

The Hon. P. HOLLOWAY: Members of the opposition again demonstrate that they are not really interested in this. This is all a bit of a game. We are coming to an election and they are isolated, irrelevant. They have no ideas; they are on the nose out there. All they can do is create a bit of fuss and bother; they have nothing constructive to put forward. This is a private member's bill which would cause millions of dollars of taxpayers' money to be diverted away from all the other priorities of government. To do that one would at least need some justification for the case. I do not believe the justification has been met. The government does not support the bill.

Members interjecting:

The PRESIDENT: Order!

The Hon. IAN GILFILLAN: My contribution again will be relatively short. I am a little disappointed that the government decided that its response to this bill was to be rather frivolous. I can understand that there will be some argy-bargy about the political contest party to party. That is not the issue about which I feel most concerned. What I am concerned about is the rather mean-spirited approach to the so-called cost. It seems to be a recurrent theme in that a decade ago the same sort of argument arose. New South Wales, for example, has four times the population of South Australia, so to make a direct comparison with staff and costs with New South Wales is an error of calculation. It is very difficult and it seems almost impossible to get a government to put a value on prevention and education which leads towards the prevention, and that is the most regrettable attitude of the response.

First, each time this legislation is introduced there are the following demands: 'Where is your evidence? Produce the evidence of the sort of matters which show that there is any corruption or organised crime in South Australia'. I believe that we have had a succession of incidents. The fact that we do not have an ICAC probably means that there are undisclosed areas of if not outright corruption then certainly unacceptable behaviour in various tiers of government; and there is probably evidence and investigation of organised crime which has not been pursued.

To blithely handball to the police this glowing endorsement that they are almost perfect and without flaw and therefore will do all the things which we are putting forward in our bill that ICAC can do would ring a little hollow when, at the same time, the Leader of the Government has indicated that the government has great faith in the Police Complaints Authority, yet it has appointed a royal commission to do the very same job that it was going to put to the Police Complaints Authority. It is a little difficult to interpret that as other than doublespeak. If the government has this ultimate faith in the Police Complaints Authority, why will it now spend arguably hundreds of thousands of taxpayers' dollars on a royal commission?

We rest our case that it is important for South Australia to have an independent commission against crime and corruption. We will be most cooperative and interested in amendments which may be moved (and I hope they will be) by the opposition, or the government for that matter, if it comes to the party in a constructive frame of mind, to make the model of ICAC for South Australia the most ideally suited for South Australia. It is on that basis that I look forward to this bill passing the second reading stage.

Bill read a second time.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: PLASTIC BAGS

Adjourned debate on motion of Hon. G.E. Gago:

That the report of the committee on plastic bags be noted.

(Continued from 6 April. Page 1489.)

The Hon. D.W. RIDGWAY: I rise today to note the 53rd report of the Environment, Resources and Development Committee on plastic bags. The plastic bag inquiry was originally referred to the committee under the terms of reference of the waste management inquiry. As part of that inquiry, the committee heard from a number of witnesses on the issue of plastic bags. The Environment Protection (Plastic Shopping Bags) Bill, which was moved by the member for Mitchell in another place, was withdrawn in 2004 and the issues outlined in the bill were referred to the committee. Given the number of issues that plastic bags generate, it was decided that they should be the subject of a separate report.

The committee found that there is widespread community support for a reduction in the number of plastic bags used in Australia. In 2003, environment ministers from all states, through the Environment Protection and Heritage Council,

agreed to the Australian Retailers Code of Practice for the management of plastic bags. The code requires that signatories reduce the distribution of plastic bags by 25 per cent by the end of 2004 and by 50 per cent by the end of 2005. The code ends in 2005, and the signatories to the code are protected from any legislation minimising plastic bag use for the life of the code.

At the end of 2004, the Australian Retailers Association reported a 26.9 per cent annual reduction in the use of high density polyethylene bags. Four Group 1 signatories were able to report data: Coles Myer, Woolworths, Franklins and Foodland Australia. The other Group 1 signatories were unable to provide figures on plastic bag reductions due to their retail store structure. The Group 2 signatories were not required to report on plastic bag reductions. The committee was disappointed that the results came from only four of the retailers. The committee has recommended that the government discuss the issues with the Australian Retailers Association so that better data is available on the amount of plastic bag reduction.

The commonwealth Department of the Environment and Heritage released the Nolan ITU report, which is an estimate of plastic bag production and importation and which was used to determine the reduction of 20.4 per cent in high density polyethylene bag usage between 2002 and 2004. There is an obvious difference between these figures and those reported by the Australian Retailers Association, and this highlights the need for further investigation and study in this area to determine the real percentage in the reduction that has been achieved. The figures reported in the reduction are also as a result of the community's involvement. The reduction of plastic bags could not have been achieved without community support and the interest in retailers' initiatives to reduce plastic bag use.

The community has embraced the green bag initiative as well as simply saying no to plastic bags at the check-out. Last year the Minister for Environment and Conservation stated in a press release that 11 of the top 20 Coles stores that had sold the most reusable bags were in South Australia. Again, South Australia should be very pleased with that result (it is similar to the container deposit legislation, where South Australia leads the nation in initiatives to reduce waste and rubbish).

Retailers and councils should be further encouraged with the proposals to limit the use of plastic bags. Many councils have programs that distribute alternative reusable bags to residents. Retailers also offer alternatives to plastic bags. Bunnings has introduced a charge to use its plastic bags, and usage by its customers has dropped by some 70 per cent. Overseas, levies and bans on plastic bags have been found to be useful in reducing the number of plastic bags. Ireland introduced a levy in 2002, and plastic bag distribution was reduced by 90 per cent in the first three months. Bans have been undertaken in several countries, namely Taiwan, Bangladesh and Papua New Guinea, amongst others. Some countries have banned all plastic bags under a certain thickness, while others have planned phase-out bans incrementally.

Environment ministers have announced that they intend to phase out plastic bags totally by the end of 2008. The committee was unsure whether the process would include a levy or a ban. Both the industry and the community need to know more about the future management of plastic bags, as the code of practice is only an initial reduction device and has several specific time parameters. The committee was of the opinion that South Australians are changing their behaviour with regard to plastic bags and will continue to do so when further changes to limit the number of plastic bags are implemented. The committee supports a national approach to the issue of plastic bags, but a quicker response is needed if the goals outlined in the code are to be met.

As a result of the inquiry into plastic bags, the committee has made 13 recommendations, and it looks forward to them being considered and implemented by this government. I thank all those who gave evidence and prepared submissions for the inquiry and also the members of the committee, including the Hon. Gail Gago, the Hon. Sandra Kanck, the Hon. Malcolm Buckby, Mr Tom Koutsantonis and the Presiding Member, Ms Lyn Breuer, and, of course, the committee staff members: the secretary, Mr Phil Frensham, and our researcher, Ms Alison Meeks.

The Hon. G.E. GAGO: I thank all honourable members in this place who have contributed to the debate on this matter and also all the people who gave evidence to the committee. This is a most important issue and, although a great deal of work is being done on this matter and there have been a number of important achievements, we still have a long way to go. The committee has handed down 13 recommendations, which I think are really important, to take this matter forward and improve our management of the disposal of plastic bags. I thank all the members of the committee and, in particular, our chair, Lyn Breuer, and the staff assisting the committee, Phil Frensham and Alison Meeks.

Motion carried.

WORKPLACE PRIVACY BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 497.)

The Hon. IAN GILFILLAN: I previously sought leave to conclude my remarks in relation to this matter, and I am glad that I did. The Democrats introduced this bill on 10 November. In the meantime, we have received a report on the bill from the Industrial Relations Committee of the Law Society of South Australia. I do not intend to read it all, but I will quote some parts of it, as follows:

> Workplace Privacy Bill 2004.
>
> The committee has been invited to comment upon the Workplace Privacy Bill 2004. As its name suggests the bill represents an attempt by the South Australian parliament to address competing rights within the workplace: the right of the employer to carry out surveillance and to obtain evidence of illegal activities on the part of its employees and the right of employees to privacy in the workplace. The bill seeks to impose for the first time some limits upon the rights of employers to undertake covert surveillance of employees in the workplace. From that perspective it might be said that the bill represents an advance upon the current position with respect to the protection of reasonable privacy on the part of employees.

I do hope that the government is taking particular note of this, because it may turn out to be a persuasive argument for it to support the legislation. The quote continues:

> The existing position.
>
> 1. The general view is that there is no right of privacy generally afforded by common law in Australia.
> 2. Further it seems impossible to infer a right to privacy (at least in the sense of freedom from surveillance) from the obligations of employer and employee that are either implied into the contract of employment or usually form the express terms of such contracts.
> 3. The Privacy Act 1988 (commonwealth) affords some protection with respect to the collection and use of personal

information of individuals. That provides limited assistance to the employee because the commonwealth Privacy Act obtains exemption for employee records. That act permits the employer to gather personal information concerning employees without their consent.

