LEGISLATIVE COUNCIL

Wednesday 25 May 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

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

Performance Standards for the Police Commissioner—Report, pursuant to Section 13(5) of the Police Act 1998

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

Information Industries Development Centre Charter—In accordance with Regulation 15 of the Public Corporations (Information Industries Development Centre) Regulations 1996

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

Social Development Committee Postnatal Depression Inquiry Report—Response of the Minister for Health to the Recommendations of the Report.

VISITORS TO PARLIAMENT

The PRESIDENT: I draw honourable member's attention to the presence in the gallery of some students from Thebarton Senior College. I believe they are under the control of their teacher, Ms Lila O'Young, and that they are being sponsored today by Mr Tom Koutsantonis, the member for West Torrens. We welcome you to our parliament and hope you find your visit here both interesting and educational.

Honourable members: Hear, hear!

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 19th report of the committee.

Report received.

The Hon. J. GAZZOLA: I bring up the 20th report of the committee.

Report received and read.

JOINT PARLIAMENTARY SERVICE COMMITTEE

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I seek leave to move a motion without notice concerning the appointment of an alternate member to the committee.

Leave granted.

The Hon. P. HOLLOWAY: I move:

That, pursuant to section 5 of the Parliament (Joint Services) Act 1985, the Hon. J.M. Gazzola be appointed to the Joint Parliamentary Service Committee as the alternate member to the President, the Hon. R.R. Roberts.

Motion carried.

The PRESIDENT: I congratulate the Hon. Mr Gazzola on his attainment of high office.

QUESTION TIME

SMALL BUSINESS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government a question about small business.

Leave granted.

The Hon. R.I. LUCAS: Members would be aware of the problems small business in particular experience as a result of payroll tax payments. Members would also be aware that there are two aspects to payroll tax—that is, the levy rate and the threshold at which the payroll tax calculation comes in. As we stand at the moment with the threshold levels that will apply to the financial year 2005-06, the threshold in South Australia is $504 000; in New South Wales it is $600 000; in Victoria, $550 000; in Western Australia, $750 000; in Queensland it is $850 000; in the Northern Territory, it will be $1 million; in Tasmania it is $1 100 000; and in the ACT it is $1.25 million.

South Australian small businesses start paying payroll tax at a much earlier rate than small businesses in any other part of Australia. As I have said, the $504 000 threshold level in South Australia compares in many other states to thresholds almost double that or, in some cases, just over double the threshold level in South Australia. My question to the minister, as the minister responsible for trade and economic development in South Australia, is: does he accept the view that South Australian small businesses are disadvantaged when compared with small businesses in other states because the threshold in South Australia is much lower than for other states?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am sure that the Leader of the Opposition is aware that over the course of the past 12 months the Rann government has announced something in excess of $1 000 million in tax cuts that will primarily be of benefit to industry within this state. We all know that the state budget will come down tomorrow, and I suggest that the Leader of the Opposition wait until we announce the budget tomorrow, when the details of the tax measures which the government has foreshadowed will be revealed.

The Hon. R.I. LUCAS: Is the minister refusing to answer the question of whether or not he believes that South Australian small businesses are disadvantaged in relation to the payroll tax threshold in South Australia?

The Hon. P. HOLLOWAY: I am saying that the Rann government has delivered significant tax cuts. There are many different taxes and charges that affect small business. We believe that the overall tax climate for business in this state, as a consequence of decisions made by this government, is very competitive.

ABORIGINES, CHILD ABUSE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the minister representing the Minister for Aboriginal Affairs and Reconciliation a question about child sexual abuse on the APY lands.

Leave granted.

The Hon. R.D. LAWSON: The opposition has learnt that recently a European male was arrested and charged with a number of offences of sexual abuse against children, both

boys and girls. These offences occurred at Ernabella, now known as Pukatja, on the APY lands. The Layton report was tabled in this parliament in March 2003. That may not seem a long time ago when one sees the answers we are now getting to questions, but it is over two years ago. Chapter 8 of that report dealt specifically with indigenous children and young persons and made a number of recommendations. Reference is made in that chapter to a Western Australian report released in 2002, which is quoted in the Layton report. That report found:

> . . . family violence and child abuse occur in Aboriginal communities at a rate that is much higher than that of non-Aboriginal communities. The statistics paint a frightening picture of what could only be termed as an 'epidemic' of family violence and child abuse in Aboriginal communities.

The Layton Report concludes:

> It is contended that a similar statement could be made for many of the indigenous communities within South Australia.

The report states at page 8.34:

> Many children living in remote communities are at risk of serious harm, yet FAYS workers are only able to provide infrequent visits to these remote areas. It is asserted that some children have as many as 25 notifications and 'yet nothing has changed in the life of the child'. FAYS is seen as being reluctant to use its statutory authority in situations of extreme danger and risk to children and young people.

Ms Layton quoted from the NPY Women's Council's submission, as follows:

> All children have the right to protection and FAYS are responsible to ensure this occurs. No other organisation has the power to enact the law regarding child protection and FAYS seems reluctant to do so. Whilst this occurs, child abuse and neglect continues to occur in this communities with a growing tolerance for such abuse among community members and service providers.

Finally, Ms Layton said later on the same page:

> There is an urgent need for FAYS to improve its quality of services to families on the AP Lands, and to improve worker understanding of the situation on the AP Lands. The Coroner specifically recommended that the future role of FAYS needs to urgently consider improve responses to children at risk on the AP Lands, and in particular whether their role needs to be expanded into a much more proactive community development role.
>
> There are also insufficient services currently available to children and young people residing in remote communities and there is an urgent need for integrated child and youth services . . .

The report continues. My questions specifically to the minister are:

1. Will he confirm that there has been an arrest made in respect of the alleged sexual abuse of children in the AP lands and will he indicate what action is being taken in relation to that matter and when it might be resolved?

2. What action has the government taken to ensure that communities on the lands are aware of and are addressing the danger to children of sexual predators?

3. What action has the government taken in relation to implementation of the recommendations contained in chapter 8 of the Layton report which deal with indigenous children?

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

The Hon. KATE REYNOLDS: I ask a supplementary question. How many additional dollars have been provided since the release of the Layton report to provide services by the Department of Families and Communities and FAYS (as it was formerly known) directly to families and individuals on the Anangu Pitjantjatjara Yunkunytjatjara lands?

The Hon. P. HOLLOWAY: I will refer that question also to my colleague in another place and bring back a reply.

FIRE SERVICE

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the South Australian Fire Service's engineering workshop.

Leave granted.

The Hon. CAROLINE SCHAEFER: It has been brought to my attention that the engineering depot at the South Australian Fire Service, which is situated between 47 and 51 Deeds Road, North Plympton, is being vacated. The property comprises an area of land of approximately 5 000 square metres with a very large workshop which includes overhead cranes, service pits, large spray booths, special washdown pits, and water testing equipment. The facility has been used by the South Australian Fire Service to carry out general engineering and maintenance work on its fleet of vehicles. I am advised that the property has been sold to Philmac Pty Ltd in an effort by the government to discourage that company from moving interstate. Philmac is located at 53 Deeds Road, North Plympton. With this in mind, my questions are:

1. Will the minister advise the council whether she authorised the sale of the property; and, if not, which minister did authorise the sale?

2. Was an independent market valuation obtained and, if so, what was that valuation; if not, why not?

3. Was this property sold at auction or by private treaty, and what was the sale price of the property?

4. Where will the engineering and maintenance staff be relocated, and where will future maintenance be carried out?

5. What will be the cost to relocate the staff and equipment to re-establish a workshop?

6. Does the government have the right to repurchase at current prices if Philmac leaves in any case?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The honourable member has asked a series of questions. I do not have that information here, so I undertake to obtain some advice and bring back a response.

The Hon. Caroline Schaefer: So, you didn't authorise the sale?

The Hon. CARMEL ZOLLO: No, I did not.

AUSTRALIAN PROFESSIONAL FIREFIGHTERS FOUNDATION

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

Leave granted.

The Hon. J. GAZZOLA: I understand that the Australian Professional Firefighters Foundation is involved in various charitable activities to raise funds. Can the Minister for Emergency Services advise the council of details regarding the various activities that the foundation has been involved in and where funds raised have been distributed?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The Australian Professional Firefighters Foundation began in South Australia in 1998 and is unique to

Australia. It is an organisation that belongs solely to its firefighter members and their families. The foundation is dedicated to burn prevention as well as survivor support and recovery programs. The foundation's main purpose is fundraising for charity, offering assistance—both financially and otherwise—to fire victims, especially children and those in immediate need. Funds for the foundation are raised via direct pay deductions from members with a minimum of $2 required per pay. However, a high percentage of members choose to contribute more than this amount. It is worthwhile to note that, while membership to join the foundation is not compulsory, a high percentage of firefighters—80 per cent—are members of the foundation.

Other means of raising funds are through fundraising events such as the recent charity ball, as well as the successful Shake the Boot campaign, which commenced five years ago. The recent charity ball, which was held last Saturday, 21 May, and which I was pleased to attend, was an enjoyable and entertaining night. It was held specifically to raise money to fund Camp Smoky, which is four-day camp held annually for children between the ages of seven and 16 who are past and present patients of the paediatric unit of the Women's and Children's Hospital. The camp commenced in 1990, and previously funds have been raised by Women's and Children's Hospital nursing staff holding raffles. Since 1999, when the first charity ball was held, the foundation has donated funds from this event to ensure that Camp Smoky continues to be held every year. The 2004 camp was the most successful so far, with 43 children invited to attend.

Examples of funds donated to various organisations include establishing a skin culture facility for South Australia and the Northern Territory. The foundation donated $55 000 to assist the Royal Adelaide Hospital, the Women's and Children's Hospital and the Institute for Medical and Veterinary Science, and it raised $3 000 for the Women's and Children's Hospital Newland Ward Burns Unit. The foundation ran an appeal to assist the victims of the recent Eyre Peninsula bushfires and was able to contribute in excess of $100 000 through the Salvation Army. The foundation raised approximately $US32 000 for families of the New York Fire Department firefighters who were lost on 11 September 2001.

The foundation assists the community and families in need. Donations or gifts are presented on a regular basis to people who require help. Just as another example, a donation of $1 750 was made to the Lions hearing dogs for 50 seriously ill children to attend an annual children's show, and last year the Australian Professional Firefighters Foundation, in conjunction with a radio station, ran an appeal for Amber Reindeers.

The Australian Professional Firefighters Foundation, through its continuous efforts in fundraising activities, has assisted the community's various needs as well as its own members and families, and it is responsible for raising the profile and morale of firefighters in South Australia. The foundation aims to continue to be actively involved with local communities, assist in the provision of fire prevention information to the community and improve the internal network and welfare of professional firefighters and their families. I am certain that the chamber will join with me in congratulating their efforts, in particular, Mr Greg Crossman, the President of the foundation, and Mr Billy Bogle and, indeed, all members of the Australian Professional Firefighters Foundation and in wishing them well in all their community service endeavours.

PITJANTJATJARA LAND RIGHTS ACT

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, questions about changes to the Pitjantjatjara Land Rights Act.

Leave granted.

The Hon. KATE REYNOLDS: I received a letter yesterday, during Reconciliation Week, from the Chairman and Municipal Officer of the Pukatja Community Council on the APY lands. I will not read the entire letter, but I will put the most salient points on the record. The letter states:

> Dear Mr Rann
>
> I am writing from my Community Pukatja about the attached notice from your Government which we received after close of business on Friday 20 May, advising at sharp notice that there is to be community consultation with us commencing on Wednesday 25 May, and apologising for its inconvenience to Anangu. There is an unsatisfactory apology from Mr Terry Sparrow of your Department for Aboriginal Affairs and Reconciliation 'for the short notice of these meetings and for any inconvenience caused'. . . First, I must make it clear there is no objection taken to you telling Pukatja what you are proposing. It is necessary and natural justice. Secondly, Pukatja is properly concerned that you are asking us to take the main responsibility for passing on this apology for this inadequate notice for a proper consultation, to the Community. He sent us the notice which you wish us to distribute widely throughout our Community. But where is the budget for this?. . . It is not proper that we are treated like a unit of your government, without being funded to perform as one. . . Anangu people need you to recognise that more than a shallow apology is owing for the way these consultations have been rushed upon the Anangu just before Reconciliation Week when other arrangements have already been made, and when your Department has had the resources to ensure an adequate notice that does not need the form of an apology to make the notice appear presentable. . . I wish to have your response broadcast live by our media to all Anangu to reassure us that a new direction will be taken by your Government in dealing with Anangu affairs and in the ongoing way that your administration will need to treat us for the future.

