LEGISLATIVE COUNCIL

Thursday 5 May 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 11.07 a.m. and read prayers.

STANDING ORDERS SUSPENSION

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

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

Motion carried.

The Hon. IAN GILFILLAN: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

STATUTES AMENDMENT (LIQUOR, GAMBLING AND SECURITY INDUSTRIES) BILL

In committee.

Clause 30.

The Hon. NICK XENOPHON: I move:

Page 15, lines 10 to 14—Delete proposed subsection (3).

This amendment could be seen as a test clause in relation to the criteria used by the commissioner to determine whether someone is given a licence as a crowd controller. I will subsequently seek to insert subsection (3a) which will provide that 'if the commissioner becomes aware that an approved crowd controller has. . . been involved in an incident apparently involving unwarranted violence. . . the commissioner must suspend the approval pending determination of the question as to whether the approval should be revoked.'

This amendment is based on discussions that I have had with people from within the security industry; in particular, one person who has been useful in terms of his background and his knowledge of the industry. The current provision in the act provides that the commissioner can, nevertheless, approve a person on a condition of approval to undertake specified accredited training within a specified time of obtaining the approval. My argument is that that is not good enough, that there ought to be a requirement that you should not be working in this industry unless you actually have that level of training first-up.

The point of the amendment is to strengthen the initial provisions. If the government and the opposition do not support that, to save time, my question is: in what circumstances does the Commissioner say that this discretion will be approved, and what timeline is anticipated for a person to undertake that level of training?

The Hon. P. HOLLOWAY: I think it is important that I respond in detail to the amendment. The effect of this amendment is to delete proposed subsection (3) from what is proposed to be new section 71A of the Liquor Licensing Act 1997. Subsection 71A(3) proposes to give the Liquor and Gambling Commissioner discretion to approve a person to act as a crowd controller for licensed premises on condition that the person undertake specified accredited training within a specified time after obtaining that approval.

The Hon. Mr Xenophon's amendment would remove that discretion and prevent the Liquor and Gambling Commissioner from approving any person to act as a crowd controller of licensed premises unless that person had already obtained the appropriate knowledge, experience and skills for the purpose. It might not be immediately apparent from a reading of the bill, but these approvals given by the Liquor and Gambling Commissioner are given only to persons who are already licensed as security agents by the Commissioner for Consumer Affairs. I repeat: crowd controllers at licensed premises must first be licensed security agents. Crowd controllers who have been licensed as such since 1998 have already undergone training for that purpose. They have obtained a licence as a security agent authorised to control crowds under the Security and Investigation Agents Act.

Later in committee, we will be debating provisions about the process of becoming a security agent and licensed crowd controller when we come to part 4 of the bill that amends the Security and Investigation Agents Act, but for now we are still in part 3, clause 30 which amends the Liquor Licensing Act. The approvals in proposed section 71A are granted by the Liquor and Gambling Commissioner. They are the second approvals that must be obtained by any person who wants to work as a crowd controller in licensed premises. In most cases, the Liquor and Gambling Commissioner will not need to require any training, because the person seeking approval as a crowd controller will have already undergone appropriate training prior to being licensed as a security agent, under the Security and Investigation Agents Act. However, I am advised that prior to about 1998 some persons were granted licences to operate as crowd controllers without specific training. It is these persons who might be caught by proposed section 71A, so that the Liquor and Gambling Commissioner may require these persons to undertake training as a condition of approving their employment at licensed premises.

The Liquor and Gambling Commissioner, Mr Bill Pryor, has been consulted on the amendment, and I will quote his advice. He has said that this amendment would:

Discriminate against potential employees. It would be unreasonable to expect people to pay for such training without the expectation of employment. Under the current proposal, the commissioner can exercise discretion having regard to availability of courses etc. The commissioner will not compromise the integrity of the training requirements but will have regard to the individual requirements of applicants, for example, the availability of training in country and remote South Australia. This mirrors the Liquor Licensing Act in relation to approved persons.

The Liquor and Gambling Commissioner is aware that relevant courses for crowd controllers may be scheduled only irregularly, particularly in country areas. There are many provisions in this bill that have the effect of raising the bar for crowd controllers. The purpose of this bill is to allow the government to weed out criminal elements from the industry, and to target aggressive and violent behaviour by crowd controllers. To that extent, the bill does raise the bar by increasing standards. However, the precise content of training required for the job is a matter that is left, by legislation, to the respective commissioners, that is, the Commissioner for Consumer Affairs in the first place, and the Liquor and Gambling Commissioner in the second place. It is not part of this bill to put unnecessary obstacles in the way of law-abiding citizens who want to make a career out of crowd controlling. For that reason, the government opposes the amendment.

The Hon. R.D. LAWSON: We remain to be convinced by the necessity for the honourable member's amendment, but we are certainly not ruling out support for it. Rhetoric such as that used by the minister about the purpose of this is

'to weed out criminal elements and aggressive, hyperactive bouncers' I would have thought is unhelpful in the committee stage. Will the minister indicate what specified accredited training courses are currently available for crowd controllers, whether any amendments are proposed to those courses, or whether it is proposed that there be any change in the training requirements for crowd controllers?

The Hon. P. HOLLOWAY: We will be debating the Liquor Licensing Act side of it later on, at which stage I will have the advice of the Commissioner for Consumer Affairs and we can go into those questions in detail. I will try to obtain a preliminary answer for the honourable member and, as I said, if he wants further detail later on, perhaps we can discuss that when we come to that part of the bill where the appropriate act is being amended. I am advised that there are TAFE courses—certificates II, III and IV—applying to crowd controllers. The Commissioner for Consumer Affairs will obtain a more detailed list. As I said, I am happy to provide that information later when we come to the amendments to the Security and Investigation Agents Act. Essentially there are these TAFE courses—certificates II, III and IV.

The Hon. R.D. LAWSON: I direct a question to the mover of the amendment. I am not sure that the Hon. Nick Xenophon explained in his initial explanation any particular circumstance or occurrence of which he is aware that would dictate that the Commissioner should not be able to give, as it were, interim approval to someone who was unable to fulfil the requirements by reason of the fact that there was not available a TAFE course at that particular time which would enable him or her to gain the qualifications or, indeed, there may not be one available at that place to enable him or her to obtain the qualifications. What can the honourable member tell the committee about the unsatisfactory operation of a provision of this kind?

The Hon. NICK XENOPHON: The information I have from someone who has worked in the industry extensively with guard dogs is that dog handlers were supposed to undertake a specific course and that that has not eventuated for quite some time. The danger is that, unless there is a positive onus on the controller, I am concerned that the specified time may stretch out or there could be difficulties getting into a course. Whereas, it is important, if you are working as a crowd controller, given the responsibility that that person has, that there ought to be an onus to ensure that you have that level of training and qualifications. This would ensure that you do not have people obtaining interim approval who are not suitable to work in the industry, particularly those who have had a problem with steroid or amphetamine use. I suggest it is very much in the minority, but it has been a problem in this industry.

Essentially, the concern is that this interim approval process may let people work in the industry who should not be working in the industry and, in a sense, it gives them an out. I take into account what the government has said about the training and other matters. I just thought that the act would be stronger without this particular subsection.

The Hon. P. HOLLOWAY: We are debating the Liquor Licensing Act. Crowd controllers are covered by the Security and Investigation Agents Act. Prior to 1998, persons were granted licences to operate as crowd controllers without specific training. However, since that date, crowd controllers have undergone training. The only issue with which we are dealing in this clause is people who began working in the industry prior to 1998 and who were granted a licence without specific training. Under the bill, it is proposed that the Liquor and Gambling Commissioner can require those people to undergo training.

What the honourable member is saying is that, if you had been working in this industry prior to 1998 (that is, for seven years), you were given the licence even though you had not had any training, and so you would have to stop working and attend a training course, even if you lived in the country and no course was available. All the government wants to see happen is that the Liquor Licensing Commissioner has the capacity to ensure that longstanding people in the industry who have just caught up with this change receive their specialised training. In relation to dog handlers, they would not be working in the industry, anyway.

The honourable member is talking about the general level of security training that is required under the Security and Investigation Agents Office; that is, everyone who is to be licensed must have training. Those issues are dealt with when we amend that act. Here we are talking specifically about the Liquor Licensing Act and the additional requirements that the Liquor Licensing Commissioner can place on crowd controllers in that industry.

The Hon. T.G. CAMERON: I thank the leader for that explanation; that clarifies it for me. I was disposed to support the Hon. Nick Xenophon's amendment because I can see what his objectives are and what he is trying to do; that is, to remove undesirable people from the industry and to ensure a higher level of training. However, I am not persuaded that by deleting subsection (3) from the award that we would achieve that. Following the minister's explanation, I see it as being a little restrictive. It possibility creates the potential to unfairly discriminate against people who may have worked in the industry for a long period of time and who may be regarded by their peers in the industry as being excellent.

As I understand what the minister has said, this is like a phasing in clause to allow all those people who have worked in the industry for years to continue to work in the industry. However, we would be giving the Commissioner the power to merely allow those people to continue working. Furthermore, we would be giving the Commissioner the ability to impose a condition on that approval, that is, that the training must be undertaken. As I see it (and I stand to be corrected by anyone here), if we support the Hon. Nick Xenophon's amendment, we could force out of the industry a number of decent, hardworking people with long experience who may well, because of their experience, be much better crowd controllers and people handlers, and so on, than someone who has no or little experience in the industry and has gone along and done a TAFE course. I do not think I need to say it, but some of these TAFE courses are a bit thin.

I would much rather rely on a person with long experience in the industry. That long experience in the industry certainly indicates to me that the person is competent in performing the job and that they have had no problems. If there were problems with them, they would not be working in the industry. I would rather have someone working as a crowd controller with 10 years' experience in the industry than someone with very little experience who happens to have just walked out of a TAFE college with a certificate.

As I see it, subsection (3) is very flexible, and it picks up a number of threads. It takes care of those people who do not necessarily have a TAFE certificate but, if the Commissioner feels disposed, he can say, 'If the Hon. Nick Xenophon is going to act as a crowd controller, based on past performance, he has to go along and do a TAFE course.' So be it.

An honourable member: I'd be too frightened to go in if he was on the door.

The Hon. T.G. CAMERON: I never thought the honourable member was a squib but, if he wants to stand up and admit to being a bit of a squib, that is fine by me. I am not sure that he would frighten me away. I indicate my support for the government.

The Hon. R.D. LAWSON: I am a little perplexed by the minister's explanation, where he is suggesting that this is virtually a grandfather type clause that applies only to people who were licensed before 1998, because proposed section 71A does not seem to have any such limitation at all. It provides that the Commissioner may, on application, approve a person to be a crowd controller. It does not say that the person has to have any experience. It goes on to say that they can do so only if the person has the appropriate knowledge, experience and skills. I am not sure that that is defined specifically to mean someone who has been working since 1998 or has done anything else.

I would have thought that in the future this clause would allow the Commissioner to say to any particular person, 'Well, I am going to grant your approval, or allow you to be a crowd controller, notwithstanding that you do not have any particular qualifications, on condition that you undertake a course at some time in the future to gain those qualifications.' I wonder whether the minister could clarify that. I may not have correctly read the legislation in its totality, but it seems to me that it does have that general application and is not limited only to those people who were working in the industry or who obtained some qualifications some time ago.

The Hon. P. HOLLOWAY: The point I was trying to make earlier is that, under the Security and Investigation Agents Act, all crowd controllers need to complete the training course. If someone is to work as a crowd controller in the liquor industry, they have to meet the requirements of the Security and Investigation Agents Act and, therefore, under the separate commissioner they have to be licensed; and, to be licensed, they have to be suitably trained. If one looks at the Liquor Licensing Act, I can understand why the deputy leader would come to that conclusion. However, what needs to be understood is that the whole purpose of this bill is to get this dual level of approval where crowd controllers have to meet the requirements of the Security and Investigation Agents Act. Section 6 of that act provides:

> Obligation to be licensed. A person must not carry on business, or otherwise act, as a security agent or investigation agent except as authorised by a licence under this part.

What we have here really just deals with those people who were licensed to operate as crowd controllers prior to 1998, but without that specific training.

The Hon. R.D. LAWSON: I thank the minister for that explanation. I also thank the honourable member for moving this amendment, because in moving it I think he has enabled the committee to gain a better understanding of precisely what is intended to apply and how it is to operate. In those circumstances, I indicate that we will be supporting the government's position and will not be supporting the amendment, notwithstanding the fact that we thank the member for raising it.

Amendment negatived.

The Hon. NICK XENOPHON: I move:

Page 15, after line 33—
Insert:

(3a) However, if the Commissioner becomes aware that an approved crowd controller has, while acting as a crowd controller, been involved in an incident apparently involving unwarranted violence on the part of the crowd controller, the Commissioner must suspend the approval pending determination of the question as to whether the approval should be revoked.

Whilst this amendment is, in a sense, related to the previous amendment, it is certainly not consequential. Essentially, this amendment requires the Commissioner, if he is aware that a crowd controller has been involved in an incident apparently involving unwarranted violence on the part of the crowd controller, to suspend that crowd controller's licence. He must do it. The distinction between that and what is contained in proposed section 71C(3) is that the Commissioner may suspend. This amendment provides that, where there is a prima facie case of unwarranted violence on the part of the crowd controller, the Commissioner must suspend pending a final investigation.

I think it is important that, where there is evidence that indicates that a crowd controller has behaved with these elements—that it is unwarranted violence on the part of the crowd controller—there should be a suspension. If, on the face of it, there was a reason for what occurred in terms of the physical contact, such as a controller defending himself or dealing with a situation where it is essentially self-defence, that would be taken into account. The element has to be unwarranted violence. I believe that it gives a further degree of protection to the community and, indeed, to all those decent operators in the industry, to ensure that someone is not working in the industry where, on the face of it, that person has acted with unwarranted violence. It is a bit different from the government's amendment, but it can sit side by side with the government's bill. It just gives it an extra degree of protection for the community, and requires the Commissioner to act in these circumstances.

The Hon. P. HOLLOWAY: I think that the honourable member is under the same misapprehension as we had with the previous bill. These sorts of issues really need to be dealt with under the Security and Investigation Agents Act and, in particular, they are covered by clause 51, which we will come to in a moment. The effect of this amendment is to place a new obligation on the Liquor and Gambling Commissioner. It would require the Liquor and Gambling Commissioner to suspend an approval if the Commissioner becomes aware that an approved crowd controller has been involved in an incident apparently involving unwarranted violence.

The government believes that this amendment is irredeemably flawed for vagueness. What does it mean to 'become aware' of an incident of violence? How is the Commissioner supposed to become aware of something like this? Presumably, a rumour would be insufficient. An allegation, even something being investigated by police, is not a charge let alone a conviction. If there is an incident the Commissioner must act if the incident apparently involves unwarranted violence. Using a reasonable level of force and self-defence is not unwarranted. How can the Commissioner determine whether any violence is unwarranted?

The Liquor and Gambling Commissioner is not a criminal court. If the Commissioner is to act when something is apparent, then how is this to be made apparent to the Commissioner? The Liquor and Gambling Commissioner has seen this amendment. The Commissioner shares my concerns. He characterised this amendment as using nebulous terms. His advice is that proposed section 71C, as it exists in the bill, already gives him an appropriate power to suspend if circumstances warrant. As I have already mentioned, crowd

controllers must be licensed security agents. Discipline for security agents is handled by the Commissioner for Consumer Affairs.

We will be debating disciplinary provisions later in part 4 of the bill that amends the Security and Investigation Agents Act. That part contains provisions about the action to be taken against crowd controllers charged with specified offences. These actions include mandatory suspension in some circumstances and the discretion to suspend in others. Any person who is suspended by the Commissioner for Consumer Affairs would not be able to work as a security agent or a crowd controller in licensed premises in any event.

Notwithstanding the powers available to the Commissioner for Consumer Affairs, proposed section 71C is an additional power that may be used by the Liquor and Gambling Commissioner. However, the Commissioner's hands should not be tied by the vague notions in this proposed amendment; and, for those reasons, the amendment is opposed.

The Hon. R.D. LAWSON: I look forward to hearing any further contribution the Hon. Nick Xenophon has in defence or justification of this provision. I ought indicate right at the outset that, like the government, we have grave reservations about this terminology. We see the issue of crowd controllers as requiring that the legislation strikes an appropriate balance between the right of patrons to enjoy licensed premises safely (and that, I suppose, is the paramount consideration), but we must also balance that against the right of crowd controllers—people who are working in the industry—to earn a legitimate livelihood and not be deprived of that livelihood through some capricious means.

We see the generality of this provision moved by the Hon. Nick Xenophon as being dangerous. As the minister has already mentioned, it does use nebulous terms. I refer to the term 'if the Commissioner becomes aware'. That awareness might be an email message or an anonymous telephone call. It could be a legitimate complaint from a member of the public. It could be a mischievous complaint from a person, a commercial competitor, a rival for the affections of some lady, or whatever. What is the Commissioner to do if he receives information of this kind?

Does he have the resources to investigate immediately everything to ensure that he is being fair to both sides of the argument? It does seems to me that the Commissioner does not have that mechanism readily available. Already, he has the power in section 71C, which provides:

> . . . an unqualified discretion to revoke an approval. . . on such ground or for such reasons as he or she thinks fit.

That would encompass situations of this kind if the Commissioner considered that they were sufficiently serious. It is also a rather generalised concept to include in legislation:

> . . . the crowd controller has, while acting as a crowd controller, been involved in an incident apparently involving unwarranted violence.

Does that include being a bystander, being there when something happens, or, perhaps, being involved in a peripheral or subsidiary way? The question of unwarranted violence is invariably a subjective judgment. A crowd controller may think that he is using entirely appropriate force to control a situation, whereas a patron or a witness may think that the crowd controller is using excessive force. How is the Commissioner, at this stage, to judge whether the force was unwarranted? The section uses the somewhat emotive term 'violence'. The use of force may or may not be violent, but many people would consider that any use of force is a form of violence.

We are also concerned by the fact that the Commissioner has imposed upon him by the section a mandatory obligation—'must suspend the approval pending determination'. We think that could operate unfairly to the detriment of a legitimate and reasonable employee in this industry going about his or her business. It is for those reasons that we are disinclined to support the amendment. However, the honourable member may well have other information which indicates that there is a compelling case for this amendment but, to date, he has not.

Amendment negatived; clause passed.

Clauses 31 to 41 passed.

Clause 42.

The Hon. P. HOLLOWAY: I move:

Page 19, after line 33—
Insert:

(2a) Section 3, definition of director—after paragraph (b) insert:
and
(c) a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the body corporate or who has the capacity to affect significantly the body corporate's financial standing.

This amendment broadens the definition of 'director' used in the Security and Investigation Agents Act. It adopts wording used in the Corporations Act 2001 of the commonwealth as part of the definition of 'officer of a corporation'. This amendment was requested by the South Australia Police.