I repeat for emphasis: 'without their consent'. That is the commonwealth legislation. The quote continues:

It does not allow employees access to those personal employee records.

4. The Listening and Surveillance Devices Act SA now contains some significant limitations upon parties' rights to monitor and record the conversations of others. It applies to the use of electronic and other equipment used to listen to and record private conversations whether or not the equipment is capable of being used as a surveillance device. Obviously this act applies to any video camera that is capable of recording sound as well as images. However, the provisions of section 7 which effectively permit the recording of a party's conversations when a party has a duty to do so, where it is in the public interest or where it is undertaken for the protection of a lawful interest, would, in our view, extend to at least some of the likely monitoring of communications by employees in the workplace.

Some comments are made on various parts and clauses of the bill, which I will not read into *Hansard*. The conclusion of this report by the Industrial Relations Committee of the Law Society of South Australia states:

The bill seeks to introduce measures that will provide some balance between the competing interests of the employer to undertake surveillance of its employees and the rights and expectations on the part of employees to privacy within the workplace. One might expect that many employers will view the applications for authority to undertake covert surveillance as cumbersome and expensive.

I interrupt the quote to say that it may well be the case that some employers could regard it as cumbersome and expensive, but what the Democrats believe (and, I think, the society may as well) is that to have unfettered access to invade the privacy of an employee ought not to be taken as a given by employers in this state. I continue with the conclusion of the Law Society:

No doubt many well-organised and well-informed employers would ensure that all necessary processes of consent to surveillance are in place to ensure that the need for applications for authority are kept to a minimum.

Generally, the bill has limited aims, namely, the balancing of competing rights and interests of employers and employees within a workplace. Those are the very criticisms that can be made of it. The bill affords no protection to third parties, for example, customers who may be affected by security measures. They are not afforded any protection by this bill. Further, the bill only seeks to protect the privacy of employees in the workplace. There is nothing to prohibit the surveillance overtly or covertly outside the workplace.

The bill only imposes obligations upon an employer or its agent with respect to surveillance of their employees. It does not impose generally obligations upon occupiers of places in which employees work, thus third parties and contractors are afforded no protection by this bill. Further, employees of one employer are afforded no privacy from the surveillance carried out by another employer or entity where their own employer did not cause the surveillance to be carried out. To the extent to which this bill applies there may be some tension between its obligations and those imposed by the Listening and Surveillance Devices Act 1972.

However, notwithstanding these limitations, the bill does afford some enforceable right to privacy and protection from abuse where no such right currently exists.

The Labor government has been in power for over three years and the employees in this state still are open to abuse from invasion of their privacy. I would like to put into *Hansard* that I am very grateful to the society for its comprehensive and independent assessment of the Democrat bill. We will certainly take on board the limitations that it has identified in its report; and, if the bill is successful and gets to the committee stage, there is every reason to have amendments drafted to comply with some of the deficiencies that the society has picked up.

In a reforming state, it is long overdue that this right of privacy to employees should be enshrined in law and not just left to the ethics of the individual employer. I was generously afforded the ability to conclude my remarks today. I urge members to support the second reading of this bill.

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

MINING (ROYALTY) AMENDMENT BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

This Bill simply provides for section 17 of the *Mining Act* to be amended to exclude extractive minerals from the *ad valorem* royalty rates set out in that section and to provide for extractive minerals to pay a unit royalty as prescribed by regulation and for section 63 be amended to provide for the portion of the royalty to be contributed to the Extractive Areas Rehabilitation Fund (EARF) to be set by regulation and also to enable the Minister to make payments from the EARF for the purposes of funding compliance activities including salary, various overheads and on-costs.

Following on this, regulations will be made that set a contribution rate to the EARF that can fully fund the rehabilitation necessary to achieve desired environmental outcomes and to keep pace with changing costs and needs. To allow industry time to make the necessary commercial arrangements eg changes to contract prices for extractive products these regulations will not come into force until 1 July 2005.

The background to these amendments is as follows:

The extractive industries comprise those mining activities that provide material for the construction industries (eg road making, dwelling and commercial building). Extractive minerals, as defined in the *Mining Act 1971* include sand, gravel, stone, shale, shell and clay as used for construction activities. Some related products used for specialised purposes eg cement, lime and glass manufacture are not classed as extractive minerals.

Because of the unique features of extractive mining, the *Mining Act 1971* treats mining for extractive minerals differently in some respects from other forms of mining. In particular it provides for separate mining leases called extractive mining leases and for a fund called the Extractive Areas Rehabilitation Fund (EARF) to provide for certain rehabilitation costs to be funded by part of a royalty on extractive mineral production. Generally, rehabilitation of other forms of mining are underwritten by financial assurances such as bank guarantees, taken out by the miner and held by the Government.

Section 63 of the *Mining Act 1971* establishes the EARF. Under this section, the Minister is empowered to spend EARF funds for the following purposes:

- The rehabilitation of land disturbed by mining operations for the recovery of extractive minerals and;
- The implementation of measures designed to prevent, or limit, damage to or impairment of, any aspect of the environment by mining operations for the recovery of extractive minerals and;
- The promotion of research into methods of mining engineering and practice by which environmental damage or impairment resulting from mining operations for the recovery of extractive minerals may be reduced.

Contributions to the EARF come from the royalty paid on extractive production. Presently, the royalty is set under section 19 of the *Mining Act 1971* at 2.5% of an assessed "mine gate" value, ie as an approximate average of the various extractive mineral products.

The assessed value is set by the Minister for Mineral Resources Development and is presently $8 per tonne. The assessed value has not been increased since 1981.

The market value of extractive mineral products varies greatly depending both on the specific product (eg sand, gravel and rock) and the quality or grade of the product. These factors make the setting of an assessed value a complex and somewhat arbitrary exercise. The mine gate price of the various extractive products varies greatly from about $3 per tonne to over $30 per tonne.

The royalty on extractive mineral products is presently 20 cents per tonne (ie 2.5% of $8). Under section 63 of the *Mining Act 1971*, 50% of this must be contributed to the EARF and the remaining 50% goes to general revenue. Therefore 10 cents per tonne of extractive product is contributed to the EARF.

The EARF commenced operation in 1972 with a contribution rate of 5 cents per tonne and this was doubled to 10 cents per tonne in 1981 as a result of an increase in the assessed value. Although in 1994 legislative changes were made which resulted in the present 50/50 split in the disbursement of the royalty occurring, the contribution rate to the EARF did not change. Under this arrangement, 10 cents per tonne or about $1M per year is contributed to both the consolidated fund and the EARF. Since the fund commenced over $25M has been contributed to the fund and over $21M has been spent on more than 1000 separate rehabilitation projects. The balance of the fund has always been kept positive but the estimated value of projects under consideration is usually equal to or greater than that balance. Nevertheless it should be noted that projects have been developed at the rate that the fund can pay for them rather than at the rate that disturbance has been accumulating.

The EARF contribution rate has not kept pace with either inflation or the rising standards or rehabilitation demanded by society. It has estimated that a substantial unfunded liability for rehabilitation exists. However, it is unlikely that this liability would ever need to be funded at any point in time. Quarries tend to have long operating lives. For example, the Stonyfell quarry has potential reserves for several centuries. Consequently, a strategy to manage this liability downwards has been developed.

Another issue is the ambiguity regarding the scope of rehabilitation work that were intended to be covered by the EARF when Parliament passed the *Mining Act* in 1971. The Hansard records do not give an unequivocal view, however, the fund has come to be used for virtually all rehabilitation activities, including earthworks.

While there are differences in the attitudes of extractive miners to the use of the fund for rehabilitation, it can be generally stated that quarry operators have come to rely on the fund to pay for all their rehabilitation needs and that few have made any financial provisions of their own for rehabilitation.

As a result miners have tended to defer rehabilitation until the end of the life of a quarry rather than undertaking progressive rehabilitation as practicable and including it within their normal mining operations. This probably means that the costs of rehabilitation are increased. In addition cross-subsidization of miners who have poor rehabilitation practices by those who have better practices appears to occur. Thus the Government has become heavily involved in the business of directly managing rehabilitation of quarries through its administration of the EARF. This creates a situation where those responsible under the *Mining Act 1971* for undertaking rehabilitation (eg leaseholders, private mine owners and quarry operators) can abrogate that responsibility to Government.

These issues led to a discussion paper entitled "Funding of Rehabilitation in the Extractive Industries of South Australia" being released in April 2003 seeking comment from the industry and public on options for funding rehabilitation in the extractive industries. A good response from industry and other stakeholders was received to this paper. It was apparent that there was strong support for an EARF-style funding arrangement to be continued but that the issues I identified earlier in this speech were also apparent to respondents.

Following extensive discussions with industry and in particular the Extractive Industries Association a model for funding rehabilitation in the extractive industries was developed which had three principal features.