The Executive Director of the Indigenous Affairs and Special Projects Division of the Department of the Premier and Cabinet, Ms Joslene Mazel, attended the Anangu Pitjantjatjara AGM on 8 March 2005. When she spoke to the people assembled, she said:

> This is your act and you have to be in control of it and you have to have a say about what you would like to see in it, and that is what we want to do. We want to come and talk to you about that. We are going to go to each community with the AP Executive and we are going to talk to each community about what they would like to see in this act.

I remind you, Mr President, that it is to this unit of the Department of the Premier and Cabinet that the Department of Aboriginal Affairs and Reconciliation now reports. My questions are:

1. Why was the Pukatja Community given only five days' notice of this meeting?

2. Given that these meetings were organised by the government, why was the Pukatja Community Council asked to circulate the notice?

3. Will the Premier table a copy of the so-called consultation protocol referred to in the sworn statement provided by Ms Mazel to the Coroner in November 2004?

4. Is five days' notice, including a weekend, consistent with this consultation protocol?

5. Will representatives of the Indigenous Affairs and Special Projects Division of the Department of the Premier and Cabinet be visiting each community as promised at the annual general meeting two months ago?

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

TRANSPORT, PUBLIC

The Hon. T.G. CAMERON: I seek leave to ask the Minister for Industry and Trade, representing the Minister for Transport, questions regarding public transport after hours.

Leave granted.

The Hon. T.G. CAMERON: Most public transport stops before midnight, Mr President, an hour I am sure that you would be in bed by, but it is a problem here in the city, especially if a person wants to catch connecting buses en route not serviced directly from the city. One positive move has been the Wandering Star, formerly known as Night Moves. This bus service takes passengers to their door for only $6 and leaves three times a night from 11 different zones every Friday and Saturday night, commencing just after midnight and finishing around 4 a.m. Our office has been approached by numerous people, both workers and those who revel in the night life of the city, particularly young people, who would like some key services to run after midnight once an hour or perhaps every two hours, to substitute for taxis or just to help mitigate their costs.

I think a catalyst for this is the high cost of catching a taxi these days. Taxi services are out of reach for most young people, especially those who live in the outer metropolitan area. It can cost over $35 to take a taxi from the city to Sheidow Park, for example, and even more if you are travelling to Noarlunga or Gawler. Such a proposal would no doubt stop some young people from having to make the choice between going out and staying at home or, even worse, between drink-driving and taking a taxi.

We could also reward those who work hard after hours by giving them the option to take public transport from work and thus save money on cars or taxi fares. For example, if I get a taxi to go home after 9 o'clock from here, the fare is somewhere in the vicinity of $35. I understand that taxi fares for some people can be as much as $80. As our society becomes more and more 24-hour and traditional work day distinctions are blurred, it is important that our public transport arrangements reflect this. My questions to the minister are:

1. Has the government considered extending services for key public transport through the night?

2. What studies, if any, has the government conducted into the feasibility of after-hours public transport services?

3. If so, what were the outcomes of that consideration?

4. If not, will the government consider such a proposal?

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

ADELAIDE, PLANNING STRATEGY

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question on the planning strategy for metropolitan Adelaide.

Leave granted.

The Hon. D.W. RIDGWAY: I recently received a copy of this document, dated April 2005, and I believe it is probably one of the first documents that the minister signed as the Minister for Urban Development and Planning. In the foreword I notice some interesting comments and I quote from it, as follows:

> The Economic Development Board report, A Framework for Economic Development in South Australia, highlighted the need for Government to convey a clear message to business and the community about the intended strategic directions for the State and its city. In response, the South Australian Government released the South Australian Strategic Plan. This Planning Strategy provides the physical development aspects of that plan.

It then goes on to say:

> The overwhelming message from our successful Thinkers in Residence Program is that Adelaide has an enviable lifestyle and enjoys a high standard of living at a low cost, has a temperate climate, fabulous golden beaches, a clean environment, ample open space and is easy to get around.

In looking through the document I came across map No. 6 entitled Ecosystem Assets, and I noted with interest that the watercourses of the Brown Hill Creek and Sturt Creek are outlined in green. The legend indicates that they are in the metropolitan open space system, and I refer to a little footnote:

> Restore waterways where possible and retain natural watercourses and riparian zones to increase water quality and other environmental values.

The previous minister for planning had a tremendously difficult issue when this ridiculous PAR was introduced along the Brownhill and Sturt Creeks and the watercourses that went through a number of important electorates, including some of his own party's—West Torrens, Ashford, Morphett and Waite, to name just a few. My questions to the minister are:

1. Given that this government said that these watercourses would not be included in the PAR, why are they again included in this publication?

2. Is it simply an oversight that the minister signed a document that is not accurate?

3. Will the minister give residents, including Tom Koutsantonis' parents and other important South Australians, an undertaking that his government will not devalue their properties and impose this ridiculous metropolitan open space system on these important South Australians?

The PRESIDENT: There was a significant amount of opinion in that explanation.

The Hon. D.W. RIDGWAY: I beg your pardon, Mr President.

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): The metropolitan planning strategy sets out the physical objectives we would like to see for this city, and I would have thought that all South Australians would find the objectives to which the honourable member referred—that is, that wherever possible we should retain the natural features of our waterways—highly desirable. Incidentally, I would have thought that the Hon. David Ridgway would try to claim credit for the River Torrens linear park. I think it may have been David Tonkin who originally had the idea of setting up that park and, 20 years later, a series of governments have transformed the River Torrens waterway as a result of that idea. That was 20 years ago, but there are a number of other proposals that have been put around—and they are not unique to this government but also to a number of past governments. People like the current member for Unley (who is now, I believe, nominating for Adelaide) has often spoken about Sturt Creek.

An honourable member: Man overboard!

The Hon. P. HOLLOWAY: Well, he might be leaving Unley behind like the Hon. Angus Redford is leaving us

behind. The point is that in the past he has, I believe, suggested we look at, say, Sturt Creek. I am old enough to remember what the original creek used to be like. As a child I lived in the Glengowrie area and I know what the creek was like before it was turned into a cement drain; however, I am also aware that those areas used to get flooded every few years as well. The fact is that, in relation to watercourses like the Sturt Creek, with modern technology we may now be able to have both: we can have a pleasant riverine environment and also be able to mitigate the flooding.

I have for some time lived very close to Brownhill Creek in the Mitcham council area. The Mitcham council at the time (and this would have been in the eighties) had, where it was possible to do so, converted part of that creek into a very attractive park setting, and the reality is that where those creeks do not go through private property there are parts of that riverine environment that can be greatly enhanced for all South Australians. A good example is what has been done along Brownhill Creek in the past few years near the Goodwood railway station—the area where the old tin shed that used to be the basketball hall was has, I think, been very pleasantly transformed.

So, all the planning objectives outline the continuation of those sorts of objectives—that we should, wherever possible, improve and enhance that riverine environment. It is not possible to do that in some areas, particularly through some of the Unley council area where those creeks pass through very heavily populated areas and where private property has been built right up to and, in some cases, into the creek.

The Hon. T.G. Cameron: The councils themselves do not help a lot, especially in areas of Mitcham.

The Hon. P. HOLLOWAY: The Hon. Terry Cameron is absolutely correct.

The Hon. T.G. Cameron: That particular council ought to be flogged.

The Hon. P. HOLLOWAY: In some places they have actually built into the creeks in those parts.

The Hon. T.G. Cameron: They are restricting the water flow.

The Hon. P. HOLLOWAY: Exactly, and that has caused a lot of the problems that have led to the PAR process to which the Hon. David Ridgway referred.

The Hon. T.G. Cameron: In order to appease a few rich ratepayers.

The Hon. P. HOLLOWAY: I hope the Hon. Terry Cameron's interjections are incorporated in *Hansard*, because I think many of us would agree with him. The fact is that now we must live with these flooding issues. I am pleased to say that they were addressed in the urban stormwater policy and, anyone who read this morning's paper, would know that the policy, launched by the environment minister (John Hill), the local government minister (Rory McEwen) and the LGA President (John Legoe), aims for improved outcomes in managing stormwater. With any planning strategy, there are objectives we have to deal with. Stormwater is a real problem, and certainly neither this government nor the previous government is responsible for the flood risk along the Adelaide flood plain; rather, it is those governments in the past, particularly local government, that have permitted building on the areas where there is the capacity for flooding.

We have to live with that. It is a fact of life, and we cannot change it. However, planning amendment reports will not do anything to change the risk to those individuals; there is either a risk or there is not. That risk is beyond our control, and it is up to the meteorological conditions at the time. What we can do in a planning strategy is ensure, as best we can, that those issues are not exacerbated by improper development. As the honourable member indicated in the preamble to his question, at the same time we can also try to restore the attractiveness of those urban riverine systems wherever possible. I have already given examples of where that has occurred, and anybody who has seen those developments would warmly welcome them and approve of the policy to see the number of those areas increased in the future where it is possible to do so.

The Hon. D.W. RIDGWAY: I have a supplementary question. On the map on page 6, why is the entire watercourse on both the Sturt Creek and Brown Hill Creek—and not just segments where you could perhaps do it where possible—outlined as metropolitan open space? Will the minister give an undertaking to the residents that he will not enforce the previous PAR?

The Hon. P. HOLLOWAY: In relation to the latter question, I have already indicated that my predecessor withdrew that PAR. That remains, and will remain, the government's position. I remind members that the government introduced that PAR at the request of local government.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I will come to that in a moment. Of course, when it was introduced, those local government bodies decided that they could not work together, so the government decided that, if local government did not want to be part of a group decision, if I can put it that way, on planning along that watercourse, they should revert to their own plans. I believe that the West Torrens council, for example, has already introduced its own PAR. Obviously, it is up to other councils to take such action.

In relation to the Sturt River, I know that there is a trail along virtually the entire course of the river as it goes through metropolitan Adelaide. As I indicated earlier in relation to Brown Hill Creek, Keswick Creek and other creeks, they go through private property and, obviously, that is not the case. I do not have a copy of the map with me, but I will look at it. I do not think that there is anything that is not understood in the government's policy in this area. As I said, we will seek to improve the riverine environment wherever we can.

I also indicate that it is not a matter of just the aesthetics of those creeks. We need to urgently ensure that, rather than rushing the water out through cement drains into the sea, where it kills seagrasses and creates other environmental problems, given the prospect of climate change, emphasised by the drought we are in at the moment, we in Adelaide look at conserving the stormwater flows and see them as a resource. As part of any development along these rivers, we should, through wetlands, be inclined to ensure that that stormwater is re-injected into aquifers. That is the government's policy and planning strategy, and I would have thought that most South Australians would warmly welcome that as a strategy.

SOUTHERN AND HILLS TRANSPORT PLAN

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the Southern and Hills Local Government Association transport plan.

Leave granted.

The Hon. J.S.L. DAWKINS: The Southern and Hills Local Government Association recently completed an

addendum report to its 2010 transport plan to identify north-south freight routes to service the interregional freight demand of the timber and wine industries, particularly between the centres of McLaren Vale, Langhorne Creek and the Barossa Valley.

The meeting endorsed that the eastern north-south freight route from Langhorne Creek to the Barossa Valley be as follows: Langhorne Creek to Wellington Road, Kangaroo Road, Ferries McDonald Road, Schenschmer Road, Pallamana Road to Pallamana on to Palmer and Tungkillo, and then Tungkillo Road to Mount Pleasant, Mount Pleasant to Nuriootpa via Eden Valley and a bypass at Angaston.

The Southern and Hills Local Government Association should be commended for addressing what has become a major problem related to the use of various unsuitable routes between Fleurieu Peninsula and the Barossa Valley, particularly involving the two-way flow of wine grapes. My questions are:

1. Is the minister aware of the plan and its addendum report?

2. Will the minister consider adopting the plan and addendum in the Outer Metropolitan Planning Strategy?

3. Will the minister refer the detail of this preferred route to the Minister for Transport?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): As the honourable member suggested in his last question, it is a matter about which I will have to consult with my colleague. I will take the question on notice and bring back a reply.

TERRAMIN AUSTRALIA LIMITED

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about Terramin Australia Limited and the Angas prospect.

Leave granted.

The Hon. G.E. GAGO: The minister has previously brought to the attention of the council information regarding Terramin Australia and the Angas prospect near Strathalbyn. My question is: can the minister update the council on the progress of this and other Terramin projects?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I am very pleased to inform the council that the pace of developments at the Angas prospect has been fast and furious indeed. On 9 May, Terramin announced that Sempra Metals and Concentrates Corporation, a subsidiary of the Fortune 500 energy company Sempra Energy, has taken a strategic stake in Terramin's proposed 400 000 tonne per annum Angas lead and zinc project.