The Hon. R.D. LAWSON: I indicate opposition support for the inclusion of this extended definition of 'director', which is, as we see it, an appropriate extension.

Amendment carried; clause as amended passed.

Clause 43 passed.

Clause 44.

The Hon. NICK XENOPHON: I move:

Page 22, line 10—Delete 'may' and substitute:
must.

I will use amendment No. 4 as a test for amendment No. 5. It simply substitutes the word 'may' for 'must' with respect to the Commissioner and the issue of fingerprinting. There ought to be fingerprints and it should be uniform, and that begs a number of questions I will put to the minister. What will be the criteria under the bill as it currently stands? What will be the criteria for someone to be fingerprinted? If it is discretionary, on what basis will the Commissioner choose that there be fingerprints? Who will conduct the fingerprinting of the industry? Will it be the police? That seems to be the most appropriate organisation to conduct those tests. What further resources will be made available for the ongoing fingerprinting of those in the industry? I understand that up to 7 500 people are employed in the industry. I have some questions under new section 8C about psychological assessment, but I want to deal with the fingerprinting issue immediately.

The Hon. P. HOLLOWAY: I give the Hon. Nick Xenophon the goods news that amendments Nos 4, 5 and 6 standing in his name can be considered together. They constitute a proposal that the taking of fingerprints from applicants should be compulsory and not a matter of discretion for the Commissioner for Consumer Affairs. In planning for the introduction of the measure proposed by this bill, the government has always contended that all new applicants for security agents licences would be fingerprinted. Therefore,

the government can support the Hon. Nick Xenophon's amendments Nos 4, 5 and 6.

The Hon. Nick Xenophon asked who does the fingerprinting. SAPOL does the fingerprinting. It has a fingerprinting section. I am advised that the additional funding required for that service has been approved.

The Hon. R.D. LAWSON: In noting the government's support for the amendment, I ask the minister to indicate whether or not consideration was given to the DNA testing of applicants. Fingerprinting is the technology of the 20th century. DNA, which is the technology of the 21st century, is now established as a more accurate, more universal form of identification testing. Is there any reason that the government has chosen not to insist upon the latest technology, rather than relying upon the older technology?

The Hon. P. HOLLOWAY: I am advised that the Criminal Law (Forensic Procedures) Act covers DNA testing. DNA testing is substantially more expensive than fingerprinting. Obviously, it is more expensive and therefore would require more consideration by government as to resources. There is that other act that covers testing. Also, the cost would have to be borne by the applicant.

The Hon. R.D. LAWSON: The Criminal Law (Forensic Procedures) Act, of course, deals with the DNA testing of persons suspected of crimes or certain other categories of people, for example, those who are in prison. But the Criminal Law (Forensic Procedures) Act does not apply, as I understand it, to applicants for commercial licences in any field. I would think the forensic procedures act was not a relevant act at all in relation to a matter of this kind—it is a regulatory and identification system.

The Hon. P. HOLLOWAY: The deputy leader is quite correct. There is no law that currently covers this because it is not required. I was making the point that DNA testing has been regarded quite separately. It has its own act. I guess the point we are making is that it is something which, as a fairly new procedure, probably requires separate consideration. Perhaps in the future, with changed technology, we will adopt that with all sorts of things, and other technologies are being developed all the time. At this stage, funding has been approved for fingerprinting, and that is what we are proposing. I think those issues can be addressed in the future, depending on the evolution of these technologies.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 22, line 17—Delete 'may' and substitute:
must.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 22, lines 22 and 23—Delete 'may, without further notice, refuse the application but keep the fee that accompanied the application' and substitute:
must, without further notice, refuse the application (but may keep the fee that accompanied the application)

I thank the government for indicating its support. It provides that, if a person applying for a licence refuses to undergo a fingerprinting procedure, they have done in their licence fee. Anyone applying should know that they are expected to be fingerprinted and, if they are not fingerprinted, they have done their dough.

The Hon. T.G. Cameron interjecting:

The Hon. NICK XENOPHON: The Hon. Terry Cameron interjects and says, 'Provided they are told that'. That is a legitimate question to ask of the government. What provisions will there be so people are aware that, if they apply, part and parcel of the process is to be fingerprinted, so that people do not spend whatever the application fee is and then—

The Hon. T.G. Cameron: You have never been fingerprinted, have you?

The Hon. NICK XENOPHON: No. My question is: will it be made clear to people that fingerprinting is part and parcel of the fingerprinting process?

The Hon. P. HOLLOWAY: My advice is that they will be made aware of this.

The Hon. R.D. LAWSON: Will the minister indicate whether this mandatory requirement to give fingerprints will extend to the directors of corporations applying for security agents licences?

The Hon. P. HOLLOWAY: Clause 44 of this bill inserts a new section 8B, which provides:

Applicant for security agents licence may [now must] be required to provide fingerprints

(1) If a person applies for a security agents licence, the Commissioner may [now 'must'], by notice, request—

(a) if the person is a natural person—the person; and

(b) if the person is a body corporate—each director of the body corporate

to attend at a special time and place. . .

The Hon. R.D. LAWSON: I thank the minister for drawing that to my attention. It is quite plain on the face of the section and I have should have seen it before. Would these requirements have any application to those who already hold security agents licences? In other words, there may be holders of such licences who on previous occasions have not provided fingerprints. Will they retrospectively be required to provide fingerprints?

The Hon. P. HOLLOWAY: My advice is that that is not the case under the terms of this bill, but the Hon. Nick Xenophon has an amendment which would introduce that element of retrospectivity; and I guess we will be discussing that shortly. My advice is that the government intends to do that over time as resources permit, but we oppose any amendment to require it to be done virtually overnight.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 22, line 40—Delete 'may' and substitute 'must'.

The bill provides that the commissioner may, for the purpose of determining an application as to whether an applicant is fit and proper to hold such a licence, request that the applicant take part, at the cost of the applicant, in an approved psychological assessment. In a sense, this is an extension of the fingerprint amendment. It should be across-the-board, and I note there is a difference in costs. In the event that the government does not support this amendment, my question is: who will do the psychological testing? Will it be, for instance, police psychologists? Further, how is the commissioner going to determine whether someone is the sort of person who should be subjected to a psychological assessment? Will it be because the person is cross-eyed? Will they be judged on the basis of a photo or the colour of their hair?

The Hon. J. Gazzola interjecting:

The Hon. NICK XENOPHON: The Hon. Mr Gazzola says, 'Or their occupation if they are a lawyer, for instance'.

The Hon. D.W. Ridgway interjecting:

The Hon. NICK XENOPHON: Or a trade union official, as the Hon. Mr Ridgway says. It will be interesting to see how this would work. If it is not across-the-board, how will the discretion be exercised, and what will be the criteria?

The Hon. P. HOLLOWAY: The amendment seeks to make it mandatory (rather than discretionary) for the commissioner to seek psychological testing of every applicant who applies for authorisation as a crowd controller. The provisions of the bill relating to psychological testing of would-be crowd controllers are primarily intended to protect the public from crowd controllers who might be prone to violence. Of course, a tendency to violence is not the only possible trait that may be revealed by psychological testing. If the commissioner was advised that any other behaviour by a crowd controller cast doubt on whether that person was fit and proper to hold a security agent's licence, then the commissioner could use the same provisions to require the applicant or licensee to take part in an approved psychological assessment.

However, the bill does not require all crowd controllers or all applicants for a crowd controller's licence to undergo psychological testing. The government's intention is that relatively few psychological tests will be required. There are several related reasons for this. Psychological testing is not an exact science, nor is it cheap. If tests were required of every applicant the licence application fee would need to be increased by at least an additional $200, probably more, depending on the nature of the test. There have been anecdotal accounts of applicants making inquiries about the cost of testing and being told that it could cost much more than this with up to nearly $700 being mentioned by one licensee. This expense would come on top of training requirements of several hundred dollars and an existing licence application fee. The cost to enter the industry, therefore, might rise to prohibitive levels. In short, it would create a substantial disincentive to applicants and we would run the risk of having a shortage of crowd controllers licensed to work in South Australia.

The majority of crowd controllers do not need to be psychologically tested. The majority are doing their job well. Ridding the industry of the rogue criminal element does not require a psychologist's degree; it requires the use of police resources and the provisions in this bill to deal with those people who have criminal associates. Psychological testing would be valuable on some occasions, but these occasions will be the exception rather than the rule. If psychological testing were to be made compulsory for all crowd controllers, it would only be a short step to requiring the same or similar sort of testing for many other occupations.

The Hon. R.D. Lawson: Members of parliament.

The Hon. P. HOLLOWAY: Exactly—members of parliament. One could think of many examples where screening for potential antisocial tendencies might be a good idea in principle, but the practicality of demanding a test and reasonable doubts about the predictive value of the test (it is not an exact science) would make such proposals unwieldy or unworkable, to say nothing of the implications for personal privacy. So, it is on those grounds that the government opposes the amendment.

The Hon. R.D. LAWSON: This provision will apply to new applicants who may be required to undergo psychological assessment. Am I correct in my suspicion that there will be no specific powers to require existing licensed security agents to undergo a psychological test?

The Hon. P. HOLLOWAY: I refer the honourable member to clause 48 (page 25): proposed new section 11AD—Power of commissioner to require security agents authorised to control crowds to take part in psychological assessment.

The Hon. T.G. CAMERON: I missed part of that. Is part of the psychological assessment an intention by the government to give them a written test?

The Hon. P. HOLLOWAY: The Hon. Nick Xenophon moved an amendment seeking to make it mandatory rather than discretionary. In the bill it is a discretionary power of the commissioner. The Hon. Nick Xenophon seeks to make it mandatory for every applicant seeking authorisation to have psychological testing. I argued on behalf of the government that we should not do that. One reason is the cost that would have to be borne by the applicant. Secondly, it is not an exact science. While the government's view is that psychological testing would be valuable on some occasions, that would be the exception rather than the rule. That is why we oppose the Hon. Nick Xenophon's amendment. The other reason, of course, is that the government believes it is the thin edge of the wedge. If you start making psychological testing compulsory for some occupations it would soon spread across-the-board.

The Hon. T.G. CAMERON: I indicate my opposition to the Hon. Nick Xenophon's amendment for a number of reasons. It is the mandatory or compulsory requirement that I am concerned about. I also have some concerns about the accuracy and/or veracity of personality or psychological-type testing. It is not clear precisely what the government means. Are they talking about IQ tests, abstract intelligence tests, numerical, verbal? Are we talking about general IQ or are we talking about the use of psychological tests in order to appraise a person's personality? If that is what we are talking about, then I am even more convinced that we should not walk down the path of mandatory testing. I have spent a bit of time working with the various tests that are available to psychologists to use, and they can be fraught with error. I would also be concerned about the cost. We have not heard anything about costs.

The Hon. P. Holloway: $700, I think. It's quite high.

The Hon. T.G. CAMERON: I did not hear the government state that it would be $700.

The Hon. P. Holloway: From $200 up to $700.

The Hon. T.G. CAMERON: In my opinion, you have been a little bit conservative. A proper battery of psychological tests approved by the Psychologists Association of South Australia would take at least three to four hours. They must be done under strict supervision, and they must be administered and interpreted by a registered psychologist under whatever the act is that applies to this form of testing.

I would have thought that a more appropriate price range for these tests would be in the vicinity of $750 to $1 500. Some of these employment agencies, management consultants that head hunt people, can charge up to $5 000 to $6 000 to run a full psychological profile on an individual. It would almost be like having to buy your job, and that is very concerning to me. I think, for all those reasons, I prefer the government's position. If the Commissioner is at all concerned about someone's personality or psychological profile, or they have a history of schizophrenia or a bipolar disorder, or they happen to be a psychopath, he would merely order a test. I just think we are adding too many layers onto this. It is becoming too complex. Let us keep it a little simple.

The Hon. R.D. LAWSON: I agree with a good deal of what the Hon. Terry Cameron has said, but there does seem to me to be a slight drafting anomaly in relation to this matter. The committee will recall that security agents licences are issued to a very wide class of persons; security guards, crowd

controllers and others. Crowd controllers are just one section of the security agents licence-holding category.

New section 8C, which is the subject of this amendment provides:

> If an applicant for a security agents licence is seeking authorisation to provide the function of controlling crowds—

so it is not every security agents licence, only those who want to control crowds—

> he can be required to undergo an approved psychological assessment.

The definition of 'approved psychological assessment' in clause 42 on page 19 is:

> A form of psychological assessment approved by the commissioner for the purposes of determining whether a person is a fit and proper person to hold a security agents licence.

It is not whether the person is a fit and proper person to hold an authorisation to control crowds. It does seem to me there are quite different psychological elements in the question of whether or not somebody is fit or proper to be, let us say, a security guard or to be a guard for a payroll company who does not have control over crowds and does not have much public interaction, hopefully. Why is the definition of 'approved psychological assessment' one that determines whether or not the person is fit and proper to hold a security agents licence of any kind? Why is it not limited to those who are only seeking authorisation for crowd controlling functions?

The Hon. P. HOLLOWAY: My advice is that it is a drafting issue. The way that this provision is drafted, the way the definition of 'approved psychological assessment' is drafted, enables a fairly general application, if I can put it that way, of psychological tests in relation to the determination of whether a person is fit and proper to hold the licence. The point is that would only be triggered under section 8C(1) if an applicant is seeking authorisation to perform the function of controlling crowds. So there could be psychological testing relating only to that particular question. I suggest that progress be reported.

Progress reported; committee to sit again.

PARLIAMENT HOUSE, DANGEROUS SUBSTANCE

The PRESIDENT: I need to advise honourable members, because some of their office staff were obviously concerned, that there has been an incident in the Speaker's dining room. A substance was found. The usual security procedures have been put in place, and it is now being investigated by the fire brigade and the response group. We are reasonably confident that it is probably something of minor significance. There are a number of emergency services people here in front of the house. The media pack is here. I am confident that what needs to be done is being done. I just ask honourable members, if they need to leave the chamber, to avoid the areas where the security people and the fire service are doing their jobs. I am reasonably confident that that is the case. As in all things at Parliament House, rumours are rife, and I need to report to members of the situation that is taking place. That is the situation to the best of my knowledge.

The Hon. IAN GILFILLAN: Can I ask a question in relation to that matter?

The PRESIDENT: Yes.

The Hon. IAN GILFILLAN: I have guests due to arrive at 12.30. Is there going to be any access for people coming into or leaving the building?

The PRESIDENT: The standard security procedures are in place at the moment. I do not believe that anybody is coming in until such time as we have cleared this area. I am reasonably confident that it will be done very soon. People have taken tests, and I believe that they have been taken out. The person who found the substance has been spoken to. As I say, I think it is probably okay but we need to take security precautions. We are living in a different world than we used to enjoy here at Parliament House and the security procedures need to be put in place and need to be adopted. To answer the specific question, will they still be here at 12.30, I cannot answer that. At the moment, the emergency services people are doing their jobs and we just need to keep clear. I think the best thing we can do is keep out of their road.

STATUTES AMENDMENT (LIQUOR, GAMBLING AND SECURITY INDUSTRIES) BILL

In committee (resumed on motion).

The Hon. P. HOLLOWAY: My advice is that the breadth of the test that is given by the definition of 'approved psychological assessment' is an advantage because it enables the Commissioner to provide a broad range of testing. If one were to limit the approved psychological testing just to seeking authorisation to perform the function of controlling crowds, that might be a much narrower form of assessment. The drafting advice is that there is no problem with having the broad definition. The fact is that it is really only triggered by the need to seek authorisation to perform the function of controlling crowds, and that is why it has been drafted in that form.

The Hon. R.D. LAWSON: I indicate that we are not convinced by the necessity for universal application of psychological assessments, and we see the cost and inconvenience of such a measure as not giving rise to any demonstrable public benefit. However, we do support the Commissioner's having a discretion to require persons seeking to perform crowd-controlling functions to have assessments. First, are there any other jurisdictions in Australia in which people undertaking these activities are required to undertake psychological assessment and, if so, in what jurisdictions? Secondly, has the Commissioner approved, or is he in the course of approving, a particular psychological assessment for these purposes; or is it envisaged that the Commissioner will approve the form of assessment, as it were, on an ad hoc basis?

The Hon. P. HOLLOWAY: My advice is that this is pioneering legislation, in the sense that we will be the first state to require that testing. In relation to the requirement of what those tests might be, that matter is being considered at this moment by the Commissioner. Obviously, we are waiting for the passage of the bill to make that final determination about what that might involve.

The Hon. R.D. LAWSON: Can the minister indicate whether it is envisaged that there will be determined a particular form of psychological assessment which will be authorised and which all applicants who are required to undertake the assessment will be required to undertake; or is it envisaged that, on each occasion, in relation to each particular application, the Commissioner will designate that a particular form of assessment be undertaken by a particular individual for whatever reason? In other words, is it a standard test or one that will be tailored to the exigencies of particular applications?

The Hon. P. HOLLOWAY: My advice from the Commissioner is that they are looking at developing what one might describe (and these are my words not the Commissioner's) as a base case which would cover a general assessment and which would apply in most cases. Obviously, if information came to light that required some additional testing in a particular case, then that could be looked at. Essentially, the Commissioner would be looking at a formula that should cover most cases. It is probably appropriate, at this stage, to answer a question asked earlier in this debate by the deputy leader about the minimum mandatory requirements for crowd controllers.

In the crowd controller requirement Certificate II in Security Operations they must complete the following units: they must communicate effectively; maintain workplace safety; work effectively in the security industry; work as part of a team; provide security services to customers; first aid; respond to security risk; control access and exit; monitor and control individual and crowd behaviour; screen baggage and people; and protect self and others using basic self-defence techniques. That is the Certificate II in Security Operations.

Amendment negatived.

The Hon. NICK XENOPHON: I move:

Page 23, after line 13—

Insert:

8D—Additional information to be provided by the applicant for security agents licence

An applicant for a security agents licence must also provide the Commissioner with—

(a) in the case of a person seeking a licence to perform the functions of a security agent personally—the following:

(i) the prescribed information relating to the person's financial affairs;

(ii) if the person holds a licence under the Firearms Act 1977—information about why the person holds the licence and whether or not he or she is required to hold the licence in connection with his or her proposed employment as a security agent;

(iii) any other information or material prescribed by the regulations; and

(b) in the case of a person intending to carry on business as a security agent—the following:

(i) the prescribed information relating to the ownership, activities and financial affairs of the business;

(ii) if the person holds a licence under the Firearms Act 1977, or, in the case of a body corporate, a director of the body corporate holds such a licence—information about why the licence is held;

(iii) any other information or material prescribed by the regulations.