The first of these features has been to clarify the ambiguities in the scope of the EARF. I have approved revised guidelines for operation of the EARF in which there is a clear definition of the scope of works for which EARF funding can be used. At the same time accountability for undertaken rehabilitation back has been shifted back to those who should bear the responsibility. Those who are undertake progressive rehabilitation will be rewarded. More satisfactory environmental outcomes will eventuate.

In addition the revised guidelines protect those already in the industry who might be unable to afford the new responsibility because their mine is near to closing or in similar circumstances. Fair play will be achieved through a panel, which will assess and recommend on EARF funding for projects. This panel will be independently chaired and have representation from industry, as well as Government.

The EARF will also support rehabilitation required because of changes in community standards, which continue to improve, and where circumstances change – such as the encroachment of housing. As members would appreciate, due to the long lives of quarries and the necessity that they be located relatively close to their markets (cities and towns) they are more likely to be affected by changes in community standards for rehabilitation than other forms of mining. For example, housing now surrounds quarries near Adelaide that were in rural areas when they commenced operations. This means that higher standards of rehabilitation are frequently required but these are through no fault of the miner.

The second key feature is to ensure that the funding available keeps pace with the actual needs for rehabilitation in the industry.

A unit rate royalty on production is favoured over an ad valorem royalty as it is considered to be both fairer and simpler to manage. An ad valorem approach would require a continuation of the present "assessed value" of extractive product. In order to properly fund rehabilitation, adjustments would be required to either the ad valorem rates or the assessed value. Such adjustment could result in anomalies such as a rate greater than the standard 2.5% on some products or an assessed value that is higher than a reasonable mine-gate value. As I noted earlier assessed values cannot fairly reflect the value of extractive products given the disparate nature and wide range of mine-gate values of these products.

Unit royalties on extractive minerals are widely used in other States and Crown Law advice confirms that the *Mining Act 1971* can be validly amended to apply a unit royalty to extractive minerals.

It is proposed that the *Mining Act 1971* be amended so that the contribution rates can be prescribed in the regulations to the Act rather than being included in the Act itself. This approach, together with the use of a unit royalty, will facilitate making adjustments to the EARF contribution rate when required. The panel referred to earlier will play a key role in ensuring that the contribution rate is kept in line with actual requirements.

The contribution rates that will be proposed have been carefully calculated based on the actual costs of in-scope components of projects that have been funded from the EARF. Thus both increases in CPI and standards of rehabilitation since 1972 have been taken into account. The rate proposed will be (including the present 10 cents/tonne to be paid to Government revenue) is 35 cents/tonne. These funds are needed to ensure that:

- Liabilities for future disturbance are funded as the need accrues.
- Funds are accrued to cover liabilities for past disturbances not presently funded due to the failure to increase EARF contribution rates overtime.
- The community is protected where company failures and failures of rehabilitation after surrender of Extractive Mineral Leases or revocation of Private Mines result in rehabilitation costs which cannot otherwise be funded.

The third key feature of the proposal is the recognition by industry of the importance of regulating the environmental performance of the industry and the agreement that a portion of the EARF contribution should be put aside to provide for additional government resources to enforce mining operations plans.

The approach outlined will:

- Reduce the direct involvement of Government in funding and managing rehabilitation projects so miners will bear more responsibility and accountability for the environmental disturbances they create. There will be more rehabilitation activity and consequentially better environmental outcomes.
- Protect the community from unfunded rehabilitation liability resulting from business failure and failure of rehabilitation projects.
- Ensure that contributions to the EARF will keep pace with inflation and any other relevant cost pressures.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Mining Act 1971*

4—Amendment of section 17—Royalty

This clause amends section 17(2) of the *Mining Act 1971* to provide that, in relation to extractive minerals, royalty will be equivalent to the prescribed rate (to be prescribed by the regulations) as assessed at the mine gate.

The clause also inserts a new subsection (2a) into section 17, which allows the prescribed rate referred to above to be fixed according to either the weight or the volume of the extractive minerals.

Finally, the clause amends section 17(8) to exclude extractive minerals from that provision.

5—Amendment of section 63—Extractive Areas Rehabilitation Fund

This clause amends section 63(2) of the *Mining Act 1971* to provide that a prescribed percentage (to be prescribed by the regulations) of royalty is to be paid into the fund, rather than the current 50%.

The clause also amends sections 63(3)(a) and (b) to enable funds to be expended in compliance costs related to the purposes listed in those paragraphs.

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

PUBLIC SECTOR MANAGEMENT (CHIEF EXECUTIVE ACCOUNTABILITY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 May. Page 1747.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank members for their contributions to this bill. I wish to reiterate the reason why the government believes that this bill is important. There is an increasing demand on government to address matters that cross the traditional administrative units. The public sector must deal with increasingly complex and difficult whole of government issues that transcend traditionally aligned administrative units. At this point I would like to address some of the matters raised by the Leader of the Opposition. The first point relates to the amendments in clause 4 relating to section 12 of the Public Sector Management Act.

Whilst the final arrangements have not yet been finalised, it is envisaged that the contract will have two parts. The first part is the contract for the appointment of the chief executive which will specify the employment conditions and period of appointment and which will be up to five years as specified under the act. The second part is that the contract will be the subject of a set of performance standards which involve strategic goal objectives and which will be reviewed and set annually.

These performance standards will be put in place to assist in the enforcement of chief executives' contractual responsibilities. On an annual basis, a clear statement of whole of government and portfolio objectives will be established by the Premier and minister in consultation with the chief executives. The chief executives' performance will be reviewed possibly every six months against those clearly defined goals. After 12 months, the goals will be reviewed and new ones set for the next 12 months. Whilst it is envisaged that these statements of performance standards will last 12 months, the government will reserve the right to add or subtract objectives to these performance standard statements depending on the circumstances.

These amendments are designed to improve clarity in what is expected of chief executives. It is not designed to catch chief executives unaware or hijack them. The standards are envisaged to be strategic goal objectives for government. The government expects chief executives to adhere to high standards of ethical behaviour. The Public Sector Management Act was previously amended to address issues like honesty and conflict of interest. The chief executives are statutorily obliged to comply with those obligations. The code of conduct for public sector employees also sets out duties on chief executives regarding implementing and modelling ethical conduct.

In this regard, I draw the council's attention to the fact that the code speaks of three main themes: integrity, respect and accountability. In elaboration of the heading 'Integrity', the code of conduct states:

> Serve the public in accordance with the direction of government and your organisation without fear or reapproach by providing impartial professional advice, and advice that is frank and apolitical.

The government expects chief executives to do just that. It also expects its chief executives to deliver on key strategic objectives that it sets. It also expects them to be accountable for the delivery of those objectives.

This bill is designed to encourage whole of government problem solving and resource allocation. Through the improved governance arrangements it seeks, it clearly states accountability of chief executives for the implementation of whole of government policy. This will drive more effective ways of working across government in whole of government policy areas like social inclusion, economic development, sustainability, science and research. In particular, it is anticipated that the amendment will assist greatly in the achievement of goals set out under South Australia's Strategic Plan.

In regard to the second issue raised, the bill amends sections 14 and 15 of the act to provide for direct responsibility to the Premier, and the respective minister for the implementation of whole of government objectives. It also empowers the Premier to direct chief executives in relation to implementation of these objectives. The bill maintains the clear responsibility of chief executives to their respective ministers for portfolio objectives. The bill is not a grab for power or a centralisation of power or an effort to usurp ministers' powers. Rather, these amendments will improve governance and accountability, and ensure congruence between portfolio and whole of government objectives. Indeed, it is expected that the Premier and the ministers will all sing from the same hymn sheet, and that the directions to the chief executives will be consistent.

In respect of the third issue raised concerning executive tenure, I make the simple point that there is no legislative proposal before the house to amend the Public Sector Management Act concerning executive appointment or tenure. The points raised are irrelevant to the bill at hand. I commend the bill to members.

Bill read a second time.

ENVIRONMENT PROTECTION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 March. Page 1337.)

The Hon. SANDRA KANCK: This bill is essentially part 2 of reforms to the Environment Protection Act. The first

major set of amendments, that is, part 1, occurred in 2002. When we have dealt with part 2, I understand there is to be a part 3; and a draft bill is out for consultation regarding site contamination. Prior to the legislation in 2002, the EPA was spoken of, quite scathingly, by many people as being a toothless tiger. In a series of rallies from 1999 to 2001, thousands of people and different groups affected by environmental pollution gathered on the steps of Parliament House. This occurred particularly where there were issues of fumes and dust being imposed on residential areas.

The apparent incapacity or unwillingness of the EPA to do anything about these issues led my former colleague Mike Elliott, on behalf of the Democrats, to move in this council terms of reference for the ERD committee to investigate the functions and performance of the EPA. At the same time as the parliamentary inquiry was going on, anger in the community, particularly in relation to emissions from the Mount Barker foundry, led to the formation of an environment group called the People's EPA. The Mount Barker foundry issue highlighted the lack of real powers of the EPA and a lack of resources, in terms of both staff and equipment, to assist them in monitoring; and what was also a perceived unwillingness by the EPA to do anything.