Sempra Metals has agreed to buy all of the production from the Angas project, has taken a strategic equity stake in Terramin and has signed a letter of intent to further assist in the development. The total amount of the Sempra investment is expected to be around $17 million. Sempra Metals will participate in the ongoing evaluation, development and investment needed to bring the Angas mine into production, which is anticipated by early 2007.

Sempra has signed a life-of-mine off-take agreement (anticipated to be 14 years) to purchase all concentrate production from the Angas mine project. Sempra will acquire two million ordinary shares in Terramin at a purchase price of 25¢ a share. Sempra intends to subscribe for $6.5 million in five-year unlisted convertible redeemable notes in Terramin, with the proceeds being used to finance capital expenditure until mining commences. Subject to certain conditions being met, Sempra Metals will extend additional credit up to $10 million.

In another important strategic move, Terramin announced on 16 May a joint venture with Zinifex Australia Ltd with respect to its Menninnie Dam project. Resource definition of this potentially large lead, zinc and silver deposit in the northern part of Eyre Peninsula is to be fast tracked under a heads of agreement between Terramin and the Melbourne-based Zinifex. As you would be well aware, Mr President, Zinifex are the operators of the Port Pirie smelter. The agreement provides for the injection of up to $8 million by Zinifex, one of the world's largest integrated lead and zinc companies, into the Menninnie Dam project. Zinifex has agreed that it will: spend at least $2 million on the project's exploration and development by 31 December 2006, but with no project entitlement; spend an additional $3 million by 31 December 2008 to earn 49 per cent equity interest in the project; and spend an additional $3 million by 31 December 2010 to move to a 70 per cent position in the joint venture.

In addition to these developments, Macquarie Bank has also recently announced a $1 million buy-in to take a 6.8 per cent stake in the company. This is all excellent news and these are important steps in the development of Terramin's mining projects in South Australia. I congratulate Terramin's Executive Chairman, Dr Kevin Moriarty, and his staff on the results so far and wish them well in the future as they develop both the Angas project and, hopefully, the Menninnie Dam project. I am sure you are aware, Mr President, that if the Menninnie Dam exploration is successful it could make significant contributions to the future of Port Pirie.

ETSA UTILITIES

The Hon. SANDRA KANCK: Mr President, you might think this is question No. 10, but in the explanation I seek to give you might find that it is in fact question No. 9. I seek to give this explanation before asking the Minister for Industry and Trade, representing the Minister for Energy, a question concerning the repair of streetlights.

Leave granted.

The PRESIDENT: I am sure there is some logic in there that I have missed.

The Hon. SANDRA KANCK: The Electricity Distribution Code requires ETSA Utilities to repair faulty streetlights within five business days in metropolitan Adelaide and certain regional centres and within 10 business days elsewhere. If ETSA fails to complete the repairs within the specified period, a fine of $20 per light applies. Mr John Vanstone recently reported an outage of approximately 20 lights along a 500 metre section of Salisbury Highway. His initial report was made on Sunday 17 April. A series of follow-up reports was made by Mr Vanstone to my office and *The Advertiser* before the lights were finally repaired on Monday 26 April. That is a period of nine days between the original report and the repair of the lights.

Initially, ETSA Utilities claimed it had received no reports regarding the outage. Please note, there were four reports of the outage. Later it claimed that the lights were the responsibility of Transport SA not ETSA Utilities, but it now acknowledges that that, too, is erroneous information. Now it is claiming that Mr Vanstone is not owed a reward of some $400 because the lights were repaired within five business days. It achieves this extraordinary accounting standard by

beginning the five business day period on the second working day after it received notification of the outage.

In this instance, the five business days did not begin on the Sunday of notification because that is a weekend, nor did it begin on the Monday because in ETSA's calculations that is not day one of notification but day zero. Hence this is question No. 9 today. That pushes the five business day period out to the following Monday, some nine days after the initial report. As Monday the 26th was a public holiday, ETSA had until the close of business on Tuesday the 27th to comply with the five business day rule. Hence, five days became 10 days for the repair of streetlights on a major arterial road in Adelaide. My questions to the minister are:

1. Does the minister agree that ETSA is entitled to have a full working day as a zero day in its calculation of five business days? If not, will the minister ensure that Mr Vanstone receives the rebate he is due as a consequence of the failure of ETSA Utilities to repair the street lights within five business days?

2. Does the minister believe that the nine-day period that elapsed from the initial report of the outage and the repair of the lights is satisfactory, particularly for a large section of a major road?

3. As ETSA repairs lights on weekends and public holidays, does this not make a mockery of the five business days repair time?

4. Will the minister amend the distribution code to ensure that ETSA has five or 10 days to repair outages from the day after the initial report of the outage?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Minister for Energy, and I am sure that he can have examined what the—

An honourable member: It will take longer than nine days to get an answer.

The Hon. P. HOLLOWAY: I do not know—it depends how we measure it, does it not? I will refer the question to the Minister for Energy. Those of us who were here during the ETSA sale debate would remember that we had a lot of debate on what would happen in relation to these standards, and so on. We have a number of ombudsmen and other people who are supposed to be around to investigate these sorts of things. I will refer the matter to the Minister for Energy, and I am sure that he can deal with the appropriate body to investigate this matter.

GAMBLERS' REHABILITATION FUND

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, questions in relation to the Gamblers' Rehabilitation Fund.

Leave granted.

The Hon. NICK XENOPHON: In recent months I have asked a series of questions in relation to the Gamblers' Rehabilitation Fund following the passage of legislation late last year that substantially increased the fund by some $2 million a year. It reflected the urgent need to broaden the scope of such services for the over 23 000 individuals who have a gambling problem in this state, given that well under 10 per cent seek help on an annual basis and, in many cases, those who do seek help have to wait for a number of weeks for ongoing treatment and longer for more intensive treatment programs such as the Flinders Medical Centre program. The commitment of the government was restated in a media release by the Premier on 1 February 2005 when the Premier said, amongst other things:

> From today the state government's extra $2 million to the Gamblers' Rehabilitation Fund kicks in.'

The Hon. R.I. Lucas: Did you believe him?

The Hon. NICK XENOPHON: Yes, I did.

The Hon. P. Holloway interjecting:

The Hon. NICK XENOPHON: The Leader of the Government said that that is the day it did kick in, but maybe he should listen to the rest of the question. On a pro rata basis, the understanding was given that it would be $833 000 for the current financial year. The Premier was contradicted by the Minister for Families and Communities on 22 February, when the minister was reported as saying to media outlets:

> The minister's office says the money is there and will be made available when a review of rehabilitation services is completed.

The minister was referring to the Independent Gambling Authority's review of gamblers' rehabilitation services requested by this parliament, with a deadline for reporting by 9 June. Yet on 12 April 2005, the Minister for Families and Communities fronted up to the Independent Gambling Authority's inquiry into gamblers' rehabilitation services and pre-empted the inquiry by making sweeping announcements about the fund. The minister stated, 'The GRF committee does not exist now,' thereby removing the very excuse by the government not to spend the additional $833 000 for the Gamblers' Rehabilitation Fund in the current financial year.

I have today received information from the welfare sector that just last Friday afternoon an email was sent by Lynette Pugh, the Manager of Community and Service Development of the Community Services Branch in the Department for Families and Communities to all 15 Break Even service providers. The email contained an application form and funding guidelines for a one-off GRF special projects grant with a closing date of 14 June 2005 and with the maximum amount for such grants being $35 000. The email also states:

> This process represents a follow up to the original letters sent to agencies requesting ideas for funding proposals to utilise the additional GRF funding that is available for allocation due to the increased Government contribution to the GRF.

Given that the maximum amount for the funding is $35 000, the point has been made to me that, even if this applied to each of the 15 Break Even service agencies, it would mean a maximum of $525 000 out of the minimum $833 000 commitment. The point has also been made by the welfare sector that no additional funds have been allocated to the Break Even Services since 1 February 2005. My questions are:

1. Does the Premier concede that his promise of 1 February 2005 has not been complied with, and cannot be complied with, by 30 June?

2. Will the Premier seek an explanation from the Minister for Families and Communities about the inconsistent statements that the minister made on 22 February 2005 and the minister's statement to the Independent Gambling Authority on 12 April 2005?

3. Does the Premier concede that it will simply not be possible to spend the $833 000 in this current financial year and, with respect to that, will he seek an explanation from the Minister for Families and Communities?

4. Will the Premier make inquiries of the Minister for Families and Communities as to what the current waiting times are for people seeking assistance and the percentage of

problem gamblers who have actually sought assistance and obtained assistance through the current fund?

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

The Hon. J.F. STEFANI: I have a supplementary question. Will the minister advise whether the money allocated has any interest?

The Hon. P. HOLLOWAY: I will also refer that question to the appropriate minister and bring back a reply.

The Hon. T.G. CAMERON: I have a supplementary question. Does the minister agree with the assertion made by the original questioner that the government has broken its promises in relation to this?

The Hon. P. HOLLOWAY: I do not think that is established at all from the question that was asked by the honourable member. The honourable member said that the Premier said the fund would kick in from that particular date and, from that date onwards, that money is accumulating in the fund. The money that is in the fund is hypothecated. It cannot be spent on anything other than the purpose for which it was intended. That is my understanding of the debate we had on the Gamblers' Rehabilitation Fund: that it is a hypothecated fund. The moneys begin there; it is accumulated; and it will ultimately be spent.

I do not know whether we spent it in this financial year or whether the money that accumulates will be run into other years, but I do not think that, from what the honourable member said in his question, it suggests that there has been any breach in that undertaking. I have not read those particular statements, but it certainly did not seem to me to be established by the honourable member's comments. I will refer the question to the minister and bring back a reply.

The Hon. NICK XENOPHON: I have a supplementary question arising from the answer. Will the government confirm that, if the money has not been spent in this current financial year, it will be accumulated into the next financial year so that that money will then go to gamblers' rehabilitation?

The Hon. P. HOLLOWAY: I will refer that question to the minister in another place and bring back a response.

BUILDERS' LICENCES

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the minister representing the Minister for Administrative Services questions about builders' licences.

Leave granted.

The Hon. J.F. STEFANI: Since the introduction of builders' licences, there has been no adjustment to the amount of paid-up capital of the company or enterprise applying for a builder's licence. In the case of a restricted builder's licence, the paid-up capital required is currently $5 000 and, in the case of an unrestricted builder's licence, the paid-up capital required is $10 000. As the above amounts represent monetary values of almost 20 years ago, my questions are:

1. Will the minister investigate the appropriateness of increasing the paid-up capital requirements for companies or enterprises applying for a builder's licence or a restricted builder's licence?

2. Will the minister also investigate a method that will achieve greater efficiency in dealing with the compliance of paid-up capital provisions when issuing licences?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): Certainly the building codes and building standards and the Architects Act come under my responsibility as Minister for Urban Development and Planning, but I believe the licensing provisions come under the Minister for Consumer Affairs, so I will refer that part of the question to her and bring back a response.

KAPUNDA ROAD ROYAL COMMISSION

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Attorney-General, a question about the Kapunda Road Royal Commission.

Leave granted.

The Hon. IAN GILFILLAN: I hope the Hon. Mr Cameron is listening, because he usually interjects so much that he misses the point. On the first day of the Kapunda Road Royal Commission it was quite clear that there was disappointment from the cycling community that there was nothing in the terms of reference that allowed the commissioner to make any recommendations about improving the safety of cyclists in South Australia. I raised this matter with the commissioner in the open hearing and he replied (and I am quoting directly from *Hansard)*:

> Mr Gilfillan, the terms of reference are not for me to fix. As the commissioner, it is the terms that bind me as to what I can inquire into and what I can't and what areas I should deal with. I advise the government in accordance with those terms. It is for the government to determine how wide the terms should be and on what questions my advice is sought. However, as with the victims' impact statement matter, it is a matter in which an address should be made to the government concerning whether the terms should remain as they are, or be extended and the time extended and so forth. I appreciate the concern and the regard expressed by you on behalf of the cyclists of South Australia in respect of the commission, and I can understand the concern that your association expresses in relation to the precarious position of cyclists on the road.

Accordingly, I wrote to the Attorney-General on Friday 13 May specifically requesting that he include the following in the royal commission's terms of reference. It is proposed paragraph 10, and I quote from what I wrote to the Attorney as an extra term of reference applying to the commissioner:

> You may include in your report recommendations arising from your findings as to such reasonably practicable reforms of any law, practice or procedure that will enhance or improve the safety of cyclists on public roads in South Australia.