This requires additional information to be provided by the applicant for a security agent's licence, including financial affairs and whether a person holds a firearm licence under the Firearms Act. It basically requires further information that might be required under the regulations, but it is intended to strengthen the provisions in the act in respect of those who have an unsavoury reputation or links with organised crime from being in the industry.

The Hon. P. HOLLOWAY: I will address both amendments Nos 8 and 9 because they deal with related issues. These amendments (or something similar) were foreshadowed in the Hon. Mr Xenophon's second reading contribution. They serve three main purposes. The first purpose is to impose duties of disclosure on applicants and licensees. These duties already exist. Extensive disclosure is already required by the Commissioner for Consumer Affairs as part of both the application and renewal process. In my summing up of the second reading debate, I described the comprehensive disclosures that are already required by the Commissioner under section 12(2)(b) of the act. Amendments Nos 8 and 9 standing in the name of Hon. Mr Xenophon invite the government to prescribe existing disclosure requirements in regulations.

The government sees no need to create additional regulations for this purpose when relevant disclosure requirements are already authorised under section 12(2)(b)) of the act. The second purpose of these two amendments is to provide information about firearms. I dealt with that matter also at the second reading stage. The government agrees that the matter of security agents bearing firearms is one that deserves attention, and this is being dealt with at a national level by the Australian Police Ministers Council (APMC). The government does not wish to pre-empt this process by making amendments such as those in this amendment that may be inconsistent with the national initiatives that are likely to emerge from the APMC.

The third purpose of these amendments deals with psychological testing. An earlier amendment by the Hon. Nick Xenophon proposed that psychological testing should be required for new applicants. Amendment No. 9 would make it compulsory for all crowd controllers to undergo psychological testing and to do so annually. All the arguments against the earlier amendment apply with even greater force to this proposal. The effect of this proposal would be to increase drastically the cost for all crowd controllers on an annual basis.

This is a very substantial burden to impose without strong evidence to indicate that it is needed. Psychological testing of a licensee may be supportable in an individual case where there is, for example, some tendency towards, say, anger management problems, but it is hard to see what this would achieve in the great majority of cases other than an extra cost imposed on individuals trying to earn an income. For those reasons, amendments Nos 8 and 9 are opposed.

The Hon. R.D. LAWSON: I indicate that the opposition is not convinced that it is appropriate to require applicants to provide information concerning their financial affairs. We believe that requirements of that kind can be used as a barrier to entry with respect to persons who should be allowed entry into the industry but who do not initially have the financial resources that might be determined arbitrarily. We believe in an open security agents industry where new entrants are encouraged and not discouraged and where those without great financial strength may come into the industry. It is an industry where commercial factors are at play, and some will succeed and some will not. We do not believe that the imposition of barriers of this kind is necessarily in the public interest.

There are already many fine companies in the security industry, and there are some people in the security industry whose financial security is not as strong as others. We do not believe that any bureaucratic mechanism should be introduced that may have the effect of forcing some out of the industry. If they fail for financial reasons, that is regrettable, but perhaps inevitable. Obviously, it is up to clients of security agents to satisfy themselves about the security of the business they are engaging. We think it is unnecessarily intrusive and also, as I said, a barrier to entry. We will not support the honourable member's amendment.

Amendment negatived; clause as amended passed.

Clauses 45 and 46 passed.

New clause 46A.

The Hon. NICK XENOPHON: I move:

After clause 46 insert:

46A—Insertion of section 10A

After section 10 insert:

10A—Principles to which the Commissioner must have regard

In considering what qualifications and experience are appropriate having regard to the functions to be authorised by a security agents licence, and in determining conditions to be imposed on the grant of a security agents licence, the Commissioner must have regard to the following principles:

(a) a person with less than one years experience as a security agent should not be authorised to perform the following functions:

(i) driving a motor vehicle for the purpose of ensuring the security of premises at different locations;

(ii) escorting staff after hours;

(iii) responding to alarms;

(b) a person should not be authorised to handle dogs unless the person has satisfactorily completed a dog handling course and has at least one years experience as a security agent;

(c) a person with less than two years experience as a security agent should not be authorised to facilitate the movement of valuable items (including cash).

I alluded to this in my second reading contribution. The aim is to have, in a sense, a tiered approach to licence conditions given the duties and the levels of experience. It is to acknowledge that there are some tasks in the security industry that require a greater level of skill and qualifications, and there is a greater degree of public interaction. I have mentioned the dog handling issue, which is referred to in the amendment. My understanding (and I will stand corrected by the minister) is that there was supposed to be a training course or qualifications that were required for dog handlers but that it did not eventuate in the time frame that was suggested. If the minister can clarify that for me I would be grateful. That was a concern expressed by someone who worked in the industry.

The Hon. P. HOLLOWAY: This amendment proposing a new section 10A in the Security and Investigation Agents Act was foreshadowed by the Hon. Nick Xenophon in his second reading contribution. It envisaged a graduate licensing scheme with particular activities to be unavailable to security agents who have had less than one or two years' experience in other fields. The government agrees that, in general, security tasks requiring a higher level of expertise or degree of professionalism should be assigned to those who have demonstrated capacities for them. Nevertheless, it is a significant extra step to propose putting that general principle into one rigid format in an amendment of this character.

The suggestions in proposed section 10A might reflect the Hon. Mr Xenophon's view or the view of a particular security firm operator about the levels of experience that are necessary for those tasks. However, others may have a different view of these matters. It is not necessary to debate whether the particular tasks outlined in proposed section 10A are those that can or should be performed by persons with more or less experience than the amendment seeks to prescribe. Nor is it necessary, I suggest, to come up with an alternative list of tasks omitted by this proposed amendment that might also be better handled only by people with years of experience.

The role of legislation is not to impose best practice on all operators or to be as prescriptive as this amendment seeks to be on the assignment of tasks to individuals. We all know that some persons with little experience can perform new tasks very well and others with a wealth of experience still struggle to perform their duties adequately. Legislation ought not to be used in this crude way to close off employment opportunities to persons who are properly licensed, trained and qualified and judged by their employer to be capable. Rather, legislation must set minimum acceptable standards and let competitive forces influence the extent to which best practices are adopted.

There are already various categories of licence for security agents. Many licensees have licences in more than one category. The act should not descend into such unnecessary detail provided a person has a level of training and qualifications recognised as the minimum acceptable for the role and otherwise meets the criteria for licensing. The act should leave to employers the specific decisions about the functions to be performed by employees.

To the extent that this amendment would require training for dog handlers, I refer honourable members to my comments during the second reading stage. To briefly recap those comments, there are no courses available for dog handlers; there are only courses available for dogs. The government is not aware of any substantiated reports from either the security industry or the public that the use of guard dogs in the security industry is causing any significant problems. Rather than boxing at shadows, the government is committed to dealing with the significant matters in this bill as priorities. The amendment is opposed.

The Hon. R.D. LAWSON: We regard this amendment as introducing an unnecessarily prescriptive regime. We believe that legislation of this kind, which has to operate right across South Australia, should not have provisions that will make it difficult in rural and remote areas to find people with the necessary qualifications to undertake these tasks.

I must say that, personally, I have a great deal of reservation about the necessity to insist upon experience of at least one year as a security agent before one can drive a motor vehicle for the purpose of ensuring the security of premises at different locations. No doubt, there may be operators in the industry who, through their experience, have determined that, for their business purposes, it is appropriate that people with less than one year's experience not undertake these tasks. However, we do not believe that it is appropriate to mandate that anyone who does not have one year's experience should not be able to drive from place to place checking the security of different locations.

We are not minimising the significance of that task. We are not suggesting that it does not require some expertise and some training, but we think that this will be unnecessarily restrictive. Also, we think that it will have the effect of driving up the costs of the provision of security services. These are vital services. If their costs go up, the costs of goods and services generally in the community will similarly rise, and the community will ultimately have to pay. We are not satisfied that that additional financial burden on business or on the community is warranted on the evidence provided by the honourable member. We will not be supporting this amendment.

We note with interest the honourable member's suggestion that those handling dogs should have at least one year's experience. There may well be good reason for that, but the evidence has not been provided. This government's only interest in dogs appears to be legislation banning the eating thereof—a problem that did not exist in any case.

New clause negatived.

Clauses 47 and 48 passed.

Clause 49.

The Hon. NICK XENOPHON: The committee will be pleased to hear that, as this amendment is consequential on the previous amendment that failed, I will not be proceeding with it.

Clause passed.

Clause 50 passed.

Clause 51.

The Hon. P. HOLLOWAY: I move:

Proposed new section 23B, page 26, line 32—
After 'is charged' insert:
by a police officer or the Director of Public Prosecutions

This amendment deals with the concern that was raised by the Hon. Robert Lawson that a private prosecution for a prescribed criminal offence might otherwise compel the Commissioner for Consumer Affairs to suspend an agent. The amendment provides that suspension should be mandatory only when such charges are laid by a police officer or the DPP. I thank the Hon. Robert Lawson for his instructive advice.

The Hon. R.D. LAWSON: I thank the government for accepting this suggestion. This suggestion is really prompted by our desire to strike an appropriate balance in respect of the protection of the public without sacrificing entirely the interests of those people who work in this industry. We believe that the automatic disqualification that arises when someone is charged could do serious injustice to an individual, and that the possibility of a malicious private prosecution should be eliminated. We are glad that the government is moving the amendment, and, certainly, we will support it.

Amendment carried.

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

Page 28, proposed new section 23E, after line 13—
Insert:
(2) The court must hear and determine an appeal under this section as expeditiously as possible.
(3) If an appeal under this section is not determined within one month of the commencement of the appeal, the suspension to which the appeal relates will, unless the court orders otherwise, be stayed until the appeal is finally determined or withdrawn.

This amendment will give the Commissioner for Consumer Affairs the power to suspend the licence of a security agent as soon as the agent is charged—not convicted—with an offence. However, because of the invariable delays that occur in the court system, cases of disciplinary action and/or criminal charges are not usually finalised within a year; often, it is within two years. This means that, as a result of the very fact of being charged, irrespective of the outcome, a security agent will be unable to continue to act as a security agent, and that will have the inevitable consequence that the agent will lose his or her livelihood simply because of the long delay.

This can operate unfairly, especially if the agent is subsequently found not guilty. The agent will have been forced out of the industry, perhaps for no good reason. My amendment seeks, first, to require that the court hear and determine appeals of this kind expeditiously because of their immediate consequence; and, secondly, to determine that, if an appeal cannot be disposed of within one month (as the amendment says), the suspension of the licence will continue only if the court makes a specific order that that suspension continue.

If the court does not order the suspension to continue, the agent will have an opportunity to continue to operate with the licence on such terms and conditions as the court deems fit. I propose moving the amendment in two parts: first, new subsection (2), which requires the court to hear and determine an appeal under this section as expeditiously as possible, because I can quite understand that there are those who might support that principle but not the other. The first line of new subsection (3) provides:

If an appeal under this section is not determined within one month. . .

I seek leave to delete the words 'one month' and substitute 'three months'.

Leave granted.

The Hon. R.D. LAWSON: I had a discussion with the minister and his advisers concerning this amendment. The Attorney-General submitted a response on behalf of the government, which, no doubt, the minister will put on the record. I thank the Attorney-General for indicating the reasons that the government would not support the second element of my amendment, although it would be prepared to support the first. Rather than, as it were, put the government's position on the record, I will leave it to the minister, and perhaps I will respond to that.

The Hon. P. HOLLOWAY: The deputy leader of the opposition has referred to the correspondence that the Attorney-General sent to him, explaining the government's position on the bill. I table that correspondence so it goes on the record. The government does not see any problem with the first part of the honourable member's amendment; that is, proposed new subsection (2), 'the court must hear and determine an appeal under this section as expeditiously as possible'. However, we have some concerns with proposed new subsection (3). There are four difficulties with that proposed subsection; first, the potential for abuse; secondly, it was impossible to reinstate suspension; thirdly, it would operate even when not just and reasonable; and, fourthly, the timing. One month is far too short. I will deal with the timing issue, because the Hon. Robert Lawson has addressed that in his amendment; but we still do not believe that is sufficient.

The District Court deals with a great many serious criminal matters, often involving persons in custody pending determination of their charges, and they ought properly to be dealt with as quickly as possible. It is not a criticism of the court to observe that these matters are given priority over administrative appeals. As an example, I am advised that the Crown Solicitor has a licensing appeal presently on foot.

Members interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! The level of conversation is getting to the extent that I am finding it difficult to hear the minister.

The Hon. P. HOLLOWAY: The appeal commenced on 3 February 2005. The appellant is a person who was refused a security agents licence. The court sent a letter on 24 February informing the parties that the appeal would be listed for the first preliminary hearing on 6 April. The information given to me indicates that this is typical of the time lines faced by parties in administrative and disciplinary appeals in the District Court. The inevitable consequence of this reality is that even three months would be too short. The government supports proposed new subsection (2) which provides:

The court must hear and determine an appeal under this section as expeditiously as possible.

We believe that putting a time line on it is just simply, unfortunately, not practical. That is why we have to oppose proposed new subsection (3).

The Hon. T.G. CAMERON: I support the amendment standing in the name of the Hon. Robert Lawson. I do not have any problem with either proposed new subsection (2) or

proposed new subsection (3). What the Hon. Robert Lawson is seeking to do, I guess—and this is only a lay person's way of putting it—is to ensure a fundamental tenet of our judicial system in this country remains; that is, a person is innocent until proven guilty. Here we have a situation where the Commissioner for Consumer Affairs would have the power to suspend the licence of a security agent as soon as they were charged—I emphasise the word 'charged'; not 'convicted'—with an offence. Then we would have to look at what would happen under that situation. Well, it would end up in the courts system and, as we all know, there are inevitable delays.

The matter may be determined within a year but, as I understand it, there are examples where it could take up to two years. We have heard the saying: justice delayed is justice denied. That is what we would have here. I could imagine what I and my former union executive would have said if an employer had approached us and said, 'Look, we would like to put a condition in the agreement, or the award; that is, where we catch people doing certain things. We do not know whether they are innocent or guilty, but the moment we charge them they are off the job, and we will work out later whether or not they are guilty.'

I would think any trade unionist would be horrified at what the government is attempting to do here. It is attempting to give the Commissioner for Consumer Affairs—not an industrial commissioner or an industrial judge, but someone who has nothing whatsoever to do with industrial relations, dismissals, suspensions, and so on—the power to suspend the moment the agent is charged. Perhaps I have not picked it up, but, as I understand it, that is a discretionary power for the Commissioner. Some individuals may be charged—not convicted—and be suspended until their case is determined, whereas other individuals working for the same employer might not be suspended; they may be allowed to continue to work.

Of course, we need to be a little balanced about this. I know there has been a lot of bad press about security agents, bouncers and people on doors, and whatever, but I do not think it means we ought to take out the baseball bat to these people. I cannot support the government's position because it will mean that a security agent would almost certainly lose their livelihood. If someone is working in the industry, they are charged and suspended, and two years down the track they are found innocent, then they would have been out of the industry for two years. I would not like to be in that person's position, going back to my old boss and saying, 'I would like my old job back.' It is an industry where people know each other. I think it would be harsh, unjust and unreasonable to introduce such a system the moment someone was charged. The Commissioner for Consumer Affairs may or may not have expertise in industrial relations matters. Unlike an industrial commissioner, he may not have any expertise at all in industrial relations matters.

It might have been slightly different if the bill provided that an industrial commissioner have the power to suspend the licence of a security agent on prima facie evidence. One might have been prepared to look at that kind of proposal, but not this proposal. I would oppose it purely and simply on the grounds that we are opening the door to allow employers to impose these types of conditions elsewhere, and that would be disastrous for employees and the trade union movement. For those reasons, I support the amendment standing in the name of the Hon. Robert Lawson.

Progress reported; committee to sit again.

[Sitting suspended from 1 to 2.19 p.m.]

McKEE, Hon. D.H., DEATH

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

That the Legislative Council expresses its deep regret at the recent passing of the Hon. David McKee, former member of the House of Assembly and minister of the Crown, and places on record its appreciation of his distinguished public service and, as a mark of respect to his memory, that the sitting of the council be suspended until the ringing of the bells.

I was saddened to hear yesterday of the passing of David McKee, who died early on Wednesday morning at the St Lewis Nursing Home in the Adelaide suburb of Parkside, having celebrated his 86th birthday on Sunday. Mr McKee was a Labor Party stalwart, a very competent parliamentarian and minister. He was a member of the House of Assembly from 1959 until 1975, representing the electorate of Port Pirie. In addition, he was also appointed minister of labour and industry in November 1970, and he served admirably in this role until May 1975.

David McKee was a true son of the Labor movement, and this was reflected throughout his working life. He was born on 1 May (May Day) in 1919 in the Queensland town of Wondai. Mr McKee grew up during the Depression years. As a boy, he left school at 13, and he took on numerous tasks in order to earn a living, including ringbarking, horse-breaking and boxing, the latter becoming a lifelong passion. In fact, at one stage he was a member of the legendary Jimmy Sharman boxing tent, which travelled the country in the 1930s. For a long time he trained local boxers, and he was involved with the state amateur boxing board.

At the onset of the Second World War, Mr McKee heeded his country's call and served overseas with the AIF in Greece, Crete and Palestine, and he did a second stint in New Guinea. In between, he came to Adelaide for an army bivouac and met his wife to be, Rhonda. Sadly, Rhonda McKee passed away two years ago. After his time in the armed services, David and Rhonda McKee dedicated their time to managing hotels.

Mr McKee also worked in underground mines in Tennant Creek in the Northern Territory. His work in the union movement began at Radium Hill in South Australia's north, where he helped to sink shafts. He also became famous here for running the two-up game at the pub on a Sunday afternoon. Mr McKee progressed to the position of organiser with the Australian Workers Union.

His parliamentary career began in 1959 when he was elected as the member for Port Pirie. He was re-elected to the seat in 1962, 1965 and 1968 and he was re-elected again in 1970 and 1973 when the seat was simply called Pirie. As a junior member, he was noted for his directness and for his commitment to the broad labour movement. As one observer wrote:

Dave was an ex-boxer with a rough and tumble AWU union record in rough and tumble Port Pirie. . . and his main claim to fame was he had guided through parliament a private members bill lifting the ban on greyhound racing in South Australia.

During his maiden speech, Mr McKee emphasised his commitment to the Port Pirie community. He said:

I thank the people of Port Pirie for the confidence they have reposed in me. I deem it a great honour to represent them in parliament. To the best of my ability I will do what is expected of me and will endeavour to serve them as ably as did my predecessor, the late Mr C.L. Davis.

His speech also reflected concerns he had about the potential decline in the vibrancy of the Port Pirie region. This was an issue of concern for all South Australian regions. For instance, he noted:

> At present 90 per cent of the youth of Port Pirie are forced to leave in search of employment.