At the heart of issues such as this is that of uninformed decision making by local government. Locating a foundry with fumes being emitted from a chimney, the top of which sat level with a school on higher ground, was always going to create problems if someone in the Mount Barker council had done their homework. If local government makes silly locational decisions it is hardly the fault of the EPA, but it has been placed in the situation on many occasions where it has had to pick up the pieces. We have seen similar situations to the Mount Barker situation arise because councils have allowed residential and industrial areas to expand without proper consideration of the potential for conflict between these two very different uses of land.

Castalloy is an excellent example of this, where local government over time has allowed housing subdivisions to creep ever closer to an established industrial area. In relation to that particular business, the situation has led in very recent times to some in the business community being highly critical of the EPA for enforcing the act; so it does have a very delicate balancing act to perform from time to time.

When the EPA board appeared before the ERD committee last year, we were informed that the EPA had never had a successful prosecution for environmental nuisance because of the impossibly high standards of proof required. By going down the road of civil rather than criminal penalties, as this bill does, I am hopeful that some offenders will admit their errors and be willing to pay a fine in order to avoid the costliness of court proceedings. Even though there has not been a successful prosecution, it might be attractive to business to try to force the issue in court, but I doubt that many businesses would want the uncertainty of an outcome, and the time issues alone associated with a court battle, even if they did win in the long run. Hopefully, by going down the civil penalties road, as the bill sets out, we will see more businesses that are transgressing admitting they have done so and accepting the fines that are imposed.

The post-closure management of landfills has been an issue of some contention with local government, but I believe the provisions in this bill are important. All of us who care about the environment know we have problems that are posed by both leachate and methane, and these continue to be produced for up to 30 or 40 years after a waste management landfill has closed. In the case of a private company it might not even exist, so issues need to be resolved while the landfill is alive and kicking.

It is interesting to see that, while the government is claiming great improvements will occur as a result of this bill, the People's EPA as recently as 24 February in *The City Messenger* claimed that the bill with which we are dealing will leave the EPA toothless. Gary Goland of the People's EPA is quoted as saying that this bill 'is the only piece of legislation where if you break the law, but can claim to make money from it, then it is okay'. I understand the cynicism, but I think overall this bill is another step forward. In a number of respects I believe the bill could have been stronger, but I have noted the hostility of the opposition to this bill and I know I would stand little chance of getting amendments through to strengthen the powers of the EPA. I am very happy to indicate Democrat support for the second reading and for the bill.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

[Sitting suspended from 6.01 to 7.48 p.m.]

MOUNT GAMBIER HOSPITAL

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I table a ministerial statement on mental health services in Mount Gambier, made today by the Minister for Health (Hon. Lea Stevens) in Mount Gambier.

Leave granted.

ENVIRONMENT PROTECTION (MISCELLANEOUS) AMENDMENT BILL

Second reading debate resumed.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank members who have contributed to the debate on this bill and would like to clarify certain comments made regarding it and foreshadow the amendments that I will move to fulfil the government's undertakings made in the House of Assembly debate. On 3 March 2005 the Hon. Caroline Schaefer expressed several concerns about the bill. Although a letter has been provided to respond to these issues, I wish to explain briefly for the parliamentary record the effect of the amendments in the bill. It was stated that the proposed civil penalty system reverses the burden of proof. This is not the case.

The bill proposes an alternative to criminal prosecution for some less serious offences that a person who has contravened the Environment Protection Act 1993 may elect to use. The benefit of a negotiated civil penalty system is that, if an alleged offender accepts that they have contravened the act, they can use a civil penalty process to avoid the costs and time normally associated with traditional court proceedings. The proposed reduction in the protection against self-incrimination for corporations does not alter the presumption of innocence and in no way assumes a person's or company's guilt.

The proposed amendment seeks to allow information to be considered by the court when the EPA is attempting to prove the guilt of a company. The proposal is consistent with the protection afforded to a company that is the subject of a Corporations Act criminal proceeding, because the Corpora-

tions Act 2001 does not afford the protection against self-incrimination for corporations.

The bill proposes an amendment to the penalties that may be imposed in an environment protection policy. The intention of amending the penalties is to broaden the range available to better suit a differing level of offences. While there are increases in the penalty for a category A and a category C offence, a new lower category level of penalty is also proposed. Although it is proposed to increase the penalty for a category C offence from $500 to $2 000, the bill contains a simple method to amend the policy to retain the level of penalty for current category C offences.

In a letter to the Hon. Caroline Schaefer, the Minister for Environment and Conservation responded to inquiries regarding the post-closure regulation provisions and the proposed streamlined process for making environment protection policies. The letter also provided information regarding discussions with Business SA, which requested the delayed implementation of the proposed civil penalty system and the amendment to the environmental nuisance offence to allow for industry awareness. I clarify that such a delay does not require amendment to the bill and will be achieved through the proclamation process.

During the committee stage I will move a number of amendments to the bill to fulfil the government's undertakings that were given during the House of Assembly debate. In summary, the amendments will:

- retain protection against self-incrimination for non-licensed companies as well as accredited licensees;
- make the environmental nuisance offence in section 82 of the act into a two-tiered offence, including a strict liability offence and an offence retaining the mental element;
- make the delegation powers of administering agencies under the proposed new section 18C consistent with the Local Government Act 1999;
- limit the power for an authorised officer to seize a vehicle to achieve consistency with existing powers for an officer inspecting or entering a vehicle;
- require the EPA to send letters to owners or occupiers of a property if an order is registered on the land to advise of their notification requirements if they sell or vacate the property; and
- provide the Environment, Resources and Development Court with some guidance regarding the awarding of costs in appeals.

The bill implements recommendations from the reviews into the adequacy of environment protection in this state that were undertaken by the former government and the Environment, Resources and Development Committee of parliament. Furthermore, the bill fulfils this government's election commitment to introduce a system of civil penalties to enhance environment protection in South Australia. The bill will strengthen the Environment Protection Act 1993 and establish a system to encourage local government involvement in the administration of environment protection legislation. Accordingly, the bill offers opportunities for more effective administration of the act and provides the Environment Protection Authority with a wider range of tools, which will lead to the better protection of our environment.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

The Hon. CAROLINE SCHAEFER: I would like the minister to explain in some detail the necessity for changing the definition of pollution. Previously, the bill read, 'any adverse affect on an area that is caused by noise, smoke, dust, fumes or odour'. That has now changed to, 'is caused by pollution'. To me, that broadens the definition to such an extent that, on any given day, someone can decide what is or is not a pollutant. I would like a more detailed explanation.

The Hon. CARMEL ZOLLO: I am advised that the definition of pollution is being amended such that it may allow regulations and environmental protection policies (EPPs) to clarify what is or is not a pollutant. This will provide greater certainty as to what may be an environmental nuisance as prescribed. To ensure that EPPs can create pollution offences, it is important to ensure that they can declare things to be pollutants. The amended definition allows this to happen. For example, the environment protection water quality policy includes a list of pollutants for the purpose of the policy and provides a clear list of materials not to be disposed of into a watercourse.

An example of a substance that may be declared not to be a pollutant for the purpose of the act as provided by the Minister for Environment and Conservation in the House of Assembly is fluoride, as public policy allows fluoride to be put into the water system for public health as it is good for people's health. As an example, the minister in another place said that you would not want to set up an EPP which states that water quality has to be at a certain level, and anything that is in it is a pollutant, and then allow someone to attack the system which allows fluoride to be put into the water. He used that as an example. Another example of a substance that may be declared not to be a pollutant is fertiliser which contains concentrations of matter. An example of matter that may be declared to be a pollutant is certain raw material. Another example may be arsenic above a certain threshold which is a pollutant and arsenic below a certain threshold which is not a pollutant.

The Hon. CAROLINE SCHAEFER: With respect, we have managed arsenic in our environment, we have managed fluoride in our water, and we have managed fertilisers in our environment for very many years without having to broaden the definition of a pollutant to be anything that the minister may so choose at his or her whim.

The Hon. CARMEL ZOLLO: I am advised that this is really for clarification. It allows us to clarify what is or is not a pollutant; and, probably at the moment, that is not clear in the act. This is what this clause does.

The Hon. CAROLINE SCHAEFER: We can or cannot go on all night, but I would have thought that the previous wording, which makes quite clear what a pollutant is, is much more informative than the new wording, which says that it is anything I so choose.

The Hon. CARMEL ZOLLO: Apparently, it is by regulation. The new section provides for 'anything declared by regulation or by an environment protection policy' to be a pollutant. It is further clarification, as I have mentioned. You are getting both protections.