To date, the only response has been from the Attorney-General's office indicating that my request had been received, and that was some three days after my sending it. It is clear with the time frame that the clock is rapidly ticking towards the end of this Kapunda Road Royal Commission, and my questions, through the minister to the Attorney-General, are:

1. When can the cyclists of South Australia expect a response to my request for the terms of reference to be extended by the inclusion of proposed paragraph 10?

2. If the Attorney-General believes in the safety of the cyclists of South Australia (and it is pretty hard to think that, as a dedicated life cyclist, he would not) and that this matter should be addressed, why does he not immediately add to the terms of reference the recommended paragraph 10 and give the commissioner the time to consider it?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Attorney-General and

bring back a response. However, I make the observation that I would not have thought that there has ever been any question in relation to the issues that are being looked at in respect of what is being called the Kapunda Road case that there was any contribution in any way to those events as a result of the cyclist. Rather, the issues that need to be examined were the conduct of the case against the person who was prosecuted for causing that death, and the issues that were related to the motorist concerned. Whether a royal commission that is looking into those legal aspects is an appropriate place to look more generally at issues of cycling safety is, I think, a moot point.

I assure the honourable member and all the cyclists of this state that this government takes the safety of cyclists very seriously. However, I do not think that having a royal commission to specifically look at aspects of how a court case was conducted is necessarily the best way to improve cyclists' safety. They are just my own personal comments; it is really a matter for the Attorney-General to consider, and I will pass the question on to him.

REPLIES TO QUESTIONS

REGIONAL COMMUNITIES CONSULTATIVE COUNCIL

In reply to **Hon. CAROLINE SCHAEFER** (3 March).

The Hon. P. HOLLOWAY: The Minister for Regional Affairs has provided the following information:

1. Appointments to the Regional Communities Consultative Council are via ministerial authority. Cabinet however noted the proposal to appoint Peter Blacker as the new Chair of the RCCC.

2. The make-up of the RCCC for 2005-06 was announced in the House of Assembly on 3 March 2005.

3. Mr Blacker will receive a retention allowance of $6 000 per annum and sitting fees at the rate of $190 per 4 hour session. Meetings that last less than, or extend beyond, four hours will be paid in keeping with Premier and Cabinet Circular No 16.

MAGISTRATES

In reply to **Hon. A.J. REDFORD** (27 October 2004).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. and 2. The Government is currently considering this matter. No decision has yet been made by the Attorney-General or by Cabinet. These are important issues and should be fully canvassed before any change is made by the Parliament to the current arrangements.

3. To date, the government has not contemplated such a change.

4. Yes, and any arrangements would need checks to ensure that such a power was only used properly.

5. No.

DEPARTMENTAL FUNDS

In reply to **Hon. R.I. LUCAS** (8 November 2004).

In reply to **Hon. J.F. STEFANI** (8 November 2004).

The Hon. P. HOLLOWAY: The Minister for Families and Communities has advised:

Material was not provided by me to the Auditor-General or any of his Departmental Officers in relation to this matter.

CREDIT CARDS

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

The Hon. P. HOLLOWAY: The Minister for Consumer Affairs has provided the following information:

1. No

2. and 3. This is not information held by the Office of Consumer and Business Affairs. The *Bankruptcy Act 1966* is Commonwealth legislation administered by the Attorney-General of the Commonwealth Government. I refer the Honorable Member to information published by the relevant Commonwealth Government Department (Insolvency and Trustee Service Australia).

MINING EXPLORATION

In reply to **Hon. J.M.A. LENSINK** (11 October 2004).

The Hon. P. HOLLOWAY: The Minister for Economic Development has been advised of the following:

The Chairman of the Economic Development Board does not have any conflicting interests in relation to the matching funding of $1.75 million that was awarded to companies to accelerate mining exploration in September 2004, under the Government's new Plan for Accelerating Exploration initiative.

As a state we are very fortunate to have Mr Robert Champion de Crespigny's support. His valuable service with the Economic Development Board has been extended through his appointment to the South Australian Minerals and Petroleum Export Group.

A recent initiative of the Government's, the role of the Expert Group is essentially one of building confidence by promoting the depth of opportunities in South Australian mining, through the support of well-known Australian business and mining identities including Hugh Morgan, Derek Carter and Ross Adler.

This group has no involvement or decision making role whatsoever in selecting suitable companies for funding under the PACE initiative.

South Australia is undergoing a boom in exploration, as is shown in recent ABS figures indicating South Australia's share of national exploration at an all-time high.

We have set an ambitious target to increase exploration to $100 million by 2007 in South Australia's Strategic Plan. Such has been the success of the PACE initiative, that just four months after announcing it in the Budget, the scheme was fully funded and the Government increased funding by 50 per cent.

I wish the previous Government had had as strong a pro-mining stance, as this Government has taken because the benefits to the state of minerals and petroleum development are enormous.

COURTS, CLEARANCE RATE

In reply to **Hon. R.D. LAWSON** (15 February).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. and 2. These questions refer to figures recently published by the Australian Bureau of Statistics, in the publication Criminal Courts 2003-04, recording that in South Australia 9.5 per cent of those cases adjudicated were acquitted, the highest rate in any of the mainland Australian States. The highest rate is 14.5 per cent in the Australian Capital Territory.

The relevant figures are provided in detail in Table 14, page 42.

The percentage of accused acquitted in States and Territories are:

Australian Capital Territory	14.5 per cent
Tasmania	9.6 per cent
South Australia	9.5 per cent
Western Australia	9.1 per cent
Northern Territory	9.0 per cent
New South Wales	7.9 per cent
Victoria	7.6 per cent
Queensland	4.7 per cent.

Although Queensland, Victoria, and New South Wales have a noticeably lower rate of defendants acquitted than other States (and the A.C.T. is markedly higher), the remaining four States do not differ much, the range being 9.0 per cent to 9.6 per cent.

The Hon. R.D. Lawson quotes the 2001-02 financial year figures that indicate 1 131 defendants were finalised in that year, and that 7.6 per cent of those were acquitted. This is incorrect. The 7.6 per cent of defendants acquitted relates to the number of accused adjudicated during that year, that is, 802. Likewise the same mistake was made where The Hon. R.D. Lawson quotes that for the latest year, 2003-04, the number of defendants finalised in the criminal courts had fallen from 1 131 to 869 and the number of defendants acquitted had risen to 9.5 per cent. The 9.5 per cent of defendants acquitted relates to the number of accused adjudicated during that year, that is, 675.

The table below records the figures for accused finalised, accused finalised by adjudication, and the number of accused finalised by acquittal as a per centage of accused finalised.

Financial Year	Defendants finalised	Defendants finalised by adjudication	Defendants finalised by acquittal as a percentage of defendants adjudicated
2000-01	928	654	10.6 per cent
2001-02	1131	802	7.6 per cent

Financial Year	Defendants finalised	Defendants finalised by adjudication	Defendants finalised by acquittal as a percentage of defendants adjudicated
2002-03	821	612	8.0 per cent
2003-04	869	675	9.5 per cent

3. The Attorney-General meets regularly with Heads of jurisdiction to discuss performance.

4. Most of these matters are comprehensively canvassed in the Annual Reports regularly provided to Parliament by the Courts.

5. An answer has already been provided.

STRATA TITLE MANAGEMENT

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

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. This question is poorly worded (it does not mention community title the new form established by the last Liberal Government to the exclusion of strata title; nor does it recognise that it is the Attorney-General, not the Minister for Consumer Affairs, who administers the Strata Titles Act and Community Titles Act.).

The Discussion paper (released September, 2003) made it clear that complaints were received by many agencies, including the Office of Consumer and Business Affairs (O.C.B.A.), Land Titles Office (L.T.O.), Legal Services Commission, the Attorney-General and the Real Estate Institute of S.A. (R.E.I.S.A.).

The L.T.O. handles more calls and queries on this topic than any other agency, but it is not necessarily complaints and, if they are, they are not necessarily complaints about strata managers. They may be complaints about the owners of adjacent units, or something the body corporate has done, proposes to do, or is neglecting to do. Often, the caller is only after some information on his own rights or responsibilities.

In 2003-04 the O.C.B.A. consumer complaints database showed there were seven complaints about strata managers and the Attorney-General received 15 letters of complaint that covered a myriad of disputes that arise from community or strata title living.

2. Yes, which is why it was surprising that the last Liberal Government refused to contemplate reform of the law applying to these disputes.

3. The Government hopes to introduce legislation to Parliament in the next few months that reforms strata and community titles legislation.

COURT DELAYS

In reply to **Hon. R.D. LAWSON** (7 February).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

1. In January 2005, the Productivity Commission published the Report on Government Services 2005. The Report records data about court administration for the year 2003-04.

Criticism of the efficiency of the Courts by reference to this table was misplaced. The clearance rate is not an indicator of efficiency.

The clearance rate records nothing more than the ratio of lodgements to dispositions in the year in question. A clearance rate of 100 per cent indicates that a court is disposing of cases at the same rate as lodgements are being made. A clearance rate of less than 100 per cent indicates that in the coming year a court's performance against time standards might worsen, because the number of cases on hand will be greater than in the preceding year.

A better guide to efficiency is provided by the "backlog indicator". This measures the proportion of a court's case load that is exceeding the timeliness standard.

Table 6.9 records this information for criminal matters. Owing to a misunderstanding, the backlog indicator for criminal appeals is not reported for South Australia. In fact it is zero, that is, no cases took more than 12 months. In that respect the Supreme Court's performance is equal to the best in Australia.

For non-appeal criminal cases the backlog indicator for cases taking longer than 12 months is 33.3 per cent.

A check has been made by the Court staff of the cases in question. They number 16. A counting error means that the number recorded should be a little less than 16, and the indicator should be about 25 per cent. Of the 12 cases that took longer than 12 months, about five are cases that could never have been disposed of within 12 months. They include the trials arising out of the discovery of bodies at Snowtown, and several other cases which, without going into details, simply could not be disposed of within 12 months.

The backlog indicator for the District Court, for criminal cases taking longer than 12 months is 21.2 per cent. Two other District courts had a lower backlog indicator and two were higher.

Table 6.11 records the backlog indicator for civil cases.

The backlog indicator for civil appeals taking more than 12 months in the Supreme Court is zero per cent. That is the best result in Australia.

The backlog indicator for non-appeal cases taking more than 12 months is 23.6 per cent, which is also the best result in Australia. That demonstrates that a failure to clear cases as fast as lodgements is not necessarily an indicator of efficiency.

The District Court's backlog indicator for appeal cases was the best in Australia. For non-appeal cases taking more than 12 months, the backlog indicator was 42.9 per cent. Three courts had a better result and one court had a worse result. All five figures are bunched quite close together, the range being from 34.9 per cent to 43.7 per cent.

This brief analysis indicates the care that is needed in interpreting the figures. On the whole, the performance of the two courts appears satisfactory.

I think the clearance rate does suggest, nevertheless, that the performance might decline in the year 2004-2005. It might decline because of an increase in the number of cases on hand. Whether the backlog indicator does decline remains to be seen.

2. The Government is increasing police numbers making more use of D.N.A. testing than the previous Government and has increased funding of the Office of the Director of Public Prosecutions. If anything, these initiatives put more pressure on court waiting times. The District and Supreme courts are coping remarkably well given increasing pressure and the scrutiny under which they are placed. The Government did provide $1.661m for an additional Master in the civil jurisdiction of District Court. This initiative is expected to increase efficiency in that jurisdiction and should reduce waiting times.

NDV PILOT PROJECT

In reply to **Hon. SANDRA KANCK** (7 April).

The Hon. P. HOLLOWAY: The Attorney-General has received this advice:

The evaluation of the No Domestic Violence project has been completed and is available to the public on the website of the Attorney-General's Department Crime Prevention Unit at http://www.cpu.sa.gov.au/reports.htm.

CONSTITUTIONAL CONVENTION

In reply to **Hon. IAN GILFILLAN** (11 October 2004).

The Hon. P. HOLLOWAY: The Attorney-General has provided the following information:

1. The Government has carefully considered the reports arising from the Constitutional Convention. Government MPs voted against some of the proposals on 6 April, 2005.

2. The Member for Mitchell has introduced Bills dealing with constitutional reform. The Bills advance the recommendations of the Constitutional Convention. The Government believes that debate on these Bills has provided the Parliament with a reasonable opportunity to explore the matters raised at the Convention. Government MPs voted against some of the proposal on 6 April, 2005.