Further, he stressed the need for transport infrastructure improvement, especially in regional areas. Some examples he mentioned were the need for a deepening of the channel in Port Pirie and improving the quality of the wharves there. He urged the speedy standardisation of the rail gauge between Port Pirie and Broken Hill.

During his five years as minister for labour and industry, he was perhaps best known for what was then considered a radical rewriting of the state's industrial relations laws. Those changes brought about early versions of today's workers' compensation system, a system that has since become broader and more sophisticated, and that has ultimately enjoyed bipartisan support. On industrial relations Mr McKee's approach was balanced and to the point. In 1974, when a small number of radical unionists raised the ire of legendary Labor figure Clyde Cameron, he defended unions overall.

> We are always going to have some odd people in the trade union movement—

he told the Adelaide *News*—

> but it's a bloody good movement and you can't hold it to ransom because of a few odd people.

Later, he told the same newspaper that Australian workers must pull their weight and contribute a fair day's work for a fair day's pay. 'If you want to prosper', he said, 'a slipshod approach to the job cannot be tolerated.'

He was also active in Port Pirie outside of politics. He was chairman of the Mid North Soccer Association and he was a member of the Mentally Retarded Children's Society. After Mr McKee's retirement from the ministry and parliament in 1975, he remained very active in the community. I take this opportunity to extend my sincere condolences to the family of David McKee, in particular his son Colin (also a former member of the House of Assembly), his daughter Laneene, as well as his two grandchildren and two great-grandchildren. I am sure they are all saddened by his passing, but they can feel very proud of the outstanding leadership David McKee provided to South Australian workers and to the people of the Port Pirie region. With other members on this side of the chamber, I commend David McKee's contribution to the state. May he rest in peace.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to support the comments made by the Leader of the Government in this condolence motion. As has been outlined by the Leader of the Government, the Hon. David McKee is one of the family dynasties which have been represented in the Labor movement. As the Leader of the Government indicated, both he and his son were members of the state parliament of South Australia. He was also part of the AWU dynasty, along with a number of prominent members of the Labor movement and union movement who have represented, their union and who have then moved into either state or federal parliament to represent the Australian Labor Party. I first met David McKee in the early to mid-1970s in his last term of office, as he finished in 1975.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Not by much. I had only just joined the Liberal Party as a research officer at that time and David McKee was one of the plain-speaking, tough-talking union representatives who fitted into the then Dunstan government. It was an unusual mix of cabinet representatives. David McKee came from the union side of the Labor Party and certainly represented that in a plain-speaking way. I met him occasionally just to say hello to around Parliament House. A number of members of parliament used to tell a number of stories of Dave McKee which do not bear repeating in relation to his boxing prowess.

The Leader of the Government referred to David McKee's time in the Jimmy Sharman troupe at the country shows. Those of us who come from outside Adelaide will know of the mystique of the Jimmy Sharman boxing troupe at country—

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The Hon. Terry Cameron obviously is in a better position to make those sorts of comments than I. Those of us originally from country and regional South Australia will know of the attraction of that part of the country shows, or similar attractions, where people were invited out of the audience supposedly to go a round or two with the boxer in the tent—

The Hon. T.G. Cameron: The Hon. Bob Sneath did a round.

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: The Hon. Bob Sneath remembers it well. The drums would beat and, as you wandered around the country show when the drums were beating, you knew there was likely to be some action and you would go along to see who was going to take on the boxing representatives—and perhaps the Hon. Bob Sneath might be able to provide more detail on that. The Leader of the Government has outlined the background of the Hon. Dave McKee and his parliamentary service. I think that one of the things that certainly Dave McKee can lay claim to is that he and those who supported him were able to say that they got one over Don Dunstan in terms of Dave McKee's becoming a minister.

There is a reference to it in the book *Sir Henry, Bjelke, Don Baby and Friends*, which was edited by Max Harris and Geoffrey Dutton. It gives the following pen picture of Dave McKee's move into the cabinet:

> When Don Dunstan increased the size of his Cabinet from nine to 10 in 1970, he wanted young Don Hopgood as his Minister assisting the Premier and Conservation Minister. Don, a smooth young intellectual, was the kind of guy with whom Don-Baby could work happily. But something came unstuck. Dave McKee got elected. Dave was an ex-boxer with a rough-and-tumble AWU union record in rough-and-rumble Port Pirie, and his main claim to fame was that he had guided through parliament a private member's bill lifting the ban on greyhound racing in S.A. Hardly Don's cup of tea. . . Dave was quite happy. Unionism, Labor and industry was close to his heart anyway. He'd grown up telling folks what he thought in a no-holds barred manner, and now he could do it with authority. In fact, when asked whether his Caucus victory was a win for the unionists over the academics. . . Dave, with typical heavy handedness said: 'It could be, if you want to put it that way. I've come up through the trade union movement and will do my best for the working people.'

I think that summarised Dave McKee's approach and it certainly indicated, I think, that there were enough people in the Labor caucus in 1970 like him. As I said, there were two differing groups, broadly speaking, within the Dunstan cabinet of the 1970s and Dave McKee certainly came from the group that believed that they had come from the union movement, they had come from the working classes and they

were there to represent the workers of South Australia in the then Labor cabinet.

There was at that time, perhaps, a balance between the two groups and, subsequently, people such as Jack Wright and others followed that long tradition of plain speaking and representing workers and unions within Labor cabinets. I guess whether or not that is the case now is a judgment for another day and for other members, perhaps, to offer. But, certainly, during that five-year period, as minister for labour and industry, Dave McKee represented his party, the government, the workers and the unions in a forthright fashion.

On behalf of Liberal members, I join with the Leader of the Government and other members in expressing our condolences to the Hon. Dave McKee's family and friends. We certainly support the condolence motion today.

The Hon. SANDRA KANCK: On behalf of the Democrats, I indicate our acknowledgment of Mr McKee's contribution to the unions, the community and the parliament. We extend our sympathies to his family and friends.

The Hon. T.G. CAMERON: I am caught at short notice: for some reason, I have only just heard that the Hon. Dave McKee has passed away.

The Hon. Sandra Kanck: It was yesterday.

The Hon. T.G. CAMERON: That may explain why I had not heard that Dave McKee had passed away. I knew Dave McKee, mainly through the Australian Workers Union and my father, Don Cameron, and uncle, Clyde Cameron. Dave McKee was an organiser for the Australian Workers Union at Port Pirie during a fairly tumultuous period in the Australian Workers Union's history when a leadership challenge developed between the then secretary, Eric O'Connor, and my late father, Don Cameron. Dave McKee was an organiser at Pirie. The vote in Pirie was always a fairly tight one and usually depended upon which way the organiser directed it.

As it came to pass, various power brokers within the Australian Labor Party and the Australian Workers Union felt that it was time that Dave McKee was elevated to the state parliament. That may have had something to do with the fact that, at the time, Dave McKee was supporting Eric O'Connor for the secretary's position within the Australian Workers Union against my father, Don Cameron. History now shows that my father went on to win that ballot; and Dave McKee served many years in this place, a number of them as the minister for labour.

I would like to place on the record that, despite the differences that may have occurred in terms of who was supporting whom between my father and Eric O'Connor, my father always continued to speak highly of Dave McKee. My father could handle himself, too, but he was particularly impressed with Dave's ability to be able to handle himself. I can recall on one occasion asking my father (it was a jocular conversation), 'How do you think you would have gone against Dave?' He said, 'No, he had a big powerful left hand.' He said, 'If he had hit me with that, I would have gone down.'

He said that he could fight professionally. Not that my father talked about it a lot but, I think, going back over the years, he fought a few rounds in the boxing tent circuses that were very popular in the country. I met Dave McKee on a number of occasions. One could not help but be impressed by his frankness, straightforwardness and his candidness. You always knew where you stood with Dave. If he did not like you he would tell you. If he did like you he would say very little. Dave served the Australian Labor Party with distinction. He was, as the Hon. Robert Lucas pointed out, one of a dying breed of trade unionists—tough talking—who felt very strongly and passionately about helping ordinary working men and women.

I think that on the last occasion I met Dave McKee he wanted to speak to me about his son. We had a cordial conversation. Dave left the office, and that was the last occasion that I saw him. When I was much younger, I would sometimes run into Dave McKee at the Earl of Zetland when all the old shearers and AWU organisers would gather to reminisce and talk about politics, trade unions and the profession. They used to call shearing a profession, which they all loved and spoke highly of.

I would like to extend my sincere condolences to Dave's family and friends and, in particular, to his son, Colin McKee. Colin worked for me for a number of years, and I know first-hand how much he revered and loved his father. Today, my thoughts are with Colin. He would be taking it badly. I wish him all the best on this day.

The Hon. R.K. SNEATH: I did not have the pleasure of meeting David, but I am sure that, as a fellow AWU trade unionist and a member of parliament, he would have made some fine contributions on behalf of working class people when he was a union official and when he came into parliament. On my own behalf and on behalf of AWU officials and staff, I pass on my condolences to David McKee's family.

The PRESIDENT: I rise to make a brief contribution on my own behalf, and I am sure on behalf of the many people from Port Pirie who benefited from the good works and contributions of the Hon. Dave McKee. The first time I can ever remember Dave McKee was not in his role as a trade unionist or as a member of parliament but, rather, in charge of a team of boxers in the Port Pirie Town Hall; and they were in the Dave McKee team. Dave had many people in his team of admirers and friends.

There was mention in a previous contribution about his life and his time in the rough and tumble town of Port Pirie. That was very much the situation during that period. It was a town of strong union principle and working class morality where your word was your bond and you were expected to keep it. Dave was considered to be a man's man; that is the term that would have been used in those days to describe Dave. If there was a blue on, or you were in a blue, you would want Dave McKee on your side. He would put a logical, cogent argument and, if that did not work, he would resort to fisticuffs—which usually resolved the dispute there and then. Some refer to it as the good old days.

Dave was sincere in his belief and commitment to the working class. He was one of those people who from time to time get through the net of scrutiny in that he was a unionist from a working class background who not only got into parliament but reached the highest office and served with some distinction. People have often said of Dave that he was one of those people during that period of great change, both socially and in industrial and working class conditions of South Australians, who added a calming hand to the academic and very knowledgeable cabinets we had in those days. It was often said to me as a young trade unionist that it was the belief of the working class that they needed a balance in parliament of all forms and all sections of the Labor movement. Dave was revered as a working-class warrior.

I think the record shows, through that period of great change, some of the industrial changes which he helped steer through and which still benefit the working class to this day. On my own behalf and on behalf of the people of Port Pirie, I am happy to pay tribute to the Hon. Dave McKee—a man's man.

Motion carried by members standing in their places in silence.

[Sitting suspended from 2.45 to 3.04 p.m.]

ABORTION

A petition signed by 38 residents of South Australia, concerning abortions in South Australia and praying that the council will do all in its power to ensure that abortions in South Australia continue to be safe, affordable, accessible and legal, was presented by the Hon. Sandra Kanck.

Petition received.

PAPER TABLED

The following paper was laid on the table:

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

Department of Education and Children's Services—Report, 2003-04.

REGIONAL DEVELOPMENT INFRASTRUCTURE FUND

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table a ministerial statement made on 3 May by the Minister for Regional Development.

QUESTION TIME

EXPORTS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation prior to asking the Leader of the Government a question on the subject of trade and economic development.

Leave granted.

The Hon. R.I. LUCAS: The minister will know that the Rann government in its three years has cut a swathe through the trade offices that help to encourage trade in South Australian goods and services overseas. The Rann government has closed offices in Japan, Indonesia, the United States, Malaysia and Hong Kong, although we understand that an officer in Hong Kong is being collocated with an Austrade office. At the same time, the Rann government has also massively reduced the key department that helps promote the trade of goods and services in South Australia, the Department of Trade and Economic Development. Mr President, you will know that that department has been virtually halved in number, and that there has been, from statements made by staff representatives over a period of time, a massive loss of morale in those who remain within that particular department.

The minister will probably be aware that the most recent export figures have been released in the last 24 hours, which show that South Australia's exports for the last 12 months again are the lowest in terms of increase of all states in Australia. Exports in the past 12 months in Australia compared to the previous 12 months for Australian figures show an increase of 14.7 per cent. Some states, for example, New South Wales, have shown a 24.2 per cent increase in exports. Queensland showed a 25.2 per cent increase in exports. South Australia's export figure was a paltry 5.7 per cent, the lowest increase of all states in Australia. As I said, the Australian figure, for example, is almost three times greater, and the best performing states are almost five times greater in terms of export performance.

Does this minister at least now accept that the decisions he and his government have taken to close a significant number of trade offices and to reduce massively the staffing and resources in our key trade development agency, the Department of Trade and Economic Development, is one factor in the appalling performance in terms of export figures in South Australia over the past three years?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): No, I do not believe that is the case. I foreshadowed what the likely outcome of statistics would be in answer to a question from the Leader of the Opposition a month or so ago. As I pointed out then, there has been a very rapid increase in the prices paid for bulk commodities, particularly mineral commodities, and in particular coal and iron ore. In the case of iron ore, the price BHP has just received in its sales to China has increased by some 70 per cent. When you have those multibillion dollar exports of coal and iron ore (and the mineral sector provides a very significant percentage of Australia's exports) and the prices are rising by 30 per cent, the states which are fortunate enough to have those volumes of bulk commodities will have big increases without anything extra being done.

Unfortunately, at this stage, this state does not have those sort of mineral resources. Whereas those states that have those big resources have seen exploration fall, in this state we now have the highest proportion of mineral exploration—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes; and we hope that it will now undergo a big expansion. This government is doing everything it possibly can to ensure that expansion goes ahead. However, in other states exploration has been falling. As I pointed out, in this state we now have the highest proportion of exploration: 6 per cent of mineral exploration in Australia is now in this state. That is the highest proportion we have had for 18 years. We have 14 per cent of the land mass. I would like to see it get much higher, and we will certainly be doing everything we can to ensure that happens. In fact, amongst the mineral community of Australia, I think there is great appreciation of the initiatives that this government has taken to promote exploration. If we reach the stage where we could have those sort of bulk commodities, then the bulk commodity export figures in a boom like this would also be increasing rapidly.

I would imagine that, if one looks at the breakdown (and we can do that), we can see what proportion of that increase is due to the very rapid price increases for bulk commodities in states such as New South Wales. Of course, for the bulk commodities such as grains that this state produces, prices have not been as high as they were several years ago, and that is one of the reasons why the value of bulk commodities is down. I have also pointed out in the past that we need to look at some of the growth areas in exports in this state, namely, the electronics industry and software, which are classified as services. I think that is where most of the growth will come from in the future. It also needs to be pointed out that, if one looks at the economic statistics, this state is outstripping

states such as New South Wales in relation to economic growth—

The Hon. R.I. Lucas: What about exports?

The Hon. P. HOLLOWAY: I am saying: what would one prefer? Would one prefer—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Of course, the other question about exports is that, if the eastern states' economies are growing, it may well be that if our goods are exported into the eastern states they may not feature on the ABS statistics. However, it will have exactly the same benefit to this state. Also, with respect to the growth industries, at the weekend when the community cabinet met at Bordertown the Hon. Carmel Zollo and I looked at a new olive processing facility. An enormous amount of olive oil is being imported into this country. The growth of that industry is equivalent to an export industry in the sense that it will displace imports but, of course, it will not show up on statistics.

In relation to the other points made in the Leader of the Opposition's question, he talked about some of the offices that have been closed. If one looks at those areas, one will see that that is not where the growth has been. As I have indicated before, through its arrangement with Austrade, the government is replacing the very expensive stand-alone office we had in Hong Kong with an arrangement that we believe will work just as well, in trade terms, and we are also very shortly opening one in India, which, like China, could soon become the biggest market in the world.

The Hon. R.I. LUCAS: I have a supplementary question. Given that the minister promised that exports would be trebled from the $9 billion figure that he and his government inherited from the former government to a figure of more than $25 billion, can he report to the council whether it is correct that the most recent figures show that, instead of increasing under his government, the most recent figures show that the $9 billion figure has gone backwards to $7.8 billion?

The Hon. P. HOLLOWAY: I have already addressed that question on a number of occasions. That 2001 figure reflected a season that has never been reached since. The grain input to that figure of $9.1 billion was worth nearly $2 billion—

Members interjecting:

The Hon. P. HOLLOWAY: It would not matter how many trade offices one had, because one cannot—

An honourable member interjecting:

The Hon. P. HOLLOWAY: They would not produce an extra $1 billion of grain out of our state. That would depend, first, on prices and, secondly, on the seasons.

The Hon. T.J. STEPHENS: I also have a supplementary question. Were those export figures worked out on that 2001 figure—the statement that the government made about trebling exports? You must have known what that figure was.

The Hon. P. HOLLOWAY: The objective of the State Strategic Plan is to increase exports, to treble exports—

The Hon. R.I. Lucas: You're going backwards.

The Hon. P. HOLLOWAY: We are not going backwards. There has been an increase recently. As I said, what we are talking about here are the commodity exports. We will not get a trebling in our growth if we rely solely on bulk commodities such as grain. The price of bulk commodities such as grain will depend on seasonal and price fluctuations.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Where are we going to get the exports from? There is a lot more to exports in the bulk commodities statistics that we are talking about at the moment. There are areas such as electronics and software. These services will be one of the fastest growing export sectors within our economy. There is also education. If one looks at the figures my colleague had recently in relation to the education sector, one will see that we have had a phenomenal growth in the education sector and the number of students coming into this state. They will not show up in the ABS commodity figures, but they are exports; and similarly with tourism.

Obviously, we are also looking at building some of the growth areas, and it is all set out in the report that the Export Council has done. That is where the growth will come from—areas such as health and a number of other areas. There are plenty of components to exports. That is why this state has experienced growth in excess of the national level. I think that, as far as the 1.5 million people of this state are concerned, the fact that our economy is growing faster than the rest of the country is something that is to their benefit. That is the bottom line for the people of this state.

The Hon. T.J. STEPHENS: As a supplementary question: was it part of your plan, minister, to take exports backwards by 15 per cent before trebling them?

The Hon. D.W. RIDGWAY: As a supplementary question: when will the officer be appointed in the Austrade office in Hong Kong, because, as little as three weeks ago, there was still internal fighting over who would take that position?

The PRESIDENT: Order! The honourable member knows that he is not supposed to comment but simply ask the question.

The Hon. P. HOLLOWAY: It is my understanding that the officer has been appointed, but I will take the question on notice and get some details.

The Hon. D.W. RIDGWAY: As a supplementary question: can we have some detail as to who that person is?

The Hon. P. HOLLOWAY: Yes.

The Hon. T.G. CAMERON: As a supplementary question: are the figures $9 billion and $7.8 billion, as quoted by the Hon. Rob Lucas, correct?