The Hon. CAROLINE SCHAEFER: I will not go on, but I do not think it does clarify it. In fact, I will put on the record that not only does it not clarify it but it muddies the waters, literally and figuratively, and makes the definition so broad as to be thoroughly confusing to anyone trying to comply with the act.

The Hon. NICK XENOPHON: In relation to the definition of 'pollutant', fluoride, for instance, is in our water supply but, obviously, if it were in a higher concentration it would be deemed to be dangerous.

The Hon. Sandra Kanck: It is dangerous.

The Hon. NICK XENOPHON: It is dangerous, says the Hon. Sandra Kanck; and there is a body of thought that says that fluoride is dangerous, full stop. Is it anticipated that the definition of 'pollutant' will be refined enough to refer to substances at certain concentrations in certain contexts, that is, in the air, the water supply or on the ground? How will it be dealt with? Will it be something that is fairly blanket and blunt, or will it be more specific in terms of the definition of 'pollutant'? Also, what does the minister say about an industry that says, 'Look, we have scientific evidence that says that this is not a pollutant'; or, on the other hand, an environmental group that says, 'This ought to be a pollutant, or the level that you have chosen is simply too high as a threshold'? At a policy level and at a practical level, how will the minister deal with that?

The Hon. CARMEL ZOLLO: I am advised that the water quality EPP currently lists those pollutants that are safe and unsafe. It is very specific and detailed. The current protection policy goes through detailed consultation. The government would need to consider what level of pollutant is appropriate, as well as industry and environmental concerns.

The CHAIRMAN: This might be an appropriate time for the minister to move her amendment.

The Hon. CARMEL ZOLLO: I move:

Page 5, after line 19—

Insert:

(6a) Section 3(1)—after the definition of the prescribed national scheme laws insert:

prescribed person means—

(a) a natural person; or

(b) a body corporate that is not the holder of an environmental authorisation under the act; or

(c) if the regulations specify a scheme under which the holder of an environmental authorisation may apply to the authority to be accredited as an accredited licensee in respect of a particular prescribed activity of environmental significance—a body corporate that is an accredited licensee under such a scheme.

This amendment has been prepared following comments made by the Hon. Iain Evans during the House of Assembly debate regarding the proposal to remove companies' protection against self-incrimination.

With this amendment, protection against self-incrimination would only be reduced for those companies who undertake a prescribed activity of environmental significance, that is, an activity requiring a licence. However, if the company holds an accredited licence, the protection would remain. The amendment inserts a new definition into the Environment Protection Act 1993 for a prescribed person which includes a natural person, a non-licensee or an accredited licensee. Consequential amendments to the act will then retain the protection for such prescribed bodies, thus removing the protection for non-accredited licensees. The amendment provides great incentives for high performing licensees to attain accreditation as well as retaining protection for smaller operations not licensed.

Amendment carried; clause as amended passed.

Clauses 6 to 16 passed.

Clause 17.

The Hon. CARMEL ZOLLO: I move:

Page 8, lines 26 to 30 inclusive—

Delete subsection (1) and substitute:

(1) An administering agency, other than the Authority, may, by instrument executed by the administering agency, delegate a function conferred on the administering agency under this Division to—

(a) a committee of the administering agency; or

(b) a subsidiary of the administering agency; or

(c) an employee of the administering agency; or

(d) the employee of the administering agency for the time being occupying a particular office or position; or

(e) an authorised officer.

This amendment has been prepared again following discussion generated by the Hon. Ian Evans during the House of Assembly debate regarding the power of administering agencies to delegate to profit-making entities. The amended delegations powers for administering agencies proposed in this amendment are consistent with the delegations powers in the Local Government Act 1999 and no longer allow for delegation to other persons, or a committee of persons, thus limiting the delegations powers to a profit-making entity. The delegations powers under the Local Government Act 1999 are stated in section 44 of the act.

The Hon. CAROLINE SCHAEFER: I understand that these amendments are as a result of an undertaking given by the minister to the shadow minister in another place and, as such, we will not be opposing them.

Amendment carried; clause as amended passed.

Clauses 18 to 38 passed.

Clause 39.

The Hon. CAROLINE SCHAEFER: The opposition is opposed to this clause. Previously there were three criteria for strict liability offences, there is now just one. We have had strong representation from the Engineering Employers Association saying that this is far too subjective, and that there is no defence under this amendment. The association has written to me, and it telephoned me as late as today, and I believe that it, and many other employers, will be severely restricted by this limitation.

The Hon. CARMEL ZOLLO: I move:

Delete the clause and substitute:

39—Amendment of section 82—Causing environmental nuisance.

(1) Section 82—delete the penalty provision and substitute:

Penalty:

If the offender is a body corporate—Division 1 fine.

If the offender is a natural person—Division 3 fine.

(2) Section 82—after its present contents as amended by this section (now to be designated as subsection (1)) insert:

(2) A person who by polluting the environment causes an environmental nuisance is guilty of an offence.

Penalty:

If the offender is a body corporate—Division 4 fine.

If the offender is a natural person—Division 6 fine.

Expiation fee: Division 6 fee.

This amendment has been prepared following comments made by Karlene Maywald MP during the House of Assembly debate about the proposal in the bill to remove the current environmental nuisance offence and replace it with a strict liability offence. The amendment makes the environmental nuisance offence a two-tiered offence, including a strict liability offence and an offence retaining the mental element. The amendment to the bill retains the current section 82 offence and adds a strict liability subsection, with different penalties for corporations and natural persons.

In line with the government's commitment to increase penalties, as has occurred for the two more serious environmental offences in the act via the Statutes Amendment (Environment Protection) Act 2002, the maximum penalty for the environmental nuisance offence with intent or by recklessness is doubled for a body corporate to $60 000,

while the penalty for a natural person remains at $30 000. The proposed new strict liability offence will have a penalty of $15 000 for a body corporate, or a $4 000 fine, or $300 expiation for a natural person.

The Hon. CAROLINE SCHAEFER: Does this amendment alter the fact that, under the new amendment to the original act, this new offence does not require proof of intention or recklessness, or proof that the pollution was done with knowledge? The opposition's concern is that there is no necessity to prove intent to pollute. One can then see the possibility of a case where someone may have polluted completely unintentionally and, whether or not they are a large company, particularly if we go back to the broadening of the definition of pollution, they can be put out of business because they have done something that they neither knew they did nor intended to do.

The Hon. CARMEL ZOLLO: We do have defences in the act. If a person has acted reasonably it is a defence, so industry will not be put out of business unreasonably. I refer back to the two types of offences I talked about earlier. It is the same as I said before.

The Hon. CAROLINE SCHAEFER: I indicate that the opposition will be opposing this clause.

Amendment carried.

Clauses 40 to 42 passed.

Clause 43.

The Hon. CARMEL ZOLLO: I move:

Page 19, after line 3—Insert:
(4a) Section 87(3)—after 'inspect' insert ', or to seize,'

This amendment has again been prepared following comments made by the Hon. Iain Evans MP during the House of Assembly debate regarding the inconsistency in the act between the restrictions of the power of an authorised officer to inspect a vehicle and the power to seize a vehicle. The amendment imposes the same restrictions on the power of authorised officers relating to the seizure of a vehicle as currently exists in the act for an officer inspecting or entering a vehicle.

Section 87(3) of the act currently limits the power of authorised officers to inspect a vehicle so that an officer cannot inspect a vehicle unless it is of a prescribed class (that is, a vehicle used to carry waste or to undertake a prescribed activity of environmental significance), or the officer reasonably suspects a contravention of the act may be committed in relation to the vehicle, or something in the vehicle may be evidence of a contravention. The amendment will make the authorised officer's power to seize a vehicle subject to the same limitations.

Amendment carried; clause as amended passed.

Clause 44 passed.

Clause 45.

The Hon. CARMEL ZOLLO: I move:

Page 19, line 25—
Delete 'natural' and substitute:
prescribed

The amendment is consequential to amendment No. 1 such that the protection against self-incrimination would only be reduced for those non-prescribed companies—those companies which undertake a prescribed activity of environmental significance and do not hold an accredited licence following issues raised by the Hon. Iain Evans MP during the House of Assembly debate.

Amendment carried; clause as amended passed.

Clause 46.

The Hon. CARMEL ZOLLO: I move:

Page 21, line 20—
Delete 'natural' and substitute:
prescribed

I move this amendment for the same reasons that I have just outlined.

Amendment carried; clause as amended passed.

Clause 47.

The Hon. CARMEL ZOLLO: I move:

Page 22, line 34—
Delete 'natural' and substitute:
prescribed

Amendment carried; clause as amended passed.

Clause 48.

The Hon. CARMEL ZOLLO: I move:

Page 23, after line 37—
Insert:
(8a) Section 94—after subsection (4) insert:
(4a) If an environment protection order is registered under this section in relation to land, the Authority must, as soon as reasonably practicable, notify, in writing, each owner of the land and the occupier of the land of the registration and of the obligations of owners and occupiers under subsection (4).
(4b) A notice to be given to the occupier of land under subsection (4a) may be given by addressing it to the 'occupier' and posting it to, or leaving it at, the land.