3. The Government is not opposed to four-year terms in the Legislative Council in principle, but is concerned with the effect of reducing quotas for election to the Council. Reduced quotas, together with bloc transfers of preferences from votes cast above the line, can lead to parties with about one per cent of the vote being represented in Parliament. The Government is yet to be presented with a model that allays its concerns.

4. The Government is not opposed to optional preferential voting in principle, but is worried that having different rules for formal voting in State and Federal elections may lead many voters inadvertently into voting informal in Federal divisions in South Australia. The Government is yet to be presented with a model for optional preferential voting that allays its concerns.

5. The Government is yet to be presented with a model for citizens-initiated referendums that allays its concerns.

6. The Government has confidence in the current arrangements for appointment to the position of President of the Legislative Council and Speaker of the House of Assembly.

BUSINESS, INNOVATION

In reply to **Hon. J.S.L. DAWKINS** (15 February).

The Hon. P. HOLLOWAY: The Minister for Small Business has advised:

1. The InnovationXchange Network is an initiative of the Australian Industry Group, one of Australia's largest industry associations, and provides services to members who pay an annual fee to be part of the Network.

The Network is a not for profit, independent organisation and provides services for members as follows:

- Connections to government, industries and public research and education institutions and other relevant third parties.
- Programs promoting innovation and entrepreneurship
- A comprehensive web site enabling showcasing and collaboration opportunities.

InnovationXchange assists members to accelerate business innovation and development, and develop safe and secure access to intellectual property. The Business Innovation Centre (BIC), an initiative of the City of Salisbury located at Salisbury, has been appointed as the South Australian node of the

InnovationXchange Network and, is funded by the City of Salisbury, together with the Commonwealth Government through its Sustainable Regions Program. BIC was not established within the Department of Trade and Economic Development.

2. The Business Innovation Centre has not established contacts with individual Regional Development Boards as its programs are directed towards the northern Adelaide region. Its funding does not extend to involvement with Regional Development Boards.

MATTERS OF INTEREST

DUNCAN, Dr G.

The Hon. G.E. GAGO: I rise today to acknowledge the recent 33rd anniversary of the death of Adelaide University law lawyer Dr George Duncan. As members of the council would be aware, on 10 May 1972 Dr Duncan was attacked by four men and thrown into the River Torrens, where he drowned. Dr Duncan's death was treated as murder; however, the investigation that ensued failed to find sufficient evidence to recommend prosecution. To commemorate the 33rd anniversary of Dr Duncan's death, on the 10th of this month I attended a ceremony that was held at the site of the Dr Duncan Memorial plaque near the university footbridge, which is the site where Dr Duncan was murdered.

Dr Duncan's tragic death acted as a catalyst for the commencement of significant law reform as it related to homosexual people in South Australia. Following the murder, our state became the first in Australia to decriminalise homosexual acts. This has been followed by similar changes across Australia; however, the pace of reform has not been swift, with Tasmania becoming the last state to decriminalise homosexual activity in 1997.

The ceremony also highlighted how far we need to go to end the discrimination based on sexuality that is still prevalent in our society. While South Australia led the way, passing gay law reform in 1975, it is now the last state to recognise same-sex partners, and it remains the only state which does not give comprehensive legal rights to same-sex couples. Although we extended superannuation entitlements to same-sex couples in 2003, thousands of same-sex partners continue to be discriminated against through current legislation. Tasmania, on the other hand, is now recognised as being one of the most progressive states in terms of gay and lesbian law reform.

Our legal system provides rights only for certain privileged relationships. Married partners are legally entitled to make decisions for each other, to share property and to receive a range of spousal benefits. Heterosexual de facto partners share these rights in almost all areas; however, same-sex relationships receive very little recognition in our legal system and this discrimination is a great injustice. Unlike married or heterosexual de facto partners, same-sex partners are exempt from a myriad of rights. Some of the rights same-sex partners are not entitled to include:

- the ability to inherit a partner's assets if they die without a will;
- being able to claim compensation in certain circumstances if a partner dies in an accident;
- the ability to access affordable court assistance to divide property if a relationship ends;
- to be entitled to be paid compensation for the grief suffered if a partner is killed as a result of a criminal injury;
- the ability to gain access to a sick partner if they are hospitalised, and being able to gain access to relevant information about their condition;
- the ability to participate in making decisions about an incapacitated partner's medical treatment and the ability to make decisions about the body, such as organ donation or funeral arrangements, if a partner dies.

The Labor government is committed to removing such discriminating legislation. As members would be aware, the government introduced the Statutes Amendment (Relationships) Bill late last year, the purpose of which is to amend various acts to ensure that same-sex couples are treated on an equal basis with opposite-sex couples. The bill acknowledges that same-sex partners are part of our community and deserve the legal recognition and protection that opposite-sex couples are afforded. The bill also represents a statement of acceptance, a commitment to the well-being of gay and lesbian people and a dedication to reducing social exclusion.

As members would also be aware, the Legislative Council referred the bill for inquiry to the Social Development Committee, of which I am chair. The organisers of the Dr Duncan 33rd anniversary commemoration used the occasion to remind us that this inquiry has been in progress for around six months, and they also reminded parliamentarians that they had given a commitment to prioritise and expedite this inquiry as soon as possible. I am pleased to report that the Social Development Committee has now completed its inquiry and tabled its report only yesterday.

Over three decades have passed since South Australia led the way in gay law reform following the death of Dr Duncan. I hope that such reform can now continue its long overdue course.

POLICE, LOXTON

The Hon. J.S.L. DAWKINS: Members would be aware that, on 7 April this year, I presented 1 899 signatures on a petition that opposed the relocation of the Loxton police station and sought the upgrading of the current facility. More than 180 people who attended an early afternoon public meeting in Loxton on 19 May expressed frustration and disappointment at the member for Chaffey (Hon. Karlene Maywald) for supporting the Labor government's decision to relocate the Loxton police station, rather than fighting for

her community. The community is concerned about the decision to relocate the station to a less visible part of town, where an earlier station was located 40 years ago. The Liberal police spokesman, the member for Mawson (Robert Brokenshire), and I attended the meeting and observed that local residents were understandably frustrated with the Labor government and minister Maywald.

In an extraordinary attack on her local community, Ms Maywald criticised locals for not having confidence in the police. The truth is the exact opposite: the community has confidence in the police but is fast losing confidence in the local member. The people of Loxton have sent a clear message to Ms Maywald that they want their police station upgraded and not shifted to a shopfront, where the only police vehicle access would be adjacent to a busy school precinct. They know that the existing police station location is the best, and they simply want it refurbished.

Mr Brokenshire clarified statements made by the police minister (Kevin Foley) and the member for Chaffey during the meeting that the location of police stations is an operational matter for SAPOL and should not be interfered with by politicians. Mr Brokenshire stated that the location of police stations is a policy matter, and he highlighted recent examples of the government's proudly announcing new police station sites in the metropolitan area.

The member for Chaffey is a minister in the Labor government, and if she has any influence in cabinet she should use it. The 180 people at the community meeting were clearly let down by her comments. The member for Chaffey's solution is to set up workshops to improve relations between the community and the police. She has completely misread the issue at hand. I also refer to comments in various media outlets made by Mr John Venus, President of the Nationals SA, relating to the relocation of the Loxton police station. Mr Venus' assertion that 'the recent campaign regarding relocation of the station simply appears to be a politically motivated campaign run by Mrs Jan Cass and Mr Brokenshire' misrepresents the proactive community spirit that exists in Loxton and many other rural communities.

Local residents approached the member for Mawson (a former local resident) and me (the Liberal MLC responsible for the Riverland) with their concerns about the station's relocation. These residents suggested that a petition be circulated to express the views of many Loxton people. The overwhelming majority of the signatories have no political affiliation of which I am aware—only a desire to see the Loxton police station remain in Bookpurnong Road. It would be helpful if the Nationals SA also supported the retention of the station in its current location, as requested by a significant proportion of the Loxton community. In addition, it is time that the Rann government stopped its rhetoric and put more money into regional policing. The Loxton community should be commended for its fight, and it can be guaranteed of my support and that of the Liberal Party.

WALLAROO MINES PRIMARY SCHOOL

The Hon. J. GAZZOLA: In early April, representing the Minister for Education and Children's Services, I had the pleasure of opening the facilities upgrade of the Wallaroo Mines Primary School. The school was the first of three public schools in the Kadina area, and it has a rich history and extensive links with the community. Originally called the Wallaroo Mines Public School, it housed both primary and secondary students and was built and opened 127 years ago by the local mining company to educate the children of Cornish miners.

At its peak, at the end of World War I, when the local high school opened, over 400 children of all ages attended. The school was then relocated to its present site some 40 years ago because of health and safety issues arising from tailings from the adjacent mine, with the centenary stone being relocated at the new school site to celebrate the 125th anniversary and to continue the proud tradition of the school. Tradition, though, is not only maintained by the stone and the relocation of the original school bell but also by some of the current students who are direct descendants of students and the original school—one student being the fifth generation to attend the school—and through two of the present teaching staff, Mrs Spurling and Mrs Warren, who have connections to the original school.

The school upgrade has provided many benefits with the relocation of a classroom, the establishment of new areas and the integration of teaching resources and functions, as well as the repainting of the whole main building. The total cost of the refurbishment was achieved through government funding of $212 000 through the government's $25 million statewide School Pride program, with an additional $20 000 provided by the school. It should be pointed out that the government's School Pride initiative is the biggest one-off injection of funds to improve the appearance and morale of public schools in more than a decade. The improvements will allow the school to build on its good work in furthering literacy, numeracy and social skills through its focus on reading recovery and numeracy programs.

Not only does the school have a long and proud tradition but it also provides a recognised small school alternative in addressing and promoting student engagement in these important social and learning skills, as recognised by the steady increase in student numbers over the past four years. The school also concentrates on the wellbeing and social engagement of its students through leadership activities under its student committee structure, in addition to concentrating on educational programs around student interests. That this is a productive and valued school is recognised in the use of the school as a centre for local educators' training and development seminars, its use by other groups, as well as the expressed appreciation by parents for the school and its programs.

An audience of 150 people, plus invited guests, at the official opening of the upgrade is a testament to the good work done by the school. The additional funds provided by the government under the School Pride and Asset funding programs tangibly demonstrates the importance the government places on teachers and school communities in improving educational and social outcomes for students. This investment in the present is a guarantee for the future.

In closing, I acknowledge the attendance at the opening of the following: Mr Paul Thomas, Mayor of the District Council of the Copper Coast; Mr Trevor Tiller, District Director of DECS; Debbie Terret, Principal of Wallaroo Mines Primary School; Mr Ian Rayner, former principal; Mr Neville Gough, chair of the School Governing Council; school council members, and friends of the school, some of whom like Mrs Betty Cross, Mary Cross and Tracy Crapes, have had a long association with the school; and parents and students of the school.

STATE INFRASTRUCTURE PLAN

The Hon. D.W. RIDGWAY: I rise today to speak about the lack of transport planning being put in place by the Rann government. The government has already been through two incompetent ministers, and now it is attempting to bring in the big guns by giving the portfolio that was so beleaguered under Wright and White to the member for Elder. Both former transport ministers said that the State Infrastructure Plan would replace and, in fact, incorporate the draft transport plan. This is clearly not the case, given that the State Infrastructure Plan is missing most of the information that was included under the previous draft transport plan.

The State Infrastructure Plan is much like the State Strategic Plan in that both documents are full of grand, sweeping statements but contain little that can actually be followed up. While I agree with some of the statements contained in the plans, such as one that recommends that South Australia should aim to treble its exports to $25 billion by 2013, it gives absolutely no indication of how that figure will be achieved. In fact, we have seen on a number of occasions in this place and in the other place evidence to suggest that that target is simply not achievable and will not be achieved by 2013, and it may not be achieved by 2020 if this government does not act soon. In fact, the Rann government has no idea. It is a government this is all plan, all talk and no action.

I was astonished upon visiting the Transport SA web site to see that the draft transport plan is still up in full view, four weeks after the State Infrastructure Plan was released. Is it the case that the government, when it gets sick of the infrastructure plan, will decide to rehash the draft transport plan? It makes no sense at all. We were told one would replace the other; this has not happened. The State Infrastructure Plan has condensed the previous plan's 80 pages into about four pages. The Rann government must have realised that in order to deliver on the draft transport plan it would have to spend some actual money and not just grandstand to the media.

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

The Hon. D.W. RIDGWAY: Yes. My colleague the Hon. John Dawkins interjects: 'Some of its own money, not federal money.'