The Hon. P. HOLLOWAY: I do not have the figures, but, certainly, it is true that $9 billion was the high point in 2001, when we had extremely high grain prices—the 9.6 million tonne crop with very high prices. As I said, if we had the sort of coal or iron reserves that other states have, without doing anything, just by taking the same amount—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I am glad that the Leader of the Opposition mentions that, because, without doing anything, what will happen is that current contracts for uranium are locked in. It is a confidential price but, because it has been fixed for a couple of years, it is likely to be down well below the $10 per pound amount. The current spot price for uranium is about $25 per pound.

The Hon. T.G. Cameron: Is it going up?

The Hon. P. HOLLOWAY: Well, it has gone up, as I said—

The Hon. T.G. Cameron: That should help you.

The Hon. P. HOLLOWAY: Well, it will. That is what I am saying. It will feed into these figures and, without doing anything, the price will go up. The point I am making is that, with respect to the massive increase in iron ore prices, if you get a 70 per cent increase in commodities that you are exporting, such as iron ore or coal (even coking coal has gone up by 30 or 40 per cent), without exporting any more the value of your exports will increase by that level. That has not happened in South Australia. In fact, in some ways, the success of the raw materials of other states is, of course, having an impact on the Australian dollar. It is keeping the Australian dollar high which, in turn, is adversely affecting manufacturing exports—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: If one looks back when we had that $9 billion figure, I think that the Australian dollar was less than 50¢.

The Hon. T.G. Cameron: It's a long answer to my question.

The Hon. P. HOLLOWAY: I am pleased to have the opportunity to give a trade lesson to the chamber. It was less than 50¢. We are now close to 80¢. There has been an almost 60 per cent re-valuation of the Australian dollar in relation to the US dollar, and that must inevitably hurt those prices. It is not hurting the prices of our mineral commodities, which are going up enormously. There is, in a sense, developing within this country this dichotomy in the economy. That is a challenge for this government (and future governments) as to how we deal with that and how we compete.

We are having real success in the minerals area, in bulk commodities. We are having the best results that we have had in 20 years, but it will be some years before the benefits of all the exploration we are doing flow through into prices, but they will. As I said, new contracts will be negotiated for uranium and, for example, if they go from $7 a pound, or whatever it is, up to $25 a pound, that will be reflected in export earnings. But, mind you, that will not necessarily do anything to affect the living standards of ordinary South Australians. What will affect them is the economic growth within this state, and that is where we are out-performing the national average; and that, I would suggest, is the much more important economic measurement as far as the welfare of most South Australians is concerned.

The Hon. T.J. STEPHENS: I have a supplementary question. Will the minister indicate when this government will get exports back to the levels they were under the previous Liberal government? In which year are we aiming to get exports back to where they were under our stewardship?

The Hon. P. HOLLOWAY: The honourable member knows the targets of this government. Essentially, I have already answered that question.

The Hon. T.G. CAMERON: I have a supplementary question. I thank the minister for confirming the $9 billion figure used by the Hon. Robert Lucas. The figure which he used and which I do not believe is that our exports have fallen to $7.8 billion. Will the minister confirm or refute that assertion?

The Hon. P. HOLLOWAY: I am not sure of the most recent figures. They would be something of that order.

ANANGU PITJANTJATJARA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Premier, a question about the Anangu Pitjantjatjara lands.

Leave granted.

The Hon. R.D. LAWSON: In August last year, amidst great fanfare, the Premier announced the appointment of Professor Lowitja O'Donoghue and Reverend Tim Costello as special advisers to the lands. He said that their appointment was 'to give us advice on how we are going and to make sure that we keep on track on the important work begun by Bob Collins'. The Premier went on to say:

> The important task of trying to place the health and welfare of the community at the front and centre of life on the lands is being coordinated very effectively through my Department of the Premier and Cabinet.

Professor O'Donoghue was interviewed on ABC Radio this morning. She was specifically asked by David Bevan: 'Has Premier Mike Rann kept his promises to you and the people of the Pitjantjatjara lands?' She answered: 'No, he has not.' Bevan then asked her: 'In your opinion, are things any better now than they were 12 months ago?' She responded: 'No, I don't think so. The government will tell you about the programs that they have in place.' She also said: 'They gild the lily all the time about what is happening up there and it is not happening at all.' My questions to the Premier are:

1. Is Professor O'Donoghue telling the truth when she says that Mike Rann has not kept his promises?
2. Does the ministerial code of conduct require ministers to keep their promises?
3. Is there a hitherto undiscovered loophole in the code which requires ministers to observe its highest standards but allows the Premier to exempt himself from those standards?
4. If Professor O'Donoghue is not telling the truth, will the Premier advise the council what possible motive she might have for not doing so?
5. In consequence of Professor O'Donoghue's final report to the Premier, has he given any instructions about any action to be taken in relation to accelerating the program of the government on the lands?

The PRESIDENT: A number of those questions are soliciting opinion, but some are clearly in order.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): It was certainly soliciting opinion. It was also a recycled question, because it was asked by the Hon. Kate Reynolds yesterday. Perhaps the Premier can answer them both together. In relation to the problems in the lands, perhaps if the opposition would stop insisting that the media and journalists go up there against the wishes of the people in that area we could get our bill through and deal more effectively with the issues up there. Perhaps, for once, the opposition should take responsibility for its own actions. Members opposite cannot go to the next election when they effectively block legislation in this council—which is detrimental to achieving the outcome that we all wish to see—and escape responsibility for it.

The Hon. R.D. LAWSON: I have a supplementary question. What action of the media has impeded progress on the lands?

The Hon. P. HOLLOWAY: What will impede progress to achieving that objective is to force something on the people of the APY lands against their will and their wishes.

The Hon. T.G. CAMERON: Has the government received any complaints (either written or verbal) from the Aboriginal community protesting the presence of the press on their lands?

The Hon. P. HOLLOWAY: This matter really—

The Hon. T.G. Cameron: That's what you said.

The Hon. P. HOLLOWAY: Yes. Well, this matter relates to a message that is currently being debated in the house. All those matters were covered in the debate on that bill, and the honourable member can read in the *Hansard* where I pointed out that the community has indicated its opposition to that particular measure.

The PRESIDENT: Order! The matters contained in these questions relate to matters that are being debated in a bill that is before the house. Members should be careful about the requirement of standing orders not to discuss matters which are before the house in committee.

The Hon. J.F. STEFANI: Does the minister agree with the allegation of despair which Professor O'Donoghue described this morning?

The Hon. P. HOLLOWAY: I have not seen those comments. I will not pass comment on a media report.

CORRECTIONAL SERVICES, BULLYING

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the minister representing the Minister for Administrative Services a question about bullying in the Department for Correctional Services.

Leave granted.

The Hon. A.J. REDFORD: Yesterday, I was contacted by a correctional services officer regarding a complaint that he has made to his union about bullying. As a consequence, the Department for Administrative and Information Services sent him a form to fill in. He completed the form and sent it to DAIS with supporting material. He tells me that he waited the 21 days within which he was to expect to receive a response and that, in the absence of any response, he rang to see how the matter was going.

His call was returned by a DAIS officer, who was, in fact, a former prison officer. My constituent was told that there had been so many complaints against the Department for Correctional Services regarding bullying that the DAIS chief investigator, Mr Peter Cochrane, was having trouble coping. He was told that Mr Cochrane was having a meeting with senior officers of the Department for Correctional Services, including the CEO, Mr Peter Severin, next week regarding the large number of complaints of bullying made against the department.

I understand that the Department for Administrative and Information Services is now proposing that the Department for Correctional Services should investigate each and every complaint and provide a summary of the outcomes to DAIS. That is a bit like getting someone to investigate themselves, which I understand happens from time to time under this government. One union representative described it to me as 'a bit like Nazis investigating Nazis'. That summarises the feeling that workers have within the department in relation to these issues.

I was told that the PSA is unhappy with the process, and that fact was confirmed with me this morning. I am also told by union officials that neither DAIS nor DCS have the resources to investigate complaints and, further, that the Department for Correctional Services is an inappropriate body to manage bullying, because it has failed to manage bullying in the past and, in particular, it has failed to change the behaviour of those who have either been accused of or found responsible for bullying type conduct. Indeed, as I have said in other contributions, there are examples where people who have been found guilty of bullying have in fact been promoted. There is no doubt that there is a real cultural issue regarding bullying in the Department for Correctional Services. My questions are:

1. Will the minister confirm that there have been so many complaints about bullying that the Department for Administrative and Information Services cannot deal with them in a timely fashion?

2. Does the minister agree that it is inappropriate for the Department for Correctional Services to investigate itself in relation to bullying complaints and the way in which those complaints are managed?

3. Will the minister ensure that either DAIS or his other department, Workplace Services, is given sufficient resources so that the problem of bullying in the Department for Correctional Services is dealt with once and for all?

4. Does the minister agree that the best way to deal with bullying complaints is to deal with them in a timely fashion, in accordance with best practice required by occupational health and safety principles and standards?

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

TECHFAST TECHNOLOGIES PROGRAM

The Hon. R.K. SNEATH: My question is directed to the Minister for Industry and Trade. Can the minister provide details to the council about the Techfast Technologies Program for small and medium size enterprises?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The Rann government has established a pilot program aimed at encouraging small and medium size enterprises to adopt commercially viable technologies and knowhow from research organisations. The 15-month Techfast pilot program is a joint project between the Department of Trade and Economic Development and the Australian Institute for Commercialisation, an independent organisation that has run similar programs interstate.

The program specifically targets the adoption of commercially viable technologies and knowhow from research organisations into established and technology receptive enterprises. It is focused on improving the scale and speed at which small and medium size enterprises are able to successfully expand and grow their businesses through the accelerated take-up of leading edge technologies. To remain competitive, and to enter new markets, small and medium size enterprises need to adopt new technologies at a faster rate. Techfast accelerates the commercialisation and transfer of research and development into industry by incubating new R and D within promising small businesses.

The objective is to ensure that those companies become sustainable and fast-growing businesses, while improving the links between industry and research institutions. The pilot program will focus on actively working with small and medium size enterprises, research institutions, investors and service providers to improve the take-up of new locally developed technologies by industry to increase competitiveness and product portfolios.

The Techfast program should help established, well-performing, technology-based enterprises to accelerate into larger, sustainable, fast-growing businesses that will make a significant contribution to economic growth and development in South Australia. I thank the honourable member for his question.

WOMEN'S AND CHILDREN'S HOSPITAL

The Hon. SANDRA KANCK: I seek leave to provide an explanation before asking the Minister for Emergency Services, representing the Minister for Health, a question about the directing away from the Women's and Children's Hospital of women who are close to birthing their children.

Leave granted.

The Hon. SANDRA KANCK: Today is International Midwives Day, and I congratulate all midwives for their wonderful work. I have been made aware, however, that during the past few weeks there have been a number of women in labour who have been rerouted from the Women's and Children's Hospital to other hospitals. Some days, the Women's and Children's Hospital delivers over 60 babies, when the maximum number of birthing rooms is 16. When the Queen Victoria Hospital closed about a decade ago, and its services were subsequently transferred to the then newly named Women's and Children's Hospital, the number of deliveries projected for the Women's and Children's Hospital was between 2 500 and 3 000 per annum, but in the current year that figure is expected to be over 4 000.

There are a number of reasons for this; first, the suspension of maternity services at the Queen Elizabeth Hospital. The Queen Elizabeth Hospital birthing unit and maternity wards were upgraded in the 1990s, but 10 months ago the state government closed them down. This has meant that women from the western suburbs have had to book into other hospitals for their prenatal care and birthing. Secondly, an increasing number of women are wisely choosing to access progressive birthing practices which are available only at the Women's and Children's Hospital, that is, the midwifery group practice. Up to eight women a day who want to be part of that service, because it uses a continuity of care model with known midwives as supportive and equal partners throughout the pregnancy and birth, are being turned away. In all likelihood that means approximately 1 500 women per year are being refused that opportunity. My questions are:

1. When will the new maternity network for the QEH announced by the government in March be up and running? Will it be anything more than prenatal and postnatal care?

2. Will the government undertake to set up a secondary midwifery group practice at the Women's and Children's Hospital; and will the government undertake to provide progressive birthing services along the lines of the Women's and Children's Hospital group practice at other hospitals?

3. What steps are being taken to ensure that women who are already in labour and/or their babies are not being put at risk by having to backtrack to find an alternative hospital in which to birth when the Women's and Children's Hospital is over capacity?

4. Does the minister plan to keep the promise she made last year that she will introduce amendments to the Nurses Act to cover direct-entry midwives by the middle of this year?

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

ROADS, MAINTENANCE

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport and Infrastructure, questions about South Australian road maintenance.

Leave granted.

The Hon. T.G. CAMERON: *The Advertiser* recently ran an article stating that, according to the RAA, almost every main road in Adelaide needs some form of maintenance after decades of neglect. The motoring body says that many roads have become unsafe. Ageing road surfaces, unsealed shoulders, roadside hazards, faded line markings, narrow highways and congestion are all major concerns of the RAA and are part of an estimated $160 million road funding backlog. The RAA's traffic and safety engineer, Ms Rita Excell, has told *The Advertiser* that there are safety black spots all over the state. She said:

> Almost every section of main road is in need of type of remedial treatment. Most Adelaide Hills roads are in need of upgraded roadside barriers to provide better protection from the large trees and steep embankments along these routes.

I am a Hill's resident, and one could not agree more. Some of the roads in the Adelaide Hills are becoming death traps.

In its recent budget submission to the government, the RAA has called for a $200 million road construction and driver safety program, including $16 million for black spots, $10 million for shoulder sealing and $10 million for overtaking lanes. According to the RAA, this work could be funded by recent stamp duty windfalls of more than $277 million over the past two years, $820 million in GST funds from the commonwealth, as well as the potential savings of $1.6 million which accrue from each death. My questions are:

1. Has a comprehensive safety audit of South Australia's roads and highways been recently undertaken by the Department of Transport and, if so, what were its key recommendations and how much does it believe will need to be spent to bring them up to a safe standard?

2. For the period 2003-04, how many road vehicle deaths is it estimated were caused by ageing road surfaces, unsealed shoulders, roadside hazards, faded line markings, or other non-mechanical reasons relating to the conditions of roads and their surroundings?

3. Given the Premier's recent high media profile on reducing the number of people being killed in vehicle accidents, will the government give an assurance that as a matter of priority it will provide increased funding in this year's state budget to address the $160 million road funding backlog?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The government obviously will not be commenting on what is in the budget until that budget is brought down on 26 May, but I will refer those questions to the Minister for Transport in another place and bring back a reply.

POPE JOHN PAUL II

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Treasurer, a question about the cost of the memorial service at the Adelaide Oval.

Leave granted.

The Hon. J.F. STEFANI: On Monday 4 April 2005, the government of South Australia and the Catholic Archdiocese of Adelaide issued a joint invitation to participate in a memorial service for His Holiness the late Pope, John Paul II, which was held at the Adelaide Oval on Friday 8 April 2005 at 11 a.m. I am aware that a number of Catholic priests did not accept the invitation to attend the memorial service because of the involvement of the state government.

In 1986, Pope John Paul II visited Adelaide as the head of the Catholic Church, which was confirmed in a letter written at the time by the director of the papal visit, Father Tony Kain. Many people have remarked that, during his travels in Australia, the Pope visited many other states as the head of the Catholic Church and not as the head of the Vatican state. The recent memorial masses conducted in other states for the late Pope have been arranged by the various churches and held in Catholic churches. In view of these circumstances, my questions are:

1. Will the Treasurer provide details of all the costs incurred by the state government to stage the memorial service at Adelaide Oval?

2. Was any contribution made by the Catholic archdiocese of Adelaide towards the cost of staging the memorial service?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Premier, I believe it would be, and bring back a reply.

MATERNITY LEAVE

The Hon. J.M.A. LENSINK: I seek leave to ask the Minister for Industry and Trade, representing the Minister for Industrial Relations, a question about maternity leave.

Leave granted.

The Hon. J.M.A. LENSINK: At 1 o'clock this afternoon, the full bench of the Industrial Relations Commission handed down a decision in relation to paid maternity leave. It decided to set aside its decision in relation to three major matters, including salary adjustments, paid maternity and adoption leave and the length of any settlement determined by the commission. The existing interim award generally provides for four weeks paid maternity leave. The Public Service Association had sought 14 weeks and the government's response had been to propose eight weeks of paid maternity leave. On 4 April, I asked a question in this place in which I quoted Dr Barbara Pocock, who said as follows:

> The state government can either send a signal of support for working women and their families by matching the increasingly common level of 14 weeks paid maternity leave for its own workers or hang onto its status as national delinquent and the family unfriendly government.

The full bench of the commission has also stated that there is strong evidence to support the contention that a minimum period of 14 weeks after the birth of a child should be taken as maternity leave and that most of this should be as paid leave. Having regard to all the circumstances of this case, the full bench has concluded that this award should provide 12 weeks of paid maternity and adoption leave. My question to the minister is: does he agree with the decision by the full bench of the Industrial Relations Commission, and how much will it cost the government?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Minister for Industrial Relations and bring back a response. However, I find it remarkable that, if a member of the Liberal Party is suggesting that there should be increased benefits to workers in this country, it really would be a first for the Liberal Party, because its track record is exactly the reverse. One has only to look at what is happening federally at the moment. The agenda of the Liberal government federally is to remove a whole suite of measures that provide protections to Australian workers. On the other hand, as indicated, this government has put an offer significantly increasing paid maternity leave for state government workers certainly well above that of the previous government. I did not notice any attempt during the previous eight years when we had a Liberal government to improve benefits in that area.

The Hon. A.J. REDFORD: As a supplementary question: is it not the case that, over the past three years, the wage increases in this state have been the worst in this country?

The Hon. P. HOLLOWAY: What was the question?

The Hon. A.J. REDFORD: Is it not the case that wage increases in this state have been the worst over the past two years in this country?

The Hon. P. HOLLOWAY: The wage increases for whom? I suggest that the honourable member asks a question on notice that defines exactly what he means. I do not know whether the honourable member is referring to average wages, average weekly earnings, male wages, female wages or whatever. The question was about maternity leave. I suggest that the honourable member asks a properly-framed question on notice to the minister.

The Hon. J.M.A. LENSINK: As a supplementary question: this government has been opposed to the provisions sought by the PSA. Will the minister explain the comment made by the Hon. Stephanie Key (Minister for the Status of Women) on 28 April 2003 that she welcomes the federal commitment to maternity leave?

The Hon. P. HOLLOWAY: The first question asked by the honourable member related to the decision which, apparently, has been handed down in the Industrial Commission today. I have not seen that particular decision. However, I note that, during her question, the honourable member referred to the fact that this government had made an increased offer in relation to paid maternity leave for government workers. Again, I make the point that, in eight years of Liberal government, I did not notice any similar measure to increase it. This government is concerned much more about families within South Australia.