Again, this amendment has been prepared following comments made by the Hon. Iain Evans MP during the House of Assembly debate regarding the obligation in the act on owners and occupiers of a property that has an order registered on the title to advise the EPA if they sell or vacate the premises. The amendment requires the EPA to advise the holder of an Environment Protection Order registered to land of their obligation to notify the EPA if they cease to occupy or own the land. The amendments to section 94 and 101 of the act are made so that, if an order is registered onto land, the EPA must send or deliver a letter to the owner or occupier advising of their notification requirements in the event that they cease to own or occupy the property.

The Hon. CAROLINE SCHAEFER: I have been assured by the minister and others that this does not have retrospectivity attached to it, but I cannot see how it does not. The minister may care to explain.

The Hon. CARMEL ZOLLO: Would the member clarify whether, when she said that the minister assured her that it would not be retrospective, she was talking about people who already have existing orders on their land and whether they will be sent letters? Is that what she is saying?

The Hon. CAROLINE SCHAEFER: That is part of it, and it is partly this whole idea of reverse onus of proof. This appears to me to go back, as I said previously, to an offence that may have been either knowingly or unknowingly committed, and these letters can then be issued any old time into the future.

The Hon. CARMEL ZOLLO: I am advised that the post closure letters will be issued in future only for an order on the land after a post closure order is established under section 93A of the bill, and a post closure order can be issued only in relation to a prescribed activity of environmental significance that ceases after the commencement of this section. A post closure order can be made only if an activity ceases after the bill passes. I will give an example. If a tanning shed closes in December and there are environmental concerns about the site, we can issue a post closure order; but, if it is already closed, we are not able to do so. If the activity has

ceased, the government cannot do so. So, it is not retrospective.

The Hon. CAROLINE SCHAEFER: What about some time in the future? For instance, there may be a disused mine. Can a post closure order be issued on the previous owners, or is that order issued on the new owners, who may have no knowledge that it was a polluted site in the first place?

The Hon. CARMEL ZOLLO: If the activity stops before the bill passes, an order cannot be issued on either the previous owner or the new owner. If the activity takes place after the act has been proclaimed, an order can only be issued on the owner at that time.

The Hon. SANDRA KANCK: This raises for me the issue of the Adelaide City Council's Wingfield waste management facility which closed in December. Presumably, that will not be covered by this bill.

The Hon. CARMEL ZOLLO: I am advised that it is subject to a separate act. I should have mentioned that this bill does not cover mining. I used mining as an example, but mining is not covered by this bill.

The CHAIRMAN: Is that clear?

The Hon. CAROLINE SCHAEFER: It is not clear, Mr Chairman, and it is rapidly becoming less clear as we progress. I will not oppose this, but at some time in the future I will say that I told you that the bill did not make sense when it came through this house.

Amendment carried; clause as amended passed.

Clauses 49 to 51 passed.

Clause 52.

The Hon. CARMEL ZOLLO: I move:

Delete this clause and substitute:

52—Amendment of section 98—Admissibility in evidence of information

Section 98(2)—After 'compliance by a' insert 'prescribed'.

This amendment is consequential. Protection against self-incrimination would only be reduced for those non-prescribed companies which undertake a prescribed activity of environmental significance and do not hold an accredited licence. This follows the issues raised by the Hon. Iain Evans during the debate in the House of Assembly.

Amendment carried.

Clause 53.

The Hon. CARMEL ZOLLO: I move:

Page 27, line 25—Delete 'natural' and substitute 'prescribed'.

I move this amendment for the same reasons that I just outlined.

Amendment carried; clause as amended passed.

Clause 54.

The Hon. CARMEL ZOLLO: I move:

Page 27, after line 35—Insert:

(2) Section 101—After subsection (5) insert:

(5a) If a clean-up order is registered under this section in relation to land, the authority must, as soon as reasonably practicable, notify, in writing, each owner of the land and the occupier of the land of the registration and of the obligations of owners and occupiers under subsection (5).

(5b) A notice to be given to the occupier of land under subsection (5a) may be given by addressing it to the 'occupier' and posting it to, or leaving it at, the land.

This amendment is consistent with amendment No. 8. It requires the EPA to advise the holder of a clean-up order, registered on a certificate of title, of the obligation to notify the EPA if they cease to occupy or own the land. This amendment follows comments made by the Hon. Ian Evans MP during the House of Assembly debate.

Amendment carried; clause as amended passed.

Clauses 55 to 57 passed.

Clause 58.

The Hon. CAROLINE SCHAEFER: In another place the opposition stringently opposed the civil penalties clause, and we will do so again in this place. By way of argument, I will read into *Hansard* part of a letter from the Engineering Employers Association, as follows:

The association does not support the introduction of civil penalties into the Environment Protection Act 1993. We believe as a matter of principle that the EPA must be able to provide the highest standard of proof required in the criminal penalties system of beyond reasonable doubt, rather than being able to prosecute on the basis of evidence that only requires proof to the level of the balance of probabilities. We do not believe that a civil prosecution environment and the resulting lowering of the burden of proof required is appropriate for the important area of environmental protection as it relates to the ongoing effect of companies in the metal and engineering manufacturing sector to improve environmental outcomes.

The government have allowed some amendments in the lower house which, if enacted, will allow those being prosecuted the capacity to make a choice between the two levels of prosecution. While this represents a significant amendment, we remain opposed in principle to the introduction of civil penalties into the act.

Essentially, that sums up the argument of the opposition also. We are not talking about minor penalties here but penalties that would incur a fine of up to $120 000, yet that person or company would not have the recourse of being heard under normal court proceedings. Although a two-tiered amendment has been mooted, we believe the greatest protection for all concerned is the onus of proof within the courts system and we will strenuously oppose this clause.

The Hon. CARMEL ZOLLO: It may be best if I place on record the content of some correspondence sent to the honourable member by the minister in another place. The civil penalty does not reverse the burden of proof. The bill proposes an alternative to criminal prosecution for some less serious offences, which a person who has contravened the Environment Protection Act 1993 may elect to use. The bill proposes two forms of civil penalties: first, the negotiated civil penalty that may occur if both the EPA and the alleged offender agree to negotiate. If the alleged offender agrees to pay the negotiated civil penalty, no further criminal proceedings for that offence may be entered into.

However, if the alleged the offender does not wish to enter into such negotiations, the EPA is not able to recover a negotiated penalty. The alleged offender does not need to prove their innocence but merely needs to elect not to negotiate to avoid a negotiated penalty. The EPA would then have the option to attempt to prove in court that the person contravened the act.

The benefit of this system is that, if an alleged offender accepts that they have contravened the act, they can use a civil penalty process to avoid the costs and time normally associated with traditional court proceedings. Secondly, in the event that negotiations have not been successful, the EPA may apply to the court for a civil penalty order to be awarded against an alleged offender. The EPA would need to prove to the court, on the balance of probabilities, that the alleged offender contravened the act. However, if the alleged offender does not want to have the matter heard in the civil court, they have the right to elect to be heard in the criminal court. If the alleged offender chooses to be heard in a criminal court, the EPA is not able to ask the court for a civil penalty.

The Hon. CAROLINE SCHAEFER: As part of the briefing which was given to our party, my notes indicate that we were told that this will make civil prosecutions quicker and easier, and that is what I believe it is about. While

ostensibly we are talking about a two-tiered system where people can either say, 'Okay, I will elect to go to the courts' or 'I will elect to negotiate a penalty', it removes the right for that alleged offender to prove in an open court process that it was not their intent. It gets back to my original argument; that is, the onus of proof appears to me to be reversed by the fact that these people are told, 'If you just lie down, shut up and get on with paying your $120 000 fine, we will not take you to court.' I do not see that necessarily as justice.

The Hon. CARMEL ZOLLO: I am advised that a person may always elect to go to court.

The Hon. Caroline Schaefer: Before or after they pay the fine?

The Hon. CARMEL ZOLLO: If they elect not to pay the fine, they can go to the criminal court.

The Hon. CAROLINE SCHAEFER: My notes also say that on strict liability for higher end offences the EPA does not have to prove intent or recklessness, simply that the action resulted in the offence. It seems to me to be too easy to fine people. We are not talking about minor offences. We are not talking about someone who has dropped their rubbish bin. We are talking about 'the maximum amount that the authority may recover by negotiation is $120 000'.

The Hon. CARMEL ZOLLO: I am advised that it can be used only if a company believes that it can benefit from civil penalties and that it can be used only for less serious offences.

The Hon. CAROLINE SCHAEFER: We can argue and argue. I do not agree with the minister, and nor does the engineers association or the Housing Industry Association, and we will be opposing the clause.