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

The Hon. D.W. RIDGWAY: As my colleague interjects again, they are very good at using other people's money and claiming other people's actions and taking the credit for them. It was stated in the State Infrastructure Plan that the Glenelg tram would be extended to North Terrace. It was later revealed that this would be at a cost of some $21 million for just over a kilometre. Then, when the Premier was overseas, he shamed the Minister for Transport with another surprise announcement: that the tram would be extended to North Adelaide. This also made a mockery of the State Infrastructure Plan, as there was no mention in that document of extending the tram past North Terrace. This document is only four weeks old and, and it has already been superseded by Emperor Rann.

The Minister for Transport has quickly become very adept at the Premier's skill for making random announcements. In fact, someone described the government to me last night as the government of ad hocrisy. When asked a question in the other place yesterday, the minister took it upon himself to use it as a forum for a new announcement. He was asked why the draft transport plan had floundered under three ministers and when would it ever come out. He replied by introducing yet another plan into the mix—a South-East transport plan. I will let my constituents in the South-East know not to hold their breath. Incidentally, there is no mention of a South-East transport plan in the four weeks old State Infrastructure Plan.

The minister is not answering questions or formulating anything that we have not already seen. He needs to seek further advice on the tram extension (among other areas of his portfolio). Recent figures show that this service will cost $120 million for a tram that will be used by 5 500 commuters a day. This sort of financial commitment is needed to address the huge backlog of road maintenance in the state. Recently, I completed a freedom of information application asking for details of the audit of departments prior to the construction of the State Infrastructure Plan. All the requests were denied in one form or another as no audit had been carried out. The entire process was conducted via email and was driven by the Office for Infrastructure Development, which is under the guardianship of the Minister for Transport. Not only was the process of how the Rann government derived the State Infrastructure Plan not as open and accountable as they claim it to be, but apparently my copy was incomplete as they keep announcing projects that no-one has ever seen before.

Time expired.

BICYCLES

The Hon. IAN GILFILLAN: On Monday 7 May this year 4 000 cyclists gathered in Victoria Square and rode or walked their bikes in silence to Parliament House in honour of Ian Humphrie who was killed on the Kapunda Road in November 2003. These cyclists had several issues on their mind as well as paying respect to Ian Humphrie on his tragic death. Driver education is the key issue with cyclists. We believe—and I include myself in this category—that we are legitimate road users and entitled to ride in safety. It is galling to see vehicle advertising that shows cars as 'freedom machines' and 'manhood extensions', and we believe that this advertising should be tempered with sober road safety campaigns that stress that cars are purely a means of getting from A to B.

It was unfortunately significant that the Minister for Industry and Trade (in answer to my question earlier) made it plain that, in his view—and I assume the government's—there is no role for the royal commission to look at road safety in its inquiry into the death of Ian Humphrie. I can assure the government that that is certainly not the opinion of those 4 000 cyclists and the many other thousands of cyclists in South Australia. We believe it is possibly the first chance where there has been a specific opportunity for an independent, competent authority to look at what really can make a difference in the long term for the safety of cyclists in South Australia. So, the extra paragraph in the terms of reference, 'You may include in your report recommendations arising from your findings as to such reasonably practicable reforms of any law, practice or procedure that will enhance or improve the safety of cyclists on public roads in South Australia' would fit that bill.

It was a blatant and callous insult, if the minister was speaking as a result of a deliberation of the government, that the only aim of this royal commission is to conduct a witch-hunt on what happened in a case some years back relating to a tragic accident when a cyclist was killed on the road. I can assure you, Mr President, through this contribution, that the cyclists of South Australia will not be pleased and gratified that the government has placed this restriction on its area of

interest in exploring the tragic circumstances surrounding that death.

Mr President, in relation to a matter that I have raised with you on several occasions—that is, the provision of appropriate parking facilities for bikes outside the front of this building—it is becoming more and more prevalent, and I recommend that you look out of one of the windows of your white car and see how prolific the quite attractive cycle parking facilities are in many of the prestige buildings in Adelaide. They are not an eyesore; they are a basic essential if we are to show ourselves as a parliament that really does care about cyclists. Several people have visited me in this place on business and they have found it an embarrassment and awkward that they were unable to park their bikes in an appropriate parking facility.

The Hon. J.F. Stefani: One had it pinched.

The Hon. IAN GILFILLAN: I am told by my colleague Julian Stefani that one had his bike pinched. That is absolutely deplorable for a parliament and a government that believes we are encouraging cycling in South Australia. On the bright side, it is nice to be able to report that the Adelaide City Council's City Bikes project is up and away, and quite soon I will be availing myself of this opportunity. The City Bikes scheme allows any one of us two hours' free bike hire for use anywhere within the city limits, and one can hire the same bike for an extra period of time.

The Adelaide City Council is putting its mouth where its intention and heart is to support cycling in South Australia. I hope that example will be picked up by a government that has several of its members who pose as being cyclists and as being keen on cycling safety and cycling amenities. It is about time, Mr Acting President, that you urged the genuine article, the President, to push for proper bicycle parking facilities outside the front of this building. I can assure you, sir, that you will achieve immortal fame if, in your role as Acting President of this chamber, you can say, 'I got them there.' I promise you that I will park my bike there and say, 'Thank you, Acting President.'

Time expired.

DUTY OF CARE INCORPORATED

The Hon. NICK XENOPHON: I rise to speak about a new community group that will have its first public meeting in Adelaide. The group is Duty of Care Incorporated. It has already had its first public meeting in Melbourne, it will have another one next week in Sydney at the Sydney Town Hall and a meeting will take place in Adelaide on Wednesday 8 June at St John's Anglican Church Hall in Church Street, Salisbury at 7 o'clock. This group has been formed by three courageous former problem gamblers who are deeply concerned about the impact of gambling on the community. They are particularly concerned about the impact of poker machines, and they have a particular perspective from the point of view of problem gamblers and the impact it has had on them. They want their voice to be heard, and I believe that it is a group that deserves community support. It adds yet another voice to the growing number of community groups and organisations that are concerned about the impact of gambling. It is a group that deserves support.

The instigator for Duty of Care in New South Wales was Lana O'Shanassy who has been campaigning for a number of years and building up to this in relation to this particular organisation. The aim of the campaign has been to raise community awareness of the issues, to develop and enact solutions that will help prevent families from being affected by problem gambling and to lobby governments to legislate for a range of issues that will positively impact on the issue of problem gambling.

One of the particular issues that this group has raised in the community, which I believe will be the subject of further debate and further comment, is one that it has publicly stated. It believes that legal action against the gambling industry is something that needs to be pursued, and it has raised publicly the issue of a class action against the poker machine industry in particular. The Productivity Commission's report into Australian gambling industries, which was released over five years ago, indicated that of the 290 000 problem gamblers identified in that report—and I dare say it would be in excess of that now—between 65 per cent and 80 per cent of problem gamblers have a problem with poker machines, and more recent estimates refer to three-quarters of problem gamblers in Australia having a problem with pokies. We know from the Productivity Commission report that this contrasts with lotteries games where 5.7 per cent of lotteries games revenue is derived from problem gamblers, whereas the figure for poker machines is 42.3 per cent. Indeed, more recent studies indicate that it is closer to 50 per cent of revenue from poker machines that is derived from problem gamblers.

That is why I believe that having an organisation that is based in three states to push for reforms and to agitate for raising this issue is certainly a positive thing. I am very pleased to be associated with Sue Pinkerton, who is the secretary of Duty of Care and who has been a tireless campaigner on the issue of the impact of poker machines. She has been outspoken on that and has undertaken extensive research, in fact, having spoken at conferences nationally and in New Zealand on the impact of gambling.

We know from community surveys and the work that the Productivity Commission did several years ago that an overwhelming majority of Australians are concerned about the negative impact of gambling on the community. We know here in South Australia that something like three-quarters of South Australians want to see a reduction in the number of poker machines and, in fact, two-thirds want to see a significant reduction. That is why I welcome and strongly support the formation of Duty of Care Inc. and its first public meeting in Salisbury on 8 June. I urge members of the community and members of this place and the other place to attend and support the objectives at that meeting to reduce the harm and devastation caused by problem gambling in the community.

TRANSPORT MINISTER

The Hon. R.I. LUCAS (Leader of the Opposition): Members will be aware and find it no surprise that my views in relation to minister Conlon are such that I do not believe that he should have been or should continue to be a minister in this government. Members will also be aware that he was previously sacked as the minister of police by the Premier. Members will also be aware that he was appointed as Minister for Transport with responsibility for road safety just on two months ago in March this year. In recent days minister Conlon has issued a series of statements on road safety: a ministerial statement on 23 May entitled 'Putting road safety first' and press releases over the weekend which include 'Budget boost to make roads safer' and 'Long life roads: a Rann government commitment' in relation to the road safety issue.

A number of people have expressed very strong views to me that minister Conlon has no credibility at all on the issue of road safety and should not be a minister with responsibility for road safety. The Adelaide *Advertiser* of 7 February 1998 made reference to the Hon. Mr Conlon's record in relation to road safety. It said:

> The Opposition's police spokesman Mr Patrick Conlon has been disqualified from driving for six months, after recording a blood alcohol reading of more than twice the legal limit. Mr Conlon, 38, blew 0.102 at a random breath testing station in Sir Lewis Cohen Avenue in the southern parklands about 6 a.m. on November 15 last year.

Mr Conlon went on to argue that he was picking up his car on the Saturday morning after drinking with friends.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! Interjections on both sides of the council are out of order.

The Hon. R.I. LUCAS: The member was represented by his lawyer Mr Bill Morris who, of course, has gained some notoriety in recent days with references in both the House of Assembly and on the media program *Today Tonight*. I refer to what occurred in a similar situation in Western Australia when minister Alannah McTiernan was stripped of her road safety responsibility. She was the minister for transport and had responsibility for road safety issues, and it was discovered that she had in her record a drink driving conviction together with other offences. The equivalent of the RAA in Western Australia is the RAC. Its Traffic and Safety Manager, Dick Stott, said:

> It would be very difficult to persuade the public that drink-driving is highly dangerous when the minister responsible for road safety has committed this offence.

Minister McTiernan, after some pressure, indicated, 'I could not go out and speak credibly about issues of road safety'.

The Hon. D.W. Ridgway interjecting:

The Hon. R.I. LUCAS: Minister McTiernan was sacked by Premier Gallup in relation to issues of road safety. Minister McTiernan continued with responsibilities for transport and other areas.

The Hon. R.K. Sneath: You are a low life.

The ACTING PRESIDENT: Order! The Hon. Mr Sneath is out of order.

Members interjecting:

The ACTING PRESIDENT: So are other interjections.

The Hon. R.I. LUCAS: *The Western Australian* had a series of articles under the headings 'Rotten driver' (on page 1), 'Gallup had to act on bad driver', 'Gallup fails the first test of his integrity' and 'Gallup caught in double act of his own making.' It was a significant and controversial issue in the Western Australian media during that particular time. I note that minister McTiernan, as I said, continued with her other portfolio responsibilities.

I also note that a number of members, Liberal and Labor, in all states of Australia have committed traffic offences and that has not and should not preclude them, in and of itself, from continuing to hold ministerial and shadow ministerial responsibilities. However, the precedent established in Western Australia and in other states is that it certainly prevents ministers or shadow ministers from continuing with responsibility in relation to the critical issue of road safety.

I never cease to be amazed at Premier Rann's arrogance in South Australia in relation to this issue in appointing minister Conlon to this position, and I will never cease to be amazed, I must admit, at the South Australian media's unwillingness to tackle the Rann government on these sorts of issues. It is my view that minister Conlon has no credibility on the issue of road safety, given his own record, and that he should be sacked immediately in relation to the responsibilities for road safety whilst, as I said, I accept, based on precedent, that he can continue with responsibilities in other portfolio areas.

CABINET, EXECUTIVE COMMITTEE

The Hon. J.F. STEFANI: I move:

> That this council notes with concern the recent appointments made by the state government to the executive committee of the state Labor cabinet and to other positions.

Following the recent political appointments of Monsignor David Cappo and Mr de Crespigny to the executive committee of the Rann Labor cabinet, there has been much publicity, public comment and debate about the appropriateness or otherwise of these appointments. I would like to place on the public record that I strongly oppose the appointment of non-elected, non-government people to the executive committee of the state government cabinet and particularly question the involvement of the second highest ranking priest of the Catholic Church in South Australia in the three political appointments he currently holds and which are as follows:

- 13 March 2002—chairman of Labor's Social Inclusion Unit;
- 7 August 2003—member of Labor's Economic Development Board;
- 20 April 2005—member of the executive committee of the Rann Labor cabinet.

I will speak at length on these appointments later in my contribution to this motion, but for the time being I will focus my remarks on the more recent appointments to the executive committee of the Rann Labor cabinet.