INDIGENOUS FIREFIGHTERS

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about indigenous employment programs within the South Australian Metropolitan Fire Service.

Leave granted.

The Hon. G.E. GAGO: I am aware of the importance of organisations, such as the South Australian Metropolitan Fire Service, in protecting our community. As part of this, it would be appropriate for organisations, such as the SA Metropolitan Fire Service (which has such extensive contact with the community), to be representative of the community which it serves. Will the minister please advise the chamber of any indigenous employment programs that the SA Metropolitan Fire Service has undertaken with regard to promoting indigenous firefighter recruitment?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The South Australian Metropolitan Fire Service

commenced a joint pilot initiative entitled the South Australian Metropolitan Fire Service (Pilot) Indigenous Pre-Employment Program on 14 March this year. The program has been developed in partnership with the Department of Further Education, Employment, Science and Technology (DFEEST) at the South Australian Fire and Emergency Services Commission (SAFECOM). The aim of the program is to provide opportunities and skills for people from an indigenous background to apply for employment at the SAMFS and other government agencies to gain an understanding of the working environment of agencies, and to gain skills and knowledge that can be used to gain employment.

The program is 12 weeks in duration, and it is individually tailored to each participant subject to their testing and interview results, including units from the Certificate I in Employment Skills Training, fitness training and understanding of the role of firefighters. The individual requirements of each candidate will be identified during the selection process, and development of individual plans will reflect their existing competencies and training requirements in the pre-employment program. The South Australian Metropolitan Fire Service's training department will manage the program with assistance from indigenous employment consultants from SAFECOM and DFEEST on an as-required basis, and as points of contact for indigenous issues and mentors for the participants. The targeted number of participants is 14.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Will the minister indicate whether the indigenous participants in this training scheme will be encouraged to volunteer with the Country Fire Service brigades where that is appropriate, if employment within the MFS is not available at that time?

The Hon. CARMEL ZOLLO: The program is in week 8 of the 12-week program. Obviously, this is targeted to the regular SAMFS selection process, but, hopefully, the program will ensure that those participants will gain some confidence in what they are doing—and that is really what it is all about. It is all about having the confidence to be part of other agencies in our government. Regrettably, at present we have not attracted anyone from outside the metropolitan service, but there is nothing to preclude our doing that and we encourage people to do that. I will seek some further advice as to your suggestion and bring back a response if I need to.

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

The Hon. CARMEL ZOLLO: Yes, I am aware of that. As part of the response I gave to the honourable member, it is about other agencies, as well. It is about ensuring that those participants do have the improved skills and confidence to move forward in their working and training life.

SEXUAL REASSIGNMENT ACT

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Health, a question about the Sexual Reassignment Act 1988.

Leave granted.

The Hon. SANDRA KANCK: The Sexual Reassignment Act requires practitioners involved in the procedures, be it counselling or surgery, to be 'approved medical practitioners'. The Department of Health apparently maintains a list of medical practitioners who are approved under the act, although this list is not available to the public. A constituent seeking gender reassignment wants to have his birth certificate amended but needs a psychiatrist's affidavit for that to occur. However, the psychiatrist he was consulting has advised that he will no longer treat my constituent. The South Australian legislation also requires that he have all his treatment within this state. He has been unable to find another approved practitioner—the only exception being another psychiatrist in the same practice. As the original psychiatrist is the senior in the practice, the person concerned does not feel this is an option. Other states and territories have similar legislation. However, their legislation does not include the word 'approved'. Therefore, in the rest of Australia the person is free to choose any person in the specified subsection of medical expertise to treat them.

All South Australian health registration body legislation is currently being reviewed to ensure it is not anti-competitive, yet section 45 of the Trade Practices Act 1988 would appear to suggest that South Australia's Sexual Reassignment Act may be anti-competitive in relation to approved practitioners. My questions are:

1. What are the criteria for becoming an approved practitioner?

2. Is the list of approved medical practitioners available to the public; if not, why not?

3. Is it correct that there are only two approved psychiatrists in South Australia under the Sexual Reassignment Act?

4. Is the Sexual Reassignment Act in South Australia anti-competitive by the inclusion of the word 'approved' as determined by the Trade Practices Act 1988; if so, are steps being taken to bring it into line with the rest of Australia and the Trade Practices Act?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I will refer the questions to the Minister for Health in another place and bring back a response.

LOTTERIES COMMISSION

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Treasurer, a question about the Lotteries Commission's *Star Wars* scratchy game.

Leave granted.

The Hon. NICK XENOPHON: The Lotteries Commission is currently promoting *Star Wars* scratchy tickets. This promotion is backed by a huge advertising campaign. These are $2 tickets with a $100 000 maximum prize, and they feature various *Star Wars* characters.

The Hon. A.J. Redford: I wonder what age group it's aimed at.

The Hon. NICK XENOPHON: The Hon. Mr Redford says, 'I wonder what age group that is aimed at.' I think it should be noted that the FOI that he had answered in relation to marketing practices of the commission was very disturbing. The TV advertising campaign for these *Star Wars* scratchy tickets apparently features clips from the upcoming *Star Wars* film. Sadly, it seems that Yoda has gone to the dark side. Given the enormous popularity of the *Star Wars* movies amongst children (including pre-teens and young teenagers), a constituent has contacted me expressing his concern about the appropriateness of tying in *Star Wars* with a gambling product, particularly since the minimum age for purchasing lotteries products in this state is 16.

Research on youth gambling indicates a link between the early exposure to gambling and a greater risk of developing more serious gambling problems later in life. The study of youth gambling in this state carried out by Dr Paul Delfabbro

of the University of Adelaide's Psychology Department states that there are more problem gamblers amongst adolescents than adults. Further, clause 3(2)(a) of the State Lotteries Advertising Code of Practice states:

> The gambling provider will ensure that when it advertises gambling products the advertising is not directed at minors.

My questions are:

1. Is the Treasurer concerned that this *Star Wars* scratchy product is inappropriate and potentially in breach of the code of practice?

2. What powers does the Treasurer have to direct the Lotteries Commission to withdraw a product from the market?

3. What research marketing surveys or information did the Lotteries Commission obtain before embarking on the *Star Wars* scratchy ticket promotion, particularly in relation to the target audience for this particular game?

4. What information does the Treasurer or his office receive about new Lotteries Commission games and promotions?

5. What steps and protocols does the commission undertake to ensure that lotteries products and its advertising are not in breach of the code?

6. How much has the Lotteries Commission spent on obtaining promotional and advertising rights from the copyright and trademark owners of *Star Wars* Lucas Films Limited for the game?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will take those questions on notice and bring back a reply.

ROAD SAFETY GRANTS

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I table a ministerial statement concerning the new Road Safety Grants Scheme made by the Minister for Transport today.

MINERAL RESOURCES, PROMOTIONAL VIDEO

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about mineral resources promotional videos.

Leave granted.

The Hon. D.W. RIDGWAY: Last night I had the honour to represent the Leader of the Opposition (Hon. Rob Kerin) at the South Australian Chamber of Mines and Energy gala dinner. Among the presentations last night was one from Mr Greg Gailey, the CEO of Zinifex, and Mr Antonio Pasini, a fifth-generation wine grower from Italy. During the evening a video was shown giving an expose of the PACE program which the South Australian government champions. During the presentation of this video, a photograph of the Premier was displayed with a voiceover explaining his commitment to the mineral resources industry. My questions are:

1. What was the cost of this video?

2. Why did the Premier not apologise for his anti-mining policy and the damage that his link with the Dunstan government did to the mining industry?

3. Why does this minister always allow the Premier to take the kudos for things that are against the Premier's philosophical beliefs?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I think the honourable member asked one genuine question: how much did the video cost? I will obtain that information for the honourable member. He failed to mention during his question how well received by the guest speaker and others at this conference were the policies of this government in relation to promoting mineral development.

GROCERY MARKET

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Emergency Services, representing the Minister for Consumer Affairs, a question about competition in the grocery market.

Leave granted.

The Hon. IAN GILFILLAN: The *Weekend Australian* of 23 and 24 April this year carried a worrying article about the practices of the country's major retailers. The article was titled 'Supermarkets turn screw with own brands' and reported as follows:

> Dick Smith has accused Coles Myer of bullying suppliers into paying up-front payments to keep their products on the shelves.

Honourable members will know that yesterday I asked a question about this company seeking product offshore. This is another aspect of its activities. A further report in *Retail World* states:

> Major brands are being asked to pay sums of $800 000 and above, or face being delisted by Coles supermarkets as the national chain rationalises brands in what is one of the most significant changes in the manufacturing retail relationship in many years.

This comes at a time when both Coles and Woolworths are expanding their home brand range, putting increasing pressure on shelf space and pressure on South Australian producers. I also note that, in the same issue of the *Weekend Australian*, the National Party's senator-elect Barnaby Joyce has called on the federal government to address the over-centralised power in Australia's grocery markets. My questions are:

1. Does the minister agree with her federal colleague that the over-centralised power in Australia's grocery market must be addressed?

2. Does she agree that Coles and Woolworths have too much market power in the economy and that this is to the disadvantage of the South Australian community and economy?

3. Does the minister agree that there is a conflict of interest where major retailers also produce home brand products?

4. What will the minister do to ensure that the market power exercised by major retailers is curtailed?

5. Does she accept that it is a reasonable practice for grocers to charge producers a major cost to be able to have their product on their shelves?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his question. I will refer his question about charging to have products on the shelves to the Minister for Consumer Affairs in the other place, and I will ensure that he receives a response.

DEFENCE INDUSTRY

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

Leave granted.

The Hon. J. GAZZOLA: In South Australia, defence contributes more than 2 per cent of gross state product, more than $1 billion annually, and it employs about 16 000 people. South Australia receives 6 per cent of Australia's annual defence expenditure, a share proportional to the state's population size, but about 30 per cent of all capital equipment expenditure. While this is impressive, my question to the Minister for Industry and Trade is: what is the government doing to facilitate further growth of the defence industry in this state?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the honourable member for his question. While the figures the honourable member gave is a tremendous result, the Rann government is positioning the state to win even more of the $50 billion worth of defence work likely to be available within Australia during the next decade. To achieve this goal, the government recently launched the State Defence Sector Plan, which encompasses the Land Force, Aerospace, Naval and Electronic sectors. The plan systematically examines future defence acquisition opportunities and outlines the broad strategies that will be implemented by government to achieve our goal of doubling the defence industry's contribution to the state economy and increasing the employment base to 26 000 over the next decade.

Four common themes emerge from those plans: first, the need to invest in work force skill development; secondly, modern, cost-efficient infrastructure; thirdly, a more collaborative culture within our industry base; and last, but certainly not least, innovation. The Rann government is investing substantially to ensure that our industry continues to increase both the quality and quantity of skilled personnel to meet evolving military needs. Included in this plan is the establishment of the Defence Skills Institute, with the objective of engaging actively with the state's defence companies to promote the skills development required for industry growth.

In the field of infrastructure, the government has committed to investing in key state infrastructure at the Osborne site at Port Adelaide as the future hub for naval construction in Australia. This site offers more than 90 hectares of room for expansion and is not constrained by urban encroachment. Facilities will include common-use infrastructure such as a ship-lift, a transfer system and a wharf for all to use. Road, rail and port access on the peninsula is also being upgraded to improve industry efficiency and cost competitiveness. That upgrade includes the recently announced deepening of the Outer Harbor channel to which the government is making a substantial contribution. With the recent completion of the Adelaide to Darwin railway, South Australia is strategically placed to play an even more important role in the army's future development.

In the field of collaboration, having world-class skills in this area is a key component of all growing regional economies seeking to be nationally and internationally competitive. The Defence Teaming Centre is recognised as Australia's pre-eminent defence industry forum which is focused on collaboration and teaming. It is funded by the state government to increase business opportunities, with a particular focus on addressing the needs of the small and medium enterprise of the SME community. The final theme—innovation—is the reward of research investment and comes from having talented and skilled people working in an environment in which knowledge is shared and experimentation is a way of life. South Australia has quality research solutions, a mix of sophisticated technology companies and the right kind of people.

Adelaide has an extensive research network, comprising the Defence Science and Technology Organisation, three universities, cooperative research centres and organisations that excel in developing and commercialising advanced technology. Collectively they provide a great advantage to the defence industry. Improving access to this research network is essential if the defence industry is to maximise the benefit of locally generated intellectual capital. We will implement a series of initiatives to stimulate and improve the knowledge and exploitation of innovation activities being undertaken within the state. In the light of the state government's strong commitment to nurturing the defence industry commitment in South Australia, I was very pleased to attend the EDS defence scholarship presentation and to announce the EDS defence and EDS bioscience scholarship winners for 2005.

Both these fields are amongst the state's most important and progressive industries. Mr Ian Radcliffe, who is a project manager for defence industry and major projects with ultrasonics company Soniclean, was presented with the second annual EDS defence industry scholarship, while Dr Hentie Swiegers, who is a research and molecular biologist at the Australian Wine Research Institute, received the inaugural EDS bioscience scholarship. Both scholarships are specifically aimed at small and medium enterprises in order to enable companies of this size to extract maximum value from their intellectual capacity. They are designed to support the retention and growth of South Australia's technology skills base.

They are the first commercially sponsored scholarships offered through ECIC, a nationally operating school offering post-graduate studies to masters level in science and technology, commercialisation, entrepreneurship and project management. I congratulate the scholarship winners and commend them for their efforts.

STATUTES AMENDMENT (LIQUOR, GAMBLING AND SECURITY INDUSTRIES) BILL

In committee (resumed on motion).

(Continued from page 1795.)

Clause 51.

The Hon. R.D. LAWSON: The second aspect of my amendment is designed not to ensure that a person who appeals against a suspension of licence will automatically be able to recover the licence but so that the person whose licence is suspended will have an opportunity to go before the court at an early time and allow the court to decide whether or not that automatic suspension ought continue. Of course, it will be up to the court to decide that question on usual judicial principles. If the Commissioner is able to satisfy the court that it would be inappropriate for the licence to continue to operate until the appeal is disposed of, clearly, the court will not suspend the suspension. On the other hand, if the applicant is able, either by agreeing to accept particular conditions or otherwise, to satisfy the court that he or she should continue to be a security guard in the industry pending the determination of the appeal, that will be allowed.

The important balance that is being struck here—which, as I have said before, is the balance between the safety of the community and the entitlement of people to practise their occupation and the presumption of innocence, which would

enable them to continue to practise their occupation until there is a black mark against them—is important. I urge support for this amendment, which is not designed to give, as it were, open slather to a person who suffers a suspension by reason of the application of either section 23A or 23B but to give that person an opportunity to continue.

We believe the essential protection that is given in this act, which is an important protection, is that there is a right to go to the court, an independent arbiter, to decide these issues at an early stage. The underlying principle is as follows. This section gives a right of appeal—and that is the important provision; there is an appeal. But is it really a right of appeal or is it something that is illusory? If you have a right of appeal but you can only exercise it and only come on for a couple of years and you are out of work, it is really no right of appeal at all. You do not have any choice: you have to get out. We do not want to have that right of appeal as an illusory right; we want to have an actual right, controlled by the independent arbiter, the court. In that way, the public interest will be served and the legitimate interests of persons in the industry will also be served.

The Hon. P. HOLLOWAY: I would like the deputy leader of the opposition to address the point that was made in the letter sent to him by the Attorney-General in relation to section 42D of the District Court Act. The administrative and disciplinary division of the District Court already has discretion to stay a suspension. Section 42D of the District Court Act provides:

> (1) The making of an appeal against a decision does not affect the operation of the decision or prevent the taking of action to implement the decision.
>
> (2) However, on the making of an appeal, the court or the original decision-maker may, on application or at its own initiative, make an order staying or varying the operation or implementation of the whole or a part of a decision appealed against pending the determination of the appeal if the court, or the original decision-maker, is satisfied that it is just and reasonable in the circumstances to make the order.
>
> (3) An order by the court, or the original decision maker, under this section:
>
> (a) is subject to such conditions as are specified in the order; and
>
> (b) may be varied or revoked—
>
> (i) in any case—by further order of the court; or
>
> (ii) if the order was made by the original decision maker by further order by the original decision maker or the court.

Also, in his letter, the Attorney said:

> I acknowledge that proposed subsection (3) would give the court a discretion to order otherwise. However, because the court already has discretion to stay a suspension when it is just and reasonable in the circumstances, the court would probably infer from the text of the proposed subsection (3) a parliamentary intention to extend the circumstances in which a stay of suspension may be obtained. The result would be that in most if not all cases (notably even when not necessary to be just and reasonable in the circumstances) a licence suspension would be stayed.

The argument the Attorney was putting—no doubt, on the best legal advice—was that the deputy leader's amendment, combined with the provisions of section 42D of the District Court Act, could serve to mean that licence suspensions would effectively be stayed in most cases; and, in particular, when serious offences had occurred.

The Hon. NICK XENOPHON: I indicate that I support the first limb of the Hon. Mr Lawson's amendment. I do have some concerns about the second limb; but, for the purpose of keeping it alive, I think that the amendment raises some important issues with respect to due process. I am all for ensuring that the industry is cleansed of the rogue operators. However, if someone has been accused unfairly and unjustly and the appeal process has been suspended on the basis of prima facie evidence—and that process could take one or two years (to which the Hon. Mr Lawson alluded)—there ought to be a safeguard to put some onus on the system so that the matters are dealt with expeditiously.

Of course, as I understand it, there is a safeguard in the Hon. Mr Lawson's amendment, because there is always a discretion on the part of the court to continue the suspension. Perhaps consideration should be given to making that somewhat clearer, but, for the purpose of keeping the second limb of the amendment alive, I indicate my support for it because I think that it does raise some valid concerns about how this would operate.

The Hon. P. HOLLOWAY: Obviously, the Hon. Nick Xenophon missed the point I was making. Section 42D of the District Court Act provides the court with a discretion now. The point I was making is that the proposed subsection would give the court a discretion to order otherwise. However, because the court already has discretion to stay a suspension when it is just and reasonable in the circumstances, the court would probably infer from the text of proposed subsection (3) a parliamentary intention to extend the circumstances in which a stay of suspension may be obtained. The result would be that in most if not all cases (notably even when not necessary to be just and reasonable in the circumstances) a licence suspension would be stayed.

The point is that we must look at this clause combined with section 42D of the District Court Act. In effect, I think that any member who votes for this clause should understand that the legal advice is that, on application to the courts, the courts are likely to interpret this clause in combination with section 42D of the District Court Act as parliament's intention to stay licence suspensions. That could occur even in cases where someone appealed if a person had been seriously injured in an attack. The question is whether the courts will interpret this clause combined with section 42D, effectively as a parliamentary instruction to be much more free, if I can use that expression, in terms of the circumstances under which a licence suspension would be stayed.