The committee divided on the clause:

AYES (7)

Gago, G. E.	Gazzola, J.
Gilfillan, I.	Kanck, S. M.
Sneath, R. K.	Xenophon, N.
Zollo, C. (teller)	

NOES (6)

Dawkins, J. S. L.	Lawson, R. D.
Lensink, J. M. A.	Schaefer, C. V. (teller)
Stefani, J. F.	Stephens, T. J.

PAIR(S)

Roberts, T. G.	Redford, A. J.
Holloway, P.	Ridgway, D. W.
Evans, A. L.	Cameron, T. G.
Reynolds, K.	Lucas, R. I.

Majority of 1 for the ayes.

Clause thus passed.

Clauses 59 and 60 passed.

New clause 60A.

The Hon. CARMEL ZOLLO: I move:

After clause 60—

Insert:

60A—Amendment of section 108—Powers of court on determination of appeals

Section 108—after its present contents (now to be designated as subsection (1)) insert:

(2) However, no order for costs is to be made unless the court considers such an order to be necessary in the interests of justice.

This new clause was prepared following comments made by Ms Vickie Chapman during the House of Assembly debate regarding the preference that the ERD Court award costs for appeals. The amendment provides the ERD Court with the powers to award costs for administrative appeals to the court where necessary in the interests of justice.

New clause inserted.

Remaining clauses (61 to 83), schedule and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

DEVELOPMENT (SUSTAINABLE DEVELOPMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 April. Page 1532.)

The Hon. NICK XENOPHON: I support the second reading of the bill, but I have a number of concerns about its strength to deal with the issues that it purports to deal with. In this regard, I have been greatly assisted by FOCUS, the Friends of the City of Unley Society. Last year, I chaired a meeting for it, and I think something like 140 people attended, including the Hon. Sandra Kanck. I think it was a good meeting in that there was a lot of debate and discussion about issues relating to sustainable development and planning laws. It is important that I outline the concerns that FOCUS has regarding this bill. I will precis its concerns.

FOCUS is concerned that, in a sense, the title of the bill can be seen as misleading because the term 'sustainable' is not clearly defined, and nor does it reflect the accepted international concept of ecological sustainability. The attempt to define sustainable development in relation to the objects in subsection (1) of the bill is inadequate. Therefore, FOCUS believes the title of the bill is misleading and that it could lull south Australians into a false sense of security. It believes that the government is doing the right thing by legislating that all new houses are built to exacting standards to be environmentally responsible.

The concern of FOCUS is that there are too many developers in the industry who churn out high maintenance, poor quality and energy hungry dwellings, and that the two-for-one housing developments, often double storey with their open space design, usually have thin walls, large windows, no verandahs, eaves or pitched roofs and that this can put enormous pressure on the demand for energy of heating and cooling.

In that sense, it is clearly not sustainable. Also, it can put an unacceptable pressure on Adelaide's infrastructure, especially in the older suburbs that were not designed for this high-density living. That is a primary concern of FOCUS, which is also concerned that the bill has a number of glaring omissions. FOCUS says that, without specified mandatory industry requirements and building codes and practices, developers could be free to ignore their environmental responsibility. For instance, section 4 (Interpretation) fails to acknowledge demolition of an existing building as a form of development.

That is one of the primary concerns of FOCUS and other residents' associations in terms of maintaining the unique character of Adelaide suburbs, particularly our older suburbs. For instance, FOCUS raises the inability of representors (objectors) to make photocopies of the development applications as proposed in the draft. FOCUS says that section 38, subsections (17a) and 17(b) have been withdrawn from the bill, and that this issue remains unresolved. There is no requirement for applicants to submit true-to-scale plans. There are no penalties for misleading information.

FOCUS says that the bill fails to acknowledge people's rights to maintain amenities and lifestyle, or to live among character homes. The bill does not legislate to protect existing residents' homes and gardens from being overshadowed or overlooked, nor does it prescribe protective measures for developers to contain noise from overcrowding. Independent environmentally sustainable electricity generation should be encouraged. However, this bill does not protect solar electricity panels from the possibility of overshadowing development.

I know that the Hon. Sandra Kanck has introduced a bill in that regard, and I hope that she will move an amendment to this bill in relation to solar panels. Certainly, I will be strongly supporting electricity for homes from solar panels. That is something we should be encouraging. It cuts out the need for a distribution or transmission network. It is there at site where it is needed. It ought to be encouraged in the strongest terms, and it ought to be protected from potential overshadowing development. FOCUS also considers that the bill is unfair in a number of respects. For instance, section 38 seeks to insert new subsection (2b), which relates to category 2A development that involves building on the boundary. This requires notification to the affected neighbours.

However, FOCUS says that, inconsistently, the requirement of notification does not apply to complying developments which may include extensions or garages and which can adversely affect neighbouring amenities. Section 38(17) in relation to category 2A or category 2 developments is provided only to immediate adjacent properties, and the right of objection is limited to them. FOCUS is concerned that any other representations will be discarded. Residents in the street and other interested parties should have the right to have a say in the future of their streetscape.

In relation to category 2 developments, FOCUS is concerned that developers have the right of appeal against the council's Development Assessment Panel Plan decision, and representors should have the same rights. It is a concern of FOCUS that development assessment panels are not truly representative. Section 56A provides that councils are to establish council development assessment panels. In terms of the composition of the councils, there ought to be a greater community representation, and that of specialist members one should be an expert in environmental sustainability; and in councils covering older suburbs the panel should include a heritage architect.

In terms of South Australian history and development with respect to heritage matters set out in the bill in sections 25A and 26A, whilst this bill encourages the selective heritage listing of individual buildings in Adelaide's older suburbs, FOCUS is concerned that it does not acknowledge the importance of conserving their collective character streetscapes. Unsightly, ad hoc development will ensure that our preserved buildings will be out of place as a minority interspersed and lost amongst rows of forgettable, unsympathetic developments with questionable lifespans. This particularly applies to older suburbs such as Unley.

In terms of the demolition of pre-1940 buildings, FOCUS is concerned that the continuing trend is affecting the character and streetscapes of residents. I know that the member for Unley, Mark Brindal, has met with representatives of FOCUS on a number of occasions, and he has expressed his concerns publicly about the unique character of Unley being adversely affected by the nature of developments. FOCUS is concerned that the character buildings valued by South Australians and visitors alike are being demolished at an alarming rate. That heritage can only be protected by this legislation and we are not doing enough in this bill to protect the heritage of our suburbs, which are unique and which are a collective asset for the state.

In relation to the bill generally, I believe that there ought to be greater protection in terms of heritage buildings as a matter of course so that it is a non-complying development, and so that it is not as easy to demolish older buildings, particularly where the streetscape is affected. Whilst the argument of economic interest is given by some with respect to the purchase of land, for instance, I believe that we should also look at the economic interests of those who have a heritage building that they have maintained, or a building that is particularly unique in its architectural style. Changing the streetscape can also impact economically on those existing residents who have looked after, nurtured and maintained those buildings—particularly pre-1940.

I should acknowledge the hard work of two of the committee members of FOCUS, Laura Pieraccini and Rosanna Fazzini, who have put in an enormous amount of work in relation to their submission, and the work that they have done for FOCUS. I hope that this bill can be strengthened, that it can have some real teeth to adequately take into account those who want to keep Adelaide's unique architectural heritage, particularly in our older suburbs such as Unley, Parkside and North Adelaide, and a whole range of other suburbs where Adelaide's unique architectural styles are known nationally. I think that, if we do not act decisively now, we will lose that forever, and that is why I support this bill. I can only hope that in the committee stage it can be strengthened to take into account these community concerns.

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (SAFEWORK SA) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 May. Page 1750.)

The Hon. NICK XENOPHON: I support the second reading of this bill. I disclose at the outset, as I have on previous occasions, that as one of the patrons (along with the Premier and others) of the Asbestos Victims Association of SA, I have dealt on a regular basis with people who have been affected by unsafe workplaces, who have been exposed to asbestos, and who have faced an asbestos-related disease. Having met with family members who have lost a loved one through an asbestos-related disease, I believe that the need to strengthen occupational health and safety legislation in this state is absolutely vital. This bill is a step in the right direction in a number of respects. I propose to confine specific remarks about some of the clauses to the committee stage, but I will make some observations in terms of what I consider to be room for considerable improvement in relation to the bill.

The bill does not allow for any provisions with respect to industrial manslaughter. I believe that is something that must be considered. The ACT has had industrial manslaughter legislation for over a year, yet the sky has not fallen in for industries in the ACT. The ACT Chamber of Commerce, which vehemently opposed the bill initially, is now working, from the reports I have seen, constructively with government and employee groups to ensure that there is compliance with

that law. This state is now facing having the highest level per capita of rates of mesothelioma disease in the world and the highest level of deaths from that disease, and we are yet to peak in relation to mesothelioma deaths.