In an article published by *The Australian* of 20 April 2005, the appointees were described as two trusted and influential confidantes of the Rann Labor government who will join the three most senior executive members of the Rann Labor cabinet. The two advisers are believed to be the first non-elected, non-government people in Australia to take up such positions in the inner circle of a government's decision-making. In the article the Australian National University constitutional law expert, Mr John Williams, was quoted as saying that Monsignor Cappo was a man of great integrity but that his elevation to the position on the cabinet committee would raise dilemmas. Mr Williams said:

> Even with the greatest will in the world he could find himself in the position of divided loyalties in his position with the church and the state.

Mr Williams' observations are very accurate because Monsignor Cappo, as a man of the cloth and the second highest ranking priest in the hierarchy of the Catholic Archdiocese of Adelaide, would find himself in total conflict with Premier Mike Rann, Treasurer Kevin Foley and the Minister for Transport, Pat Conlon, on issues such as poker machines, homosexual laws, same-sex couples laws, marijuana laws, etc. It is therefore impossible for Monsignor Cappo, as a high ranking cleric of the Catholic Church in South Australia, to involve himself in the manner that he has without causing an enormous conflict between the church that

he represents as a vicar-general and the political appointments which he holds, which require him to work alongside the leaders of the Rann Labor government who support and hold very different and opposing views which are contrary to the teachings of the Catholic Church.

Many Catholic people and many Catholic priests share my view that Monsignor Cappo's present position involving these political appointments to public office—which entails participation in the exercise of civil power—is quite untenable. I intend to place further important information on the public record about these matters at a later stage.

I now wish to refer to various comments that have been published in the press regarding the recent appointments by Premier Mike Rann to his inner sanctum—Labor's cabinet senior executive committee. This inner sanctum would be very different to that which the Vicar-General would be familiar with in his experiences as a priest of the Catholic Church. The appointment of the two unelected members has raised the eyebrows of members of both the Catholic Church and the business community. I note with interest that, in an article published in *The Australian* of Friday 22 April 2005, Mr de Crespigny was quoted as follows:

> People have seen in all my business dealings that I'm very apolitical. I abide by the laws of the land we operate in.

In the same article, as chairman of Labor's Economic Development Board, Mr de Crespigny was quoted as follows:

> From its inception, the board said that we didn't feel the state was best served by money being given to specific companies.

This is a very different position to the one he took when, as the former chairman of Normandy Poseidon, a funding application was made to the state Liberal government for his company's head office to remain in Adelaide.

An article by Ms Alex Kennedy, published on 24 April 2005 in the *Independent Weekly*, entitled 'Discomfort over Champion de Crespigny', states:

> The silence is deafening. South Australia's business community is generally far from impressed by Mike Rann's appointment of Robert Champion de Crespigny to the executive committee of the State Cabinet. But it seems that no-one is about to break ranks and say so.
>
> More and more the business community sees de Crespigny as omnipotent and untouchable because of the status Rann has bestowed upon him. This appears to have created a level of wariness about communicating exactly what they think of the de Crespigny role in the running of South Australia. Behind closed doors, they pull no punches. They hate it. Some claim to find it intimidating. They feel this powerful businessman now has too much power, and far too much information at his fingertips.
>
> If you step back and look at the two most powerful roles he has—chair of the economic development board and now member of the executive committee—you can understand what's bugging business. These two positions give this one businessman access to almost every aspect of economic, business and financial information relating to SA, and probably at times the nation as well. He not only has access to cabinet decisions, policy decisions, investment decisions, but his input can also formulate them and mould them, or can them.
>
> What's bugging business is that this one businessman has, to all intents and purposes, as much information about the State as the Premier. And if you are to believe some disaffected Labor people, far too much power over the Premier himself. It's hard to see Mike Rann being overpowered by anyone's personality. However, there have been rumours out of Government for more than a year now of concern among senior public servants, and other Ministers, about how much entree de Crespigny has to the Premier, and how much attention Rann pays to his views. How right or wrong that view is, is obviously impossible to determine, but it is true that no 'outside' person has ever had as much sway as de Crespigny over SA's government processes in recent history.
>
> There seem to be two quite distinct issues that relate to this concern. The first is the influence itself. If it is simply a case of a Premier being publicly upfront that he lacks the business nous and economic knowledge to do the job himself, and so needs to bring in outside help, then it is excellent he feels confident enough to call in assistance. And the State must benefit hugely from the knowledge that a less confident Premier would have shunned. However, too often for his own good, it makes the Premier look less in charge than he should be (to the extent some of his colleagues refer to de Crespigny as 'Premier Too').
>
> The second issue is the enormous number of other investment roles and positions de Crespigny holds in the Australian community. He's a player, a big one, and as such much of what he does, or doesn't do, is affected by either State or Federal government policies and cabinet decisions. This appears to be the main concern of the business community. No-one is suggesting that de Crespigny would use the plethora of commercial in confidence information gained through his power within Government to further his outside interests, to increase an investment or to decide not to make one. Absolutely not.
>
> However, that Caesar's wife must be seen to be above suspicion, comes into play. For the sake of the Government's relationship with the national as well as local business community, there is no doubt that de Crespigny resigning from all of his outside positions and putting his investment portfolio in the public domain exactly as politicians must do, would clear away most of the angst. Obviously he would already have been required to decide the secrecy provisions that all ministerial advisers must, and surely the Premier will be able to reassure Parliament that something is in train to ensure he can be bound by Cabinet confidentiality.
>
> Stepping back from his business interests for the sake of SA and the Premier's reputation would seem to be the next obvious step. It's a lot to ask someone with such massive investments and private sector positions, but there is a lot of power there and surely something has to give?

The important issues that emerge from this article relate to:

- the requirement for the appointees to sign secrecy agreements that apply to all ministerial advisers and the tabling of such agreements in parliament;
- an assurance to parliament by Premier Rann that the two new members of the Executive Committee will be bound by cabinet confidentiality; and
- the fact that, as new appointees to the Executive Committee are in a position to potentially influence the exercise of public power through the cabinet ministers, they must provide to parliament a declaration of their pecuniary interests and investments, together with details of the positions they hold, as is now required of all ministers.

As the appointment of non-parliamentarians to the Executive Committee of Labor's state cabinet has been described as unusual and unprecedented since the inauguration of responsible government over 150 years ago, the Premier must ensure that all deliberations of the new Executive Committee of the cabinet are recorded in writing, because new members of the Executive Committee are non-parliamentarians and, therefore, are not answerable to parliament or to the people of South Australia in the same way as all ministers under the existing constitutional conventions and parliamentary practices.

I now wish to deal with the three political appointments of the Vicar General, who is a leading figure of the Catholic Church in South Australia. Following each of the appointments, there has been much publicity about the role of the Vicar General, who has accepted and assumed three positions in public office which, in my view, entail participation in the exercise of civil power. The acceptance of the latest appointment on the executive committee of the state Labor cabinet will further add to the perception, even if it is not true, that a member of the hierarchy of the Catholic Church is facilitating, supporting and even endorsing the policies, strategies and political agenda of the Rann Labor government. This perception has been created by the enormous media publicity and extensive public comments attributed to Monsignor

Cappo and reported in more than 50 newspaper articles published between 14 March 2002 and 8 May 2005. I intend to speak further about this matter at a later date. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

SOCIAL DEVELOPMENT COMMITTEE: STATUTES AMENDMENT (RELATIONSHIPS) BILL

The Hon. G.E. GAGO: I move:

That the report of the committee on the Statutes Amendment (Relationships) Bill be noted.

I am pleased to report on the Social Development Committee's inquiry into the Statutes Amendment (Relationships) Bill 2004. The committee received over 2 000 submissions, including 68 from organisations. Of written submissions, 57 per cent supported the bill and 43 per cent opposed it. We also heard oral evidence from 37 people in support of their written submissions. The committee met frequently over the course of the inquiry, which commenced in December last year. The inquiry was a very difficult one, not only because of the complex range of issues involved but also because of the strongly felt views and beliefs of committee members about various aspects of this matter.

The committee was vigilant in its commitment to expedite this inquiry and in its presenting a comprehensive report to parliament as soon as possible, as recommended by the Hon. Terry Cameron, who was responsible for referring the bill to the committee on 8 December last year. The Hon. David Ridgway, on behalf of the Liberal opposition, and his colleague on the committee, the Hon. Michelle Lensink, also recommended that the inquiry be dealt with expeditiously and given priority, as did the Democrats.

Before continuing, I would like to acknowledge the members of the Social Development Committee: Ms Frances Bedford, Mr Jack Snelling, Mr Joe Scalzi, the Hon. Michelle Lensink and the Hon. Terry Cameron. I would also like to thank the staff of the committee—Research Officer, Ms Susie Dunlop, and the secretaries, Ms Robyn Schutte and Ms Kristina Willis-Arnold—for their hard work and diligence. I also acknowledge the support of the Attorney-General (Hon. Michael Atkinson) and the Minister for the Status of Women (Hon. Stef Key). Both have assisted this inquiry by providing extra resources to the committee, such as the provision of legal and technical advice from the Attorney-General's senior legal officer, Ms Katherine O'Neill. These additional resources facilitated the expedition of this inquiry.

The report tabled yesterday was the majority report of the committee. However, dissenting views were recorded, including the tabling of a minority report. The inquiry was clearly focused on the effect of the legislative amendments proposed in this bill. Therefore, we did not consider issues of adoption and access to reproductive technology, which are not included in the bill, nor did we address same-sex marriage, which we believed was entirely out of the scope of the inquiry. Having said that, we were comprehensive in our consideration of views relating to the general implications of the bill in society, which related to a broad range of issues.

I also highlight that the inquiry was advertised in the media through normal channels. No recommendations to the contrary were put forward by any committee member, despite criticisms to this effect in the minority report presented by the Liberal opposition members of the committee. I would also like it noted that the statistics on evidence were reported in a standard fashion. Irrespective of whether there was a majority support or opposition for the bill amongst those responding to the inquiry, I am sure that I do not need to remind members that it is the responsibility of parliamentary committees to consider a range of community views, including those of minority groups, in a balanced way and to make recommendations which are based on sound principle and provide long-term future policy direction. I believe the report and recommendations before you do just that.

In summarising the evidence presented to the committee, those who supported the bill generally argued on the grounds of equity for gay and lesbian people and that current legislation is unjustly discriminatory. They argued that same-sex couples and their families are part of the community and deserve recognition and equal protection under the law. Many also believed that legal recognition will send a message of acceptance and equality to the community, contributing to improving the general wellbeing of gay and lesbian people and reducing social exclusion.

In evidence against the bill, many concerns were based on religious teachings and beliefs and views about reproductive biology. The main objection was that the bill might reduce the status and importance of marriages and families in our society and lead to moral decay and a range of social problems. Another major issue raised by those opposing the bill was the belief that the bill does not go far enough because it does not address all relationships in the community that are subject to legislative discrimination, namely, non-sexual domestic co-dependent relationships. I will outline the committee's recommendations in relation to these issues in due course.

As members would be aware, the relationships bill, as it currently stands, seeks to amend 82 state acts so that same-sex and opposite sex de facto couples are treated identically under the majority of South Australian laws. Issues relating to sexuality are always likely to be contentious as different perspectives exist within our community. However, having looked at all the evidence presented and considered all the relevant matters carefully, the Social Development Committee has resolved that the law in this state does unjustly discriminate against same-sex couples. The committee therefore supports the bill with some amendments, which I will outline later.

More than 2 000 South Australian men and women currently live in same-sex de facto relationships, and over 300 of these couples are raising one more children. There is ample evidence that these people suffer unjustifiable hardship and expense which cannot be remedied other than through law reform. They are denied the basic rights that other couples take for granted. For example, a same-sex partner is not entitled to any inheritance if their partner dies unexpectedly without a will. They are also not protected by the provisions of the De facto Relationships Act in settling property disputes if the relationship breaks down. Their children and families are also unfairly disadvantaged by the law in this state. For example, a child stands to suffer considerable financial disadvantage because their parent cannot access compensation if their same-sex partner is wrongfully killed or injured. The committee found this to be unacceptable. We believe that the government has a duty to ensure that all families in the community are protected and assisted by the law.

People living as same-sex couples also incur higher expenses and other couples. For example, they have to pay higher rates of stamp duty to transfer a property into joint names as though they are two single people, yet they

contribute to our society in the same way that other people and couples do: as workers, taxpayers, parents and so on. It is true that in a small number of instances different treatment under the law results in an anomaly or minor benefit. For example, both members of a same-sex partnership can claim a first home owner's grant. Clearly, same-sex couples in this state are willing to accept these cost responsibilities that come with legal recognition.