The Hon. R.D. LAWSON: I strongly disagree as a matter of law with that proposition. Section 42D of the District Court Act is a section of general application. It applies to all forms of disciplinary proceedings that come before the court, whether it be plumbers, electricians or any other form of occupational licensing. It is a general provision. What we are dealing with here is a specific provision that relates to the rather draconian provisions that apply in relation to security agents. The court would not confuse the two by any means. The general principle is that the specific is dealt with, rather than the general, in a case of this kind. The suggestion that judges of the court would somehow by some means construe these two sections, one a general and one a specific, as indicating that parliament had an intention that security agents were to be given suspensions more easily than other occupational appellants in my view is nonsense.

The important thing is that my amendment requires that these matters be dealt with within three months. Section 42D of the District Court Act has no time limit on it at all. A lawyer could advise a client, 'You could apply for a stay and we will set it down and go through all the usual procedures of the court. You are not guaranteed this will be dealt with within three months or any other time. You might be hanging around here for nine months.' Most people in those circumstances would say, 'Forget it, I'm not going to apply for a

stay and I'm not going to appeal. It's a waste of time. I'll go and get a job somewhere else. I'm out of the industry.' For those reasons I am heartened by the Hon. Nick Xenophon who has adopted the correct approach; that is, to allow the amendment to go forward in this form.

Proposed new subsection (2) inserted.

The Hon. P. HOLLOWAY: Again, I indicate the government is opposed to new subsection (3). The government can only go on the legal advice it has had. I have tabled a copy of the letter which was sent to the deputy leader and which contains the advice. It is a technical legal matter. I hope that the courts under the Acts Interpretation Act, if it does get up, will discover the parliament's intention and take the deputy leader at his word.

The committee divided on proposed new subsection (3):

AYES (12)

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

NOES (5)

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

PAIR(S)

Reynolds, K.	Roberts, T. G.
Kanck, S. M.	Evans, A. L.

Majority of 7 for the ayes.

Proposed new subsection inserted; clause as amended passed.

Clause 52 passed.

Clause 53.

The Hon. P. HOLLOWAY: I move:

Page 35, after line 25—Insert:

(2) Section 26—After 'setting out' insert ',subject to section 5B,'.

This amendment clarifies that section 26 of the Security Investigation Agents Act 1995 which permits disciplinary action to be commenced in the District Court is subject to proposed new section 5B, which deals with the confidentiality of criminal intelligence.

The Hon. R.D. LAWSON: I indicate that the opposition will not be opposing this amendment.

Amendment carried; clause as amended passed.

Clauses 54 to 57 passed.

New clause 58.

The Hon. NICK XENOPHON: I move:

Page 36, after line 42—Insert new clause as follows:

58—Amendment of Schedule 2—Repeal and transitional provisions

Schedule 2—after clause 2 insert:

3—Transitional provisions relating to Statutes Amendment (Liquor, Gambling and Security Industries Act) 2004.

(1) The Commissioner must, within 12 months after the day on which this clause commences, by notice in writing, require—

(a) each natural person who is on that day the holder of a security agents licence; and

(b) each director of a body corporate that is on that day the holder of a security agents licence,

to attend at a specified time and place for the purpose of having his or her fingerprints taken by a police officer.

(2) As soon as reasonably practicable after fingerprints have been taken from a person by a police officer pursuant to a requirement under subclause (1), the Commissioner of Police must make available to the Commissioner such information to which the Commissioner of Police has access about the identity, antecedents and criminal history of the person as the Commissioner of Police considers relevant.

(3) If a person fails to comply with a notice under subclause (2), the Commissioner may, by notice in writing, require the person to make good the default.

(4) If the person fails to comply with the notice within a time fixed by the notice (which may not be less than 28 days after service of the notice), the person's licence is cancelled.

(5) A person whose fingerprints have been taken under this clause may, if his or her security agents licence is cancelled or voluntarily surrendered, or if he or she was required to provide the fingerprints because he or she was the director of a body corporate that has since dissolved, apply to the Commissioner of Police to have the fingerprints, and any copies of the fingerprints, destroyed.

(6) The Commissioner of Police may grant or refuse the application as the Commissioner of Police sees fit.

These are transitional provisions to ensure that within 12 months the provisions elsewhere in the act are complied with within a reasonable time frame. I note that the Leader of the Government said that it would not be reasonable to have these measures done overnight. I am not sure whether he was referring to these transitional provisions. I presume that he was, but I would have thought that 12 months would be a reasonable period of time for these measures to be dealt with. If there are no transitional provisions, what time frame does the government say is reasonable? It is my understanding that there ought to be some time frame, some time limit, to ensure compliance with the provisions, including issues such as fingerprinting and getting the history of those in the industry, in terms of any criminal history with respect to information from the Commissioner of Police. I hope that the government can support this either in this form or in some amended form.

The Hon. P. HOLLOWAY: The government cannot support the amendment. This amendment seeks to impose a 12-month timetable on the government, during which time arrangements must be made to take the fingerprints of all existing security agents. Although the government intends over time to acquire the fingerprints of all licensees, the amendment imposes an unrealistic timetable for this purpose. A SAPOL officer was asked to examine this amendment, and he provided this reply:

The SAPOL fingerprint bureau has previously looked at the costs and times involved in the fingerprints being done already by a licensing enforcement branch. According to their calculations, there's about 45 minutes of police time per applicant. This is made up of the actual taking of the fingerprints and then the quality assurance and checking processes carried out at the fingerprint Bureau. Current SAPOL charges are $51 per hour of police time, and then there is a $40 fee charged by NAFIS, the National Automated Fingerprint Identification System, for the processing of the prints.

The total therefore is about $79 per person. This $79 does not take into account any quotient to cover the initial purchase costs of the LiveScan machine ($60 000) plus software and administration fees ($10 000). There are some 6 000 licensed security agents in South Australia. To fingerprint this number over the course of 12 months would require a huge administrative and operational commitment by SAPOL. Working at a rate of about one every 45 minutes, that would tie up more than four police officers full-time for the 12 months, plus the administrative support. Although the government intends to acquire the fingerprints of all licensed security agents, this is a task that will be completed over time as resources permit. The priority for this bill is the requirement to take fingerprints from all new applicants.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): I understand that the Hon. Mr Xenophon wants to inform the committee of some changes.

The Hon. NICK XENOPHON: There has been a dramatic development. After a brief conversation with my colleague the Hon. Mr Lawson, I seek leave to move this amendment in an amended form, and that is—

The ACTING CHAIRMAN: You have already moved the amendment. You will need to withdraw it.

The Hon. NICK XENOPHON: Mr Acting Chairman, I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The ACTING CHAIRMAN: Now the Hon. Mr Xenophon can move the amended form.

The Hon. NICK XENOPHON: Subclause (1) of my amendment currently provides:

> The Commissioner must, within 12 months after the day on which this clause commences, by notice in writing, require. . .

I am seeking to move that in an amended form to read as follows:

> The Commissioner must, within two years after the date upon which this act commences, by notice in writing, require. . .

So, instead of reading 'upon which this act comes into operation', for the clarity of the committee it would read:

> The Commissioner must, within two years after the date upon which this act comes into operation, by notice in writing, require. . .

The ACTING CHAIRMAN: For clarification, are you saying 'after the date upon which', or 'the day'? Are you leaving it as 'day'? I thought I heard you say 'date'.

The Hon. NICK XENOPHON: I do not know whether it makes much difference from a drafting point of view.

The Hon. P. HOLLOWAY: I indicate that the government is opposed to this. The government responded to a community need in bringing this bill about. The government is investing an extra $1 million a year to enforce these laws. The funding for the type of licensing and enforcement regime was to provide 15 additional SAPOL officers, six previously approved and five more positions in the Office of Business and Consumer Affairs. That is a significant investment in doing this. I have indicated that, if we were to do this in 12 months, it would take at least four additional police officers; so, if it is in two years, two more police officers would have to come in.

We get criticisms from members opposite all the time that there are not enough police on the beat. If this is imposed on the government, effectively, to do this work, we will have to take at least two police officers off the beat for two years. Surely, it should be a matter of priorities as to where the investment is made. We are covering all new crowd controllers. Is it really in the best interests of law and order?

The Hon. R.D. Lawson: You are telling the community that the present ones are all right but not the new ones.

The Hon. P. HOLLOWAY: I think the police have a pretty fair idea of where they are, and they can certainly target those people who they need to remove as quickly as possible. The point, as I said, is that a very significant investment is being made. If we do this, it must inevitably have an impact on other police resources. That is why I would strongly implore the committee not to agree to the amendment even in the amended form, because in my view—and I think in the view of most people—it will mean that significant police resources in the form of at least two full-time police officers will be devoted to activities which, while important, can be done over time with the additional resources available. If we have to bring in another two police officers to meet this time frame, that is two fewer police officers out there on the beat for two years dealing with crime. I want people to be aware that that is the sort of trade-off that we are making in this bill.

The Hon. R.D. LAWSON: I indicate that the opposition will support the amendment in the amended form.

The Hon. P. Holloway: If you want to take the police off the beat, then don't you come in here with questions in the future accusing—

The ACTING CHAIRMAN: Order! The minister has made his contribution and the Hon. Mr Lawson is on his feet.

The Hon. R.D. LAWSON: We always hear this government saying, 'We are moving on law and order. We are doing this and we are doing that.' Then, when the government brings in legislation of this kind, it makes a great song and dance about it, saying how it is improving community safety, but it is not prepared to commit to complete the task within any particular time frame. It wants it open-ended. We have seen the announcements, for example, of the Pitjantjatjara lands. Professor O'Donoghue has today accused the Premier of breaking his promises on a commitment to achieve certain objectives in a timely way. We know what will happen here. The bill will pass and the press release will go out. The Premier will be in front of the TV cameras saying, 'We have fixed the problem in respect of crowd controllers in our community'—and it will all happen very slowly.

This government is never prepared to commit to time lines and to deliver what it promises. It is not a question of either police doing this work or doing other work: it is a question of this government's providing the appropriate resources. If additional resources are needed to achieve the government's program, it should be devoted to this project. This government cannot have its cake and eat it, too. It cannot say that it is solving a problem—

The Hon. P. Holloway interjecting:

The ACTING CHAIRMAN: I inform the minister that interjections are out of order.

The Hon. R.D. LAWSON: —when it is not prepared to provide the resources. This time line introduced by the Hon. Nick Xenophon will put some discipline into this process and will ensure that what the government says is absolutely essential will be delivered to the community in a reasonable time. We were not prepared to support the honourable member's initial time line of 12 months. I could see that that would be unnecessarily disruptive. However, two years should give the department adequate time to achieve this objective.

The Hon. P. HOLLOWAY: What the deputy leader has missed is that the great majority of the 6 000 crowd controllers who will need to be fingerprinted are honest people. The deputy leader is casting aspersions on them. We have a certain amount of resources in our community. The Hon. Ian Gilfillan moved for a select committee to be established to look at police resources, so I hope the Hon. Ian Gilfillan has been following the debate. However, what we are saying here is—

The Hon. Ian Gilfillan: It is a bit hard to do that.

The Hon. P. HOLLOWAY: To do what?

The Hon. Ian Gilfillan: Follow the debate.

The ACTING CHAIRMAN: I think it would be useful, minister, if we could get the honourable member to move his amendment in the amended form.

The Hon. NICK XENOPHON: I apologise for any inconvenience in relation to the drafting issues. I move:

> New clause, page 36, after line 42—
> Insert:
> 58—Amendment of schedule 2—Repeal and transitional provisions

Schedule 2—after clause 2 insert:
3—Transitional provision relating to Statutes Amendment (Liquor, Gambling and Security Industries) Act 2004

(1) The Commissioner must, within two years after the day on which section (1) of the Statutes Amendment (Liquor, Gambling and Security Industries) Act 2005 comes into operation, by notice in writing, require—

(a) each natural person who is on that day the holder of a security agents licence; and

(b) each director of a body corporate that is on that day the holder of a security agents licence,

to attend at a specified time and place for the purpose of having his or her fingerprints taken by a police officer.

(2) As soon as reasonably practicable after fingerprints have been taken from a person by a police officer pursuant to a requirement under subclause (1), the Commissioner of Police must make available to the Commissioner such information to which the Commissioner of Police has access about the identity, antecedents and criminal history of the person as the Commissioner of Police considers relevant.

(3) If a person fails to comply with a notice under subclause (2), the Commissioner may, by notice in writing, require the person to make good the default.

(4) If the person fails to comply with the notice within a time fixed by the notice (which may not be less than 28 days after service of the notice), the person's licence is cancelled.

(5) A person whose fingerprints have been taken under this clause may, if his or her security agents licence is cancelled or voluntarily surrendered, or if he or she was required to provide the fingerprints because he or she was the director of a body corporate that has since dissolved, apply to the Commissioner of Police to have the fingerprints, and any copies of the fingerprints, destroyed.

(6) The Commissioner of Police may grant or refuse the application as the Commissioner of Police sees fit.

I do take into account the concerns of the Hon. Mr Holloway. I commend the government for introducing this legislation. It is responding to community concerns about the crowd controllers—

The Hon. P. Holloway: And the additional $1 million.

The Hon. NICK XENOPHON: And the government deserves credit for the extra resources it is putting into monitoring the industry. The Premier and others expressed concerns about access to drugs at venues visited by teenagers and young adults. However, I would have thought that there needs to be some reasonable time frame. I agree with the opposition that two years is more reasonable than 12 months, although I would have thought that 12 months was not that unreasonable. However, two years gives greater leeway.

If there is a minority—and hopefully it will be only a very small minority of those crowd controllers who do have criminal records and who are currently working in the system (these are the very people who are involved either directly or indirectly in allowing young people access to drugs and narcotics in our nightclubs and venues frequented by young people)—then surely it is a good investment to allocate whatever police resources are required now in terms of fingerprinting people if it means that we will have a time line in which we can get rid of those rogue operators who are not doing the right thing.

I understand the Hon. Mr Holloway's point of view, but I would have thought that, if those rogue operators are put on notice and if they know that they could be fingerprinted at any time in the next two years, they would stop working in the industry, and, if they are involved in some way in pedalling poison to young people, then we have done a good thing. That is my motivation for moving this amendment.

The Hon. P. HOLLOWAY: The point is that, if people have criminal records, they will get expunged, anyway. We are talking about requiring the police within this specified time frame to take fingerprints from every one of those 6 000 existing crowd controllers. We have said, 'Yes, we will do that over time', but is it really the priority? It comes back to the key question on which this committee must vote. I have provided the figures previously, but it will mean at least two police officers being diverted from the beat to do this for two years. The government is resourcing this program by putting in $1 million. In effect, this bill is a defacto money bill in that this council is requiring the government to put in additional resources.

The Hon. R.D. Lawson: The old money thing.

The Hon. P. HOLLOWAY: The old money thing. Two extra police will be diverted from the beat for two years. This committee can decide whether the priority for law and order is to have at least two police officers for two years fingerprinting people which will not gather much information. We have weeded out those with criminal records and those with known associates, anyway. You do not need the fingerprints: the fingerprints are completely irrelevant to that exercise. However, if members think that the exercise of fingerprinting people for two years is a good use of two police officers, that it is better than having them on the beat dealing with other crime, then vote for this amendment. However, if they do, they should not come back here and accuse the Rann government of improperly using police resources—and, if you do, I will enjoy giving the answer.

The Hon. R.D. LAWSON: I think it is appalling that the minister is suggesting that the Legislative Council should not be moving an amendment of this kind. The amendment imposes a time limit on certain actions and requires the government to do in a timely fashion that which it is promising to do. There is not an element of a money bill in this provision. For the minister to be threatening the committee in this way is entirely unseemly. We will certainly be supporting the honourable member's amendment.

The Hon. NICK XENOPHON: I had a short discussion with my colleague the Hon. Mr Cameron who has had some practical experience regarding fingerprinting which, no doubt, he will explain. Two years would be about 500 working days. That would mean an average of 12 lots of fingerprints a day. I know it is not as simple as that, but I am wondering how that would work out.

The Hon. P. Holloway: I put all the figures on the record—and I do not know whether the honourable member was listening—whereby the police had worked out that, for the fingerprinting exercise, 45 minutes of police time would be required per applicant.

The Hon. NICK XENOPHON: I will not persist with that—45 minutes per applicant.

The Hon. P. Holloway: That is what the fingerprinting branch says.

The Hon. NICK XENOPHON: The minister is saying that is 12 hours. I will not persist with it.

The Hon. T.G. CAMERON: I think I ought to clarify the contribution that was just made by the Hon. Nick Xenophon. It is true that I have been fingerprinted by the police. I was arrested by the police over 20 years ago (the Hon. John Gazzola will probably remember the incident) at the Victoria Park racecourse for participating in an industrial picket. The picket was not working too well so we climbed up into the racing stands, at which point the—what is the name of that police squad?

The Hon. R.D. Lawson: The vice squad?

The Hon. T.G. CAMERON: No, it was not the vice squad. I think it is the STAR Force. These great big buggers came along and hauled us down, threw us in a paddy wagon and took us around to Angas Street Police Station. I think it

was Paul Dunstan and I who were fingerprinted. I do not know how it will take 45 minutes to fingerprint someone. It took about 1½ minutes to fingerprint me and about one minute to fingerprint Paul Dunstan, so I am a little surprised that it would take 45 minutes. I should conclude by saying that the police recognised that we had been falsely arrested, and there were no charges and no criminal conviction.

An honourable member interjecting:

The Hon. T.G. CAMERON: No. That was an interesting interjection. The honourable member asked whether we were compensated. Four of us were arrested and thrown in the clink. Three of them wanted to sue the police for false arrest, but I would not be in it. I said, 'I won't participate in that.' They were doing their duty. They were not aware of this obscure little clause in the Victoria Park Racing Act, which meant they had to remove us and then arrest us as we tried to go back in. So, we did not proceed to seek compensation. I think the lawyer said, 'Look, you will win; there is no doubt about it. But I can't guarantee that a judge won't give you more than $1 each.' That was enough for me.

The committee divided on the new clause:

AYES (12)

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

NOES (5)

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

PAIR(S)

Lensink, J. M. A.	Roberts, T. G.
Kanck, S. M.	Evans, A. L.

Majority of 7 for the ayes.

New clause thus inserted.

Schedule 1.

The Hon. P. HOLLOWAY: I move:

Clause 3, page 37, line 32—
After 'offence is committed' insert:
, or alleged to have been committed,

This amendment is a technical correction to one of the transitional provisions. The words to be inserted are implied by the existing provisions but are not explicit.

Amendment carried; schedule as amended passed.

Remaining schedules (2 and 3) and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

RAILWAYS (OPERATION AND ACCESS) (REGULATOR) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 April. Page 1469.)