My concern is that had this state or nation had industrial manslaughter laws a number of years ago—at least a generation ago—then I believe that those companies that made a commercial decision to keep their workers exposed to asbestos would have done so knowing that, in addition to any civil sanctions in terms of common law and compensation rights, there were also criminal sanctions. I believe that in extreme cases there is scope for that corporate veil to be lifted, in a sense, and to have effective industrial manslaughter laws. I will be moving amendments in the committee stage with respect to that.

I have referred previously in a private member's bill to the decision of Tesco Supermarkets Limited v Nattrass, a House of Lords decision in the UK, which points to the inadequacies of the current common law in terms of lifting the corporate veil where a course of conduct has led to the death of a worker. That is why I think it is important that there be industrial manslaughter laws.

I also think it is important that we look at strengthening section 59 of the act, which relates to aggravated offences. That particular provision has been in force since 1986—some 19 years—and the information I have is that there has never been a prosecution under that section in all those years.

The Hon. R.D. Lawson interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Lawson says that it is very effective because it has deterred anyone from committing a breach, but I am afraid I have to fundamentally disagree with the Hon. Mr Lawson. I am not sure whether it was partly tongue in cheek, but when one considers some deaths in industrial accidents that have occurred, and the circumstances of those accidents to which I will refer in the committee stage, one wonders why there were not successful prosecutions under that section. I believe it is because the current wording is simply too restrictive; that it is simply too difficult to mount a successful prosecution for those rogue employers who do not do the right thing.

I believe that most employers want to do the right thing. They do not want to have people injured on site, but some employers just have an almost contemptuous disregard for the safety of their work force. I have had discussions with safety representatives—those who have had to attend fatal accidents—who feel that the current laws are not strong enough to deal with those rogue employers who do not do the right thing. For example, in the automotive industry, my understanding is that Mitsubishi and Holdens have a good reputation in relation to occupational health and safety. They take their responsibilities quite seriously to do the right thing by their workers. However, there are other employers who do not share that same commitment.

I believe that the bill ought to be strengthened, and strengthened significantly. I have spoken to people who have lost a loved one in an industrial accident, unrelated to asbestos claims but as a result of a sudden catastrophic event at work, and questions were raised subsequently about the level of training and the lack of an appropriate system of safe work (for instance, the lack of guarding on equipment) and the fact that there were warnings in the workplace about hazardous practices, and the accident still occurred and someone was killed. I believe that indicates that there is significant scope to strengthen the legislation, and I look forward to the committee stage of this bill.

I have not yet had an opportunity to speak to Business SA and employer groups, and nor have I had an opportunity to have a detailed briefing from the union movement. Of course, I will do that before the committee stage of this bill. I would like to think that, if this bill is passed, it will lead to safer workplaces and reduce the number of industrial accidents. I believe the bill ought to be strengthened because, unless there are strong sanctions for those worse cases—those terrible cases—this bill will just tinker around the edges and will not deliver the fundamental reforms and the culture shift for that very small minority of employers who are not doing the right thing but who are responsible for a disproportionate number of deaths in the workplace.

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

FIRE AND EMERGENCY SERVICES BILL

Adjourned debate on second reading.

(Continued from 3 May. Page 1749.)

The Hon. CAROLINE SCHAEFER: Given that this bill has been in the making for so long, I think it is probably worthwhile to go back over some of its history. On 14 May 2003, the government tabled in parliament the report on the review of emergency service agencies undertaken by the Hon. John Dawkins AO (not our own beloved Hon. John, but the other one), the Hon. Stephen Baker and Mr Richard McKay.

The Hon. Carmel Zollo interjecting:

The Hon. CAROLINE SCHAEFER: I have no objection to the other one, but he is not as nice as ours. This review examined the extent to which the CFS, the South Australian Metropolitan Fire Service (MFS), the SES and the Emergency Services Administration Unit (ESAU) are effectively meeting community expectations in relation to emergency services. The report also examined the suitability of the current governance arrangements and whether the administration and support provided to the emergency service organisations is consistent with best practice, avoids unnecessary duplication and is cost efficient and effective. As such, the review team made a number of recommendations with respect to, ostensibly at least, making the administration of emergency services more streamlined and efficient within the state.

In particular, the review team recommended the establishment of a fire and emergency services commission at the demise of the three existing separate boards. On 17 July 2003, the government tabled its response to the emergency services review and supported most of the recommendations. The purpose of the Fire and Emergency Services Bill is to establish the legislative framework to implement those recommendations that were supported by the government at the time. The bill lapsed when the parliament was prorogued at the end of the 2003-04 parliamentary sitting and was reinstated on 15 September 2004; however, it was adjourned at the committee stage on 21 July 2004 largely as a result of consultation between opposition members of parliament and grass roots volunteers. Much of that consultation has revealed that, contrary to the government's assurances, little consultation has occurred with those grass roots volunteers in relation to the bill. Indeed, consultation has occurred with the managers of those boards who are largely based in Adelaide in each case, as is the CFS, the case which is most familiar to me.

I ask the minister to provide details of what consultation took place. For instance, were public meetings held? If so, where were they held? Was there a public meeting at Ceduna, Berri or Renmark, for instance? How many of the people actually volunteer to fight fires and attend to emergencies, particularly on the road, on a totally voluntary basis? How many of those people actually know what is within the bill and how were they informed? We have had a 2½ year period for them to be informed and yet, as late as today, we are hearing from people who really did not understand much of the implications of this bill.

It seems that the volunteers were not aware that the bill would provide the emergency services minister with unprecedented powers to direct the new emergency services commission which, in turn, could direct the various emergency service bodies on any matters, including the possibility of the abolition of CFS brigades and SES units. The CFS volunteers would well remember what happened under a previous Labor government to St John's volunteers. I believe that in regional areas the St John's volunteers have never recovered from that.

The Hon. J.F. Stefani: They were decimated.

The Hon. CAROLINE SCHAEFER: They were, as the Hon. Julian Stefani says, decimated. They also well remember the previous Labor government's attempts to amalgamate the CFS administration with the MFS, and that was prevented at the time only by the fact that the CFS board existed between them and the minister. The minister presently has no power to direct the abolition of the CFS brigades. This can be done only by the CFS board, which currently has a majority of volunteers on it. I recognise that some amendments have been facilitated in another place and that the government has agreed to establish a stringent process, including public notification and public meetings should it decide to abolish a CFS brigade or an SES unit. However, that may well be shutting the gate after the horse has bolted.

The Hon. R.I. Lucas interjecting:

The Hon. CAROLINE SCHAEFER: Indeed, as my honourable colleague says, we need to remember that this is the government that has the moral fibre to break its promises.

The Hon. R.K. Sneath interjecting:

The Hon. CAROLINE SCHAEFER: Unlike the Hon. Bob Sneath, some of the interjections of my colleagues are worth getting on the record.

The PRESIDENT: Even though they are out of order.

The Hon. CAROLINE SCHAEFER: The opposition still asserts that volunteers should have a majority on the board governing the Fire and Emergency Services Commission. As a compromise, the government introduced amendments to include one volunteer representative on the board as an associate member, but as an associate member that appointed volunteer would have no voting rights, would form no part of a meeting quorum and would not be able to chair meetings. Effectively, this person would be an observer with no powers and meetings could, in fact, take place without that volunteer representative even being there. I believe that it is tokenism. I also believe that the management of the—

The Hon. R.K. Sneath: Don't let the leader put words into your mouth.

The Hon. CAROLINE SCHAEFER: I would rather he put words in my mouth than you. The problem as we see it was probably best summed up by the Hon. Ian Gilfillan yesterday when he likened the possible governance, if it remains as it is, to the Scouts, the school cadets and the Girl Guides being blended into one organisation run by a bunch of professionals who are paid to represent no-one. He went on to say that he was not sure that they mix all that well. He said 'volunteers in South Australia are at risk of being demoted in the image of what they are and the organisations they serve.' He is not happy to see that trend develop and nor are we.

We will be fighting very hard and will be introducing a series of amendments which will place the governance of this new body back into the hands of the people who are most affected by that governance—the volunteers. We will be moving that five volunteers be added and that the board have nine members. I recognise that a board of nine is somewhat cumbersome but, since this government is determined to otherwise have appointed 'experts' for the governance of emergency services in this state, we see no other option but to increase the number of members of the board to such an extent that CFS, SES and, indeed, the Local Government Association are represented on that board.

There will be further amendments with regard to people's rights to fight fires on their own properties, to do with native vegetation and to do with the advisory board and the make-up of that board. At this stage that is the tenor of our amendments—unless there are more amendments as we continue to be contacted by volunteers throughout the state who are now very concerned about this bill. We will be seeking to have those representatives properly represented on their board of governance.

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

NARACOORTE TOWN SQUARE BILL

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

ADJOURNMENT

At 9.32 p.m. the council adjourned until Thursday 5 May at 11 a.m.