Under the vast majority of laws, however, same-sex couples are disadvantaged. What's more, South Australia is now the only Australian jurisdiction that has not given comprehensive legal recognition to people living as same-sex de facto couples. It does not make sense that discrimination on the basis of sexuality and gender has been outlawed in this state since 1984 and yet, in 2005, more than two decades later, we still do not recognise the relationships of gay and lesbian people. We know that some would argue that these are two separate issues, but I do not think this is correct when we are talking about sexuality. Relationships are central to a person's sexuality. What's more, the bill only seeks to assign rights and duties to same-sex couples who meet exactly the same criteria as opposite sex de facto couples. So, to advocate for discrimination against same-sex couples (as some witnesses did) would surely be on the basis of sexuality and gender—and I believe this is inconsistent with our existing law.

As I have already outlined, most opposition to the bill was based on general principles rather than specific areas of the law. Some people opposed any recognition of homosexual relationships for religious and other reasons. Many of the arguments that we heard against recognition of same-sex relationships were based on misconceptions about why our law recognises couples in the first place. This state enacted the Family Relationships Act in 1975 and the De facto Relationships Act in 1996 to give unmarried couples practical rights and duties that reflected the reality of the way many people were living and to make sure these couples and their children were certainly protected under the law. We live in a society where we now know (and have known for some time) that at least 2 000 people live as same-sex couples. In the words of our Catholic Archbishop:

> . . . there are people in our society who need to be given opportunities to live out the human realities of their relationships in a way which is protected by the law.

That is exactly what this bill seeks to do.

Many people who oppose the bill also felt that recognising same-sex couples would undermine the status and importance of marriage in our society. As the Attorney-General emphasised in introducing the bill, it does not and cannot alter the legal rights of married people. This is a matter for commonwealth law. I would also point out that under state law de facto and married couples already have equal status regarding the vast majority of legal entitlements and duties. The bill also does not alter how the law deals with rival claims between lawful spouses and de facto partners. For example, if a man died living both a wife and a de facto partner, the law would not change regarding how it would treat their claims to his estate.

The committee also rejected the suggestions made by some organisations and individuals that the bill might influence more people to stop forming heterosexual relationships or getting married or that they might choose to form homosexual relationships because they may be able to access a reduced stamp duty rate, for example. We generally found that a wide range of concerns which were raised about the bill regarding its potential to lead to social problems were unsubstantiated. The committee felt that it would be highly unlikely that assigning legal rights and duties to a few thousand same-sex couples, who already live together in our community, would exert much (if any) influence on the potential to lead to a broad range of social problems which were raised in evidence: such as family breakdown, drug abuse, suicide, or even teenage pregnancy. There is certainly no evidence to show any connection between these social trends and same-sex couple law reform in other states or countries.

I would also like to emphasise again that this bill will only give rights to people living together as genuine de facto couples. They must meet exactly the same cohabitation and other requirements as opposite-sex de facto couples. The nine assessment criteria set down in the bill will help ensure their legitimacy. Hence, the committee's report and recommendations focus on those relationships which would meet the criteria for de facto status rather than other kinds of relationships such as casual sexual relationships between people of opposite or same sex which do not come under the bill's jurisdiction.

Having outlined some of the main arguments presented against the bill, it is important to point out that the vast majority of evidence against the bill did not oppose the specific entitlements that the bill would assign to same-sex couples. Many expressed support for the individual entitlements but objected to the way in which the bill proposes to achieve this. The use in the bill of the collective term 'domestic partner' for both lawful spouses and de facto partners was a concern that was frequently raised. Many felt that this does not give adequate recognition to marriage and married people.

The committee felt it was important to recognise people's concerns about the significance of acknowledging marriage in our community. We have undertaken considerable investigation around this issue and have concluded that it is possible to remove legislative discrimination against same-sex couples whilst adequately reflecting the status of marriage throughout the bill. The two are not mutually exclusive. While it will involve some significant redrafting, we have recommended that the term 'domestic partner' be replaced with its component parts 'spouse' and 'de facto partner'.

We also heard concerns from the independent schools sector that the bill might reduce the ability of religious schools to operate according to their beliefs. We have undertaken some considerable analysis of this issue and believe that the risk of this is very minimal. Nevertheless, it is important that schools are reassured, where possible, of their autonomy and freedom to operate according to their belief systems. So, we have recommended that the bill be altered in a way that provides this reassurance. Specifically, the committee has proposed that the bill be amended in a way that addresses the concerns of the Association of Independent Schools.

It seems that the association's proposal would make no practical difference to the entitlements of people living in same-sex relationships because the bill already does not propose to stop religious institutions from legally discriminating on the grounds of these people's sexuality. However, the proposed amendment would provide further clarity of this intention.

Some groups and individuals opposing the bill also raised financial concerns, namely, that the bill might lead to increased litigation with associated costs. The committee

found these concerns to be generally unsubstantiated. Advice received established that any financial implications resulting from the bill are likely to be very minor, and this is supported by the evidence from interstate. For example, in New South Wales fewer than six cases involving same-sex couples have reached the courts since legislative changes in 1999. In fact, all the evidence suggests that the bill would bring about a more efficient legal process for settling any disputes involving same-sex partners.

On the other hand, I guess that one needs to consider the cost to taxpayers of endless inquiries into the recognition of same-sex couples when we have known for a long time that they are suffering unjust discrimination. At least 12 official government and parliamentary inquiries have been undertaken in Australia into same-sex couple recognition, including the South Australian government's extensive consultation in 2003. So, that is 12 official government inquiries. The findings of this inquiry have reinforced the findings of other studies. As I have said before, South Australia is now the only state or territory where law reform regarding same-sex couples remains limited to superannuation only.

The inquiry also highlighted that there is a great deal of misunderstanding in the community about the bill and about rights and duties that arise from living in de facto relationships more generally. For example, quite a lot of people thought that the bill would create a closed court where same-sex couples could declare their relationships in secret. This is incorrect. The amendments proposed in the bill regarding Family Relationships Act proceedings relate only to the publication of identifying information such as names and photographs of the parties and are also for the protection of opposite-sex couples. What is more, restrictions relating to the publication of information from proceedings have been in place for 30 years. The committee has, therefore, recommended improved general community education about the rights and duties that arise from living in de facto relationships, including any changes arising from the bill, as well as the importance of wills, powers of attorney and other relevant legal protections and how to obtain them.

I would now like to talk about the issue of domestic co-dependents, for want of a better term. This is the issue of people living in mutually dependent non-sexual relationships who do not consider themselves to be de facto couples. This was frequently raised in the inquiry. However, to put it in perspective, only 79, or less than 4 per cent of submissions, including only six from organisations, raised the issue. It was mostly raised in the context of questions asked by committee members during the hearings. Of those who did raise this issue, some thought that non-couple domestic co-dependents should be given the same range of rights as de facto couples. Just to remind members, the bill places same-sex partners into the same definition category as de facto partners. This point of view determined that same-sex couples could be part of a broader domestic co-dependent category that received all the rights provided by the current bill. So, that was one line of argument. Others recognised that it would be inappropriate to apply all of the same rights to non-couple domestic co-dependent de facto couples and proposed that same-sex couples be removed from the de facto couple category and placed in the domestic co-dependent group. But they believed that this group should receive a more limited range of rights.

It is interesting that the minority report, which recommends that the rights of same-sex couples and domestic co-dependents be addressed as one category, is still unclear about what range of rights they are proposing should be assigned to this group. While it is fair to say that these particular positions were put forward only by people opposing the bill, there was a general view amongst those who supported the bill that non-couple domestic co-dependents may have legitimate concerns about their legal rights.

The committee believes that state legislation should be comprehensive in terms of addressing the diversity of significant relationships in the community and that it should look at the types of legal rights which might apply to non-couple relationships. However, there is a lot of evidence to show that extreme caution should be exercised in doing this. While it is safe to assume that certain intentions exist in the vast majority of couple relationships, this cannot be said for the vast range of non-couple relationships that exist in our community. I am not saying that some non-couple relationships do not have a very high level of mutual commitment and bond akin to that of many couples—the committee certainly heard examples of such relationships—however, in relation to this broader domestic co-dependent group, it would be very unwise to assume that all or even most people living together for three years or more consider their relationship to be analogous even in a general way to that of marriage or de facto relationships.

Many flatmates, for instance, would consider the primary intention of their relationships to be practical and would not expect to cohabit for the rest of their lives. They would also not want or expect their flatmate, if they died unexpectedly, to have rights to their estate in preference over their family or to make decisions about organ donation and burial arrangements. So, we believe that any entitlements should only be available to carefully defined categories of non-couple domestic relationships. One type of non-couple relationship that is often clearer in terms of mutual commitment and dependence is long-term voluntary carer relationships. Many examples that we heard about in evidence certainly had a significant caring element.

These relationships often require significant financial and personal sacrifices. They are also extremely important to the community as they provide services and support without which there would be considerable personal hardship as well as a strain on public resources. Legal recognition of non-couple relationships in New South Wales, the ACT and Tasmania (the only three states and territories that recognise non-couple relationships) is aimed at carer relationships. All three jurisdictions treat non-couple relationships as a distinctly separate legal category to couple relationships. De facto couple relationships in all three states include same-sex couples, and all three states apply a more limited set of entitlements to non-couple relationships.

In recognising non-couple domestic co-dependent relationships, we must also ensure that we eliminate opportunities whereby unscrupulous individuals might fraudulently claim to have a domestic co-dependent relationship with another and consequently rort vulnerable individuals or the public of South Australia. We must make sure that vulnerable people in our community such as the elderly and people with disabilities are not taken advantage of by those who may be motivated to make a claim on their estate, for instance.

In summary, defining the parameters of non-couple-type relationships is not as clear-cut as for couples. It is a legally complex matter and there is a wide range of issues which need to be further considered. For instance, should family members be eligible to be considered domestic co-dependents and should these relationships have precedence over other family members in relation to inheritance rights just because

one family member has cohabited with and cared for the deceased most recently? Other family members may have provided periods of care and other support at other times and in other ways. Also, would a clear distinction need to be made between relationships where the primary intention is one of mutual convenience and reliance rather than of mutual commitment and devotion? Different types of relationships might need to be considered in different ways with regard to what rights and protections are needed and relevant.

Therefore, we have recommended that the government undertake further exploration of the implications of extending appropriate legal entitlements to non-couple dependent domestic relationships. We believe this investigation should focus on those in the community who are the most vulnerable, living in highly dependent relationships, particularly carers. We would also stress that there is a need for safeguards to protect against possible rorting and to ensure that legal outcomes reflect the intentions of those parties involved in the relationship. The government may wish to achieve these outcomes through extension of the current bill or, alternatively, through a separate process of legislative change.

In conclusion, the committee urges the Attorney-General to expedite our recommendations so that this bill can be passed. It is unacceptable that South Australia remains the only state where same-sex couples are denied the basic rights that other couples take for granted. A great deal of evidence supports a view that legislation should reflect the reality of the way people in our community are living and should make sure that they and their children are protected by our law. The amendments proposed by the committee represent significant modification of the bill aimed at addressing the concerns of as many people in the community as possible without undermining the fundamental principles of the bill.

It appears that a major concern expressed in opposition to this bill is the belief that the bill does not go far enough because it does not address all relationships in the community that are subject to legislative discrimination. However, one cannot help but question the real agenda of those people who would oppose the bill outright and deny the rights of same-sex couples for the sake of others whose concerns would be more appropriately dealt with perhaps in other ways. To attempt to deal with mutually co-dependent relationships in the same blanket way as spouse and de facto relationships shows a lack of understanding of associated legal complexities and invites potential rorting and exploitation of some of the most vulnerable members of our community.

Conversely, to suggest that same-sex couples should be treated the same as non-couple domestic co-dependents and receive a lesser range of rights would be to advocate for continued discrimination against same-sex couples and would be seen by some as a weak attempt to disguise personal prejudice. Again, it was unclear which of the two positions is being proposed in the minority report. The committee has made some clear recommendations which will enhance the rights and protections of people living in domestic co-dependent non-sexual relationships and has done this in a highly responsible and carefully considered way.

The committee agrees with the premise that our government and our law should not exclude anyone who has a legitimate claim to legal recognition. Having said that, we live in a society where we know that at least conservatively 2000 people live as same-sex couples and many of these couples are raising children. These couples have a legitimate claim to legal recognition. They are an integral part of our community and it is time that the law in this state caught up with the rest of the Western world and gave them the rights they deserve. I urge all