The Hon. D.W. RIDGWAY: I rise on behalf of the Liberal Party to speak in support of this small piece of legislation. The Railways (Operations and Access) Act 1997 establishes an access regime for South Australia's intrastate railways. It was introduced to ensure that rail operators can offer rail services to customers and compete with the track owner/operator by obtaining access to the rail network on commercial terms. It establishes an access regime consistent with the National Competition Principles and with part IIIA of the Trade Practices Act 1974 (commonwealth).

The act provides a regulator to monitor and oversee access matters, determine pricing principles and information requirements and refer access disputes to arbitration; and, the use of conciliation and arbitration to resolve access disputes. The act also gives the minister powers relating to the construction and operation of railways, such as powers in relation to land acquisition, traffic control devices, the supply of liquor and the authorisation of gambling facilities. The minister's powers in relation to the construction and operation of railways will remain unchanged.

Currently, the regulator is subject to the control and direction of the minister, except no ministerial direction can be given to suppress information or recommendations provided or made under the act. When the Essential Services Commission (ESC) was established in 2002, the government envisaged that the ESC would be proclaimed as the regulator under the act and the minister's power to direct the regulator would be removed in keeping with the independent role of the ESC under its own act. The ESC commenced performing the functions of rail regulator on 18 March 2003 when the Governor assigned the functions of rail regulator to the ESC by proclamation in accordance with her powers under the act.

Prior to the ESC being proclaimed rail regulator, a senior officer of Transport SA was the regulator. The Railways (Operation and Access) (Regulator) Amendment Bill 2004 legislatively formalises the assignment of the ESC as rail regulator in this state. The bill removes the minister's power to direct the regulator. The amendments to the bill insert a new clause to define the rail regulator as the Essential Services Commission established under the Essential Services Commission Act 2002. There are a number of functions and powers of the regulator.

This clause assigns functions to the regulator to monitor and enforce compliance with the act (other than part 2 of the act, which deals with the construction and operation of railways). It is necessary for the minister to retain these statutory powers which relate to rail operations, such as powers in relation to land acquisition, traffic control devices, the supply of liquor and the authorisation of gambling facilities, and such other functions as are contemplated by the regulator under the act. The clause also provides the regulator with such powers as are necessary to enable the regulator to carry out the functions assigned to the regulator under the act.

I put on the record that track access rates are a concern to rail operators in South Australia. A number of constituents have contacted me who do not wish to run a 3 000 tonne, 1.5 kilometre train between Adelaide and Melbourne, but, as they described it, a 'boutique' train of, perhaps, some 500 tonnes and maybe only 50 or so carriages. But the access rates are the same whether the train is 3 000 tonnes and 1.5 kilometres long or only 500 tonnes and a few hundred metres long. I would like the government to see whether it can throw some light on that issue. The Liberal Party has no amendments to the bill and is happy to support its progress.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the Hon. David Ridgway for his comments in support of the bill. Also, I indicate that the Hon. Sandra Kanck has indicated that the Democrats have no problem with this bill. The bill is relatively straightforward in that it entrenches the Essential Services Commission as the rail regulator under the Rail (Operations and Access) Act 1997. The ESC has been performing the function of rail regulator

under that act since March 2004 when the government assigned the functions to the ESC by proclamation. Again, I thank members for their support of the bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. NICK XENOPHON: I have a general question arising out of the Hon. Mr Ridgway's contribution in which reference was made to gambling facilities in terms of the regulator's powers. By way of clarification, will the minister assure me that this bill, by virtue of the conferring of powers, does not allow for any more liberal access to gambling facilities on trains? In other words, does it change the status quo in relation to any existing gambling facilities on trains?

The Hon. P. HOLLOWAY: My advice is that rail owners and operators operate on commercial terms for access rates and the rail regulator is only involved if they cannot come to an appropriate agreement. This bill now makes the umpire (if you like) the Essential Services Commissioner rather than the rail regulator.

The Hon. D.W. RIDGWAY: If you had an interested party wanting to put a train on a line and they were unable to reach a financial agreement with the owner of the line, then the regulator would mediate or help with the negotiations. Is that correct?

The Hon. P. HOLLOWAY: My advice is that that is correct.

Clause passed.

Remaining clauses (2 to 5) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

NARACOORTE TOWN SQUARE BILL

Second reading.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The aim of this bill is to give the Naracoorte Lucindale Council limited powers to carry out certain works on the Naracoorte Town Square, which is held by the council and subject to trusts. The land in Naracoorte was originally surveyed by George Ormerod, a resident of Robetown, one of the founders of the township of Naracoorte, by an indenture made on 14 September 1871, subject to certain trusts concerning the use of the land. The trusts required defined portions of the land to be used for the purpose of public roads, streets or thoroughfares, and the remainder to be held as a public common or reserve for the use or benefit of the inhabitants of the township

One of the conditions of the trust was that no houses or buildings of any kind were permitted to be erected on the reserve. The land to which the indenture applied is now described as the whole of the land comprised in Certificate of Title Register Book, Volume 2012, Folio 115 and is now held by the Naracoorte Lucindale Council under the same trusts as originally imposed.

In 1952, the Naracoorte Town Square Act 1952 lifted the prohibition on the erection of any houses or dwellings for a period of 10 years after the commencement of that act, and a public bandstand was built on the reserve. The bandstand includes public toilets. The Naracoorte Lucindale Council has requested that the trust be altered again in order to enable existing public toilets to be refurbished or replaced, or alternative toilets built, and to enable the alteration of the area set aside as a road.

Clause 4 states that the council may undertake defined works during the prescribed period, which is five years from the commencement of this act. However, no work may be undertaken without the written approval of the plans and specifications by the minister to whom the administration of the Local Government Act 1999 is committed. This is to ensure that the reasons for which the town square was dedicated to the public—as open space in the centre of the town for the benefit and enjoyment of its citizens—is protected and that only work as defined is carried out by the council. I commend the bill to members and I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

1—Short title

This clause is formal.

2—Interpretation

This clause defines a number of terms for the purposes of the measure.

3—Application of Act

This clause provides that the Bill is not to be taken to derogate from the Acts and laws that normally apply to carrying out the works referred to in clause 4.

4—Council may undertake works

This clause provides that despite an 1871 indenture and the resulting trusts that apply to the land to which the Bill relates (the Naracoorte Town Square), the Naracoorte Lucindale Council can during the period of 5 years from the commencement of the Bill undertake any one or more of the following works on the land:

(a) the demolition or refurbishment of any existing building or other structure on the land that incorporates public toilets;

(b) the building of public toilets in place of or in addition to any existing public toilets on the land;

(c) the closure of any existing road or portion of road, or opening of any new road or portion of road, on the land.

The clause also provides that no work of the kind referred to can be undertaken except in accordance with plans and specifications approved in writing prior to the commencement of the work by the Minister to whom the administration of the *Local Government Act 1999* is for the time being committed.

5—Indenture and trusts to reflect alteration of roads

This clause provides that if any changes are made to the areas of road on the land during the 5 year period from the commencement of the Bill, the 1871 indenture and the resulting trusts over the land (which currently specify the portions of the land that are to be held for road purposes and the portions that are to be held for other purposes) are to be taken to be altered to reflect those changes.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise on behalf of Liberal members to make a second reading contribution. In so doing I indicate we are engaged in a highly unusual procedure. This bill was only introduced yesterday in the House of Assembly by the Minister for State/Local Government Relations (Hon. Mr McEwen); and the local member Mr Williams, the member for MacKillop, was the only other speaker on the bill, who supported it on behalf of the Liberal Party. The bill passed through all stages yesterday. The House of Assembly also suspended standing orders in so far as it enabled it to not refer the bill to a select committee, because the bill is a hybrid bill and comes under our standing orders. I have to say that until today I was not aware of the bill or the background to the bill. I have taken the opportunity today to have a discussion with Mr Williams as the local member. As indicated by the *Hansard*, he is strongly supporting it on behalf of the Liberal Party. Speak-

ing on behalf of Liberal members in this council, we are prepared to expedite consideration of the bill to the stage of referring it to a select committee, as is required by our standing orders, as a hybrid bill.

As the minister has indicated, the land about which we are talking is subject to trusts which go back to 1871. We understand, and we are advised, that legislation went through this parliament in 1952, and that further works are required to be conducted on the public toilet facility in this area. I note in the explanation of the clauses, however, reference to the closure of any existing road or portion of road, or opening of any new road or portion of road on the land. I assume that is just limited work in relation to the works that are to be undertaken on the public toilet facilities.

The bill's reference to a select committee today will, over the next couple of weeks before we sit in three weeks, enable an opportunity for submissions to be made to the select committee. We are advised that everyone locally is supporting the government's proposal and the proposal from the local member as well. If that is the case, I am sure the committee will not have much work to do. Nevertheless, it is a requirement of our standing orders and it does give the opportunity for any individuals or associations who want to put an alternative viewpoint to this parliament to do so in accordance with the procedures of the Legislative Council.

On that basis, we are prepared to expedite the second reading. My understanding is that, once the second reading is passed, we will then move to a position of declaring the bill to be a hybrid bill and referring it to the select committee. On that basis, I am happy to support the second reading, and I support in general terms the statements that have been made by the local member (the member for MacKillop) who supports the legislation. He has indicated to me that he believes that the majority of Naracoorte residents are also strongly supportive of the proposed legislation.

I conclude by saying that, if that is the case, the select committee's task will not be an onerous one. It is likely to be conducted quickly. The Liberal Party will not seek to delay the appropriate scrutiny of this matter by the committee, and the matter will have an early reference to the Legislative Council for the bill to pass through its remaining stages, possibly as early as the next week of sitting, which is the budget week, the last week of May.

Bill read a second time.

The PRESIDENT: As this is a hybrid bill, it must be referred to a select committee pursuant to standing order 268.

Bill referred to a select committee consisting of the Hons. J.S.L. Dawkins, I. Gilfillan, D.W. Ridgway, R.K. Sneath and C. Zollo.

The Hon. CARMEL ZOLLO: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I move:

That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

Motion carried.

The Hon. CARMEL ZOLLO: I move:

That this council permits the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the council.

Motion carried.

The Hon. CARMEL ZOLLO: I move:

That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves that they shall be excluded when the committee is deliberating.

Motion carried.

The Hon. CARMEL ZOLLO: I move:

That the select committee have the power to send for persons, papers and records; to adjourn from place to place; to have leave to sit during the recess; and to report on 23 May 2005.

Motion carried.

LAW REFORM (CONTRIBUTORY NEGLIGENCE AND APPORTIONMENT OF LIABILITY) (PROPORTIONATE LIABILITY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 May. Page 1722.)

The Hon. R.D. LAWSON: I rise to indicate that the Liberal opposition will support the passage of this bill. This bill is the final component of the package of legislation in response to the so-called insurance crisis. Other components of that same package were the Recreational Services (Limitation of Liability) Act 2002, the Statutes Amendment (Structured Settlements) Act 2002, the Wrongs (Liability and Damages for Personal Injury) Amendment Act 2002, the Law Reform (Ipp Recommendations) Act 2004, and the Professional Standards Act 2004.

Some of the measures contained within that package of legislation to which I have referred arose from the recommendations of a committee of eminent persons—the co-called Ipp committee—which was appointed by state and federal governments in July 2002 to review the law of negligence. The appointment followed the so-called insurance crisis, which was precipitated by the financial collapse of the insurer HIH and the collapse of United Medical Protection, which was Australia's largest provider of medical indemnity insurance. These events, together with the 11 September catastrophe in the United States, led to the withdrawal from the market of insurers in the field—especially of public liability insurance—and a situation where in those cases where such insurance was available (and they were markedly diminished) there were vastly increased premiums.

The current law in South Australia in relation to proportionate liability is that, where a plaintiff suffers damage which has been caused by the negligence of more than one wrongdoer, all the wrongdoers are jointly and severally—that is, equally—liable to the plaintiff for the whole of the damages awarded. By way of example, assume the plaintiff suffers in consequence of the negligence of four other parties A, B, C and D and the court decides that the proper apportionment of legal responsibility for the damage is, as to A, 10 per cent; as to B, 9 per cent; as to C, 1 per cent; and, as to D, 80 per cent.

Under the present law, each of them, A, B, C and D, is responsible for the payment to the plaintiff of 100 per cent of his damages. This is sometimes called solidarity liability, as opposed to proportionate liability. Of course, the plaintiff can only recover 100 per cent of the damages, and invariably the plaintiff will recover from the defendant, who is solvent or insured, and that defendant will then collect contributions from the others, or so many of them as are solvent or insured. Many businesses and their insurers complain about the current system of solidarity liability. Insurers have to set premiums on the basis that their policyholder may be

completely liable for all losses, even where the policyholder's responsibility may be small.

The final report of the Ipp committee in September 2002 did not recommend any change in this area of the law in relation to personal injuries. Essentially, this was for the practical reason that proportionate liability would have the undoubted effect of preventing many injured plaintiffs from recovering any damages at all. Such a change would undoubtedly assist insurance companies at the expense of ordinary citizens. It is important to note that, in this respect, this bill accepts the Ipp recommendations and does not affect liability for personal injuries.

The effect of this bill is as follows. When it is enacted, the court will have to allocate fixed shares of damages awarded to each of the defendants whose negligence or wrongdoing has caused the damage. Each defendant will be liable to pay only his or her fixed share. Those shares will be determined according to what is 'fair and equitable having regard to his or her responsibility for the damage and the responsibility of any other wrongdoers'. This new regime will not apply where the wrongdoers act jointly. In such cases, each defendant will remain responsible for the damage caused by their joint activity in full. The new regime also applies to claims in tort and in contract, or for breach of statutory duty. It also applies to cases of misrepresentation either at common law or under the Fair Trading Act. However, a person who perpetrates a fraud will continue to be liable for the whole of the damage done.

I mention by way of aside that South Australia has long had a version of proportionate liability in our law. For many years, section 72 of the Development Act has provided that, in relation to actions in respect of defective building work, the court can allocate and apportion liability in fixed proportions. That has meant, for example, that in a case where a person sues an architect, an engineer, a builder, contractors, subcontractors or the local council in respect of a defective construction of, for example, a residence, the court can determine and fix these proportions. The reason for that is that it was found early on in relation to the very many actions which arose out of construction of dwellings in the Bay of Biscay soil areas of Adelaide that it was easy to sue the local council which had approved and perhaps certified the pouring of the footings, rather than worry about pursuing builders and building designers who were primarily responsible. That system has worked well in South Australia and we believe that an extension of that system to cover legal actions more generally will be beneficial.

Most other states have introduced legislation which is similar to this bill, namely, the Civil Liability Act 2002 in New South Wales, the Civil Liability Act in Queensland, Civil Liability Act in Western Australia, as well as part IVAA of the Wrongs Act of Victoria. There is one significant difference between the states. In Queensland the proportionate liability provisions only apply to claims over $500 000, and that means that solidarity liability will continue to apply in respect of amounts under that sum. We will endorse this bill. We think it is an improvement and that South Australian law should include these provisions, which have been introduced elsewhere.

For completeness, I believe legislation has been introduced to similar effect in both Tasmania and the Northern Territory, but I am not sure whether those bills have passed. I ask the minister to indicate in his summing up their current status. I did not mention the Australian Capital Territory, which has introduced similar legislation but with an exclusion for domestic goods. I ask the minister to indicate whether this government gave any consideration to excluding consumer domestic goods in the same way as the Australian Capital Territory and, if so, why it was chosen not to adopt that measure.

Commonwealth legislation has also been necessary because many actions which might be affected by this type of litigation are brought under the commonwealth Trade Practices Act and amendments effected to the Trade Practices Act last year will ensure that a plaintiff cannot escape the proportionate liability regime by seeking to sue under the Trade Practices Act. It is my understanding that amendments made as part of the so-called CLRP9 package of corporate law reform included amendments to the Trade Practices Act.

In conclusion, I indicate that we do not apologise for the fact that the Liberal Party supported the government in South Australia in introducing this package of measures designed to address the insurance crisis. There have been many in the legal profession and in the wider community who have argued that the insurance crisis was no crisis at all, that it was a mere device or conspiracy by insurers to have the law changed so they could line their pockets. An increasing number of people in the legal profession have so argued as a result of the turnaround of the economic fortunes of those insurance companies that survived the crash. That factor has been used to support an argument that the insurance companies have profited immensely from the changes that have been wrought.

The most recent and most eminent of persons to make that claim was Queensland's Chief Justice, the Hon. Paul de Jersey. In March this year that judge told a Gold Coast conference that premiums had not appreciably reduced. However, the report of the Australian Competition and Consumer Commission, which undertook a pricing review of insurance premiums in relation to the first half of 2004, indicated that there had been premium drops for liability premiums of some 15 per cent. I might indicate that the Insurance Council of Australia is claiming that the Australian Prudential Regulation Authority has published figures showing that the number of claims and the claims costs are now falling, or have levelled off.

The Insurance Council of Australia pointed out that claims numbers and claims costs began to rise dramatically and, by 1998, had led to a situation where significant losses were on the horizon and that, in fact, Australian insurers recorded $1.6 billion in gross underwriting losses between December 1998 and December 2000. Claims increased during that period from 48 000 a year to 89 000, which is an increase of 85 per cent. The Insurance Council of Australia claimed as follows:

> The cause went well beyond any impact from the insurance 'cycle'. The claims blow-out and the related underwriting losses, which were already clearly evident before 2001, were the main drivers of premium increases. The HIH collapse and the World Trade Centre attack merely exacerbated an existing problem which Governments decided had to be addressed.

The Insurance Council went on to say (and I think correctly):

> As a consequence, small businesses and local community and sporting groups found that liability premiums were becoming unaffordable or worse, unavailable, and they began making representations to Governments. All nine Federal, State and Territory Governments of both sides of politics agreed on the need for reform.

Finally, the Insurance Council, in the release issued on 24 March this year, said that it is wrong to suggest that profits recently announced by insurers are due to tort reform and that

the APRA statistics show that public liability represents just 7.7 per cent of insurers' total revenue, which is hardly a figure on which to build company profits. I am inclined to agree with the assertion of the Insurance Council that the reforms have struck an appropriate balance between the right of injured people to recover proper compensation and the ability of the community to have access to affordable insurance cover. I note, however, that there are community groups—for example, the organisation Our Community in Victoria—that continue to maintain that the situation has not been improved by the tort law reforms.

In a report published in the *Australian Financial Review* of 5 April 2005, that organisation claimed that a survey it conducted found that 30 per cent of community organisations have had no change in their insurance premiums, but 62 per cent of respondents said that their insurance premiums had increased. I am not sure of the value of a survey of this kind, but I think it is important that the Australian Consumer and Competition Council continues to provide data pursuant to its responsibility to monitor insurance premiums. We will be supporting the second reading.

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

ADJOURNMENT

At 5.55 p.m. the council adjourned until Monday 23 May at 2.15 p.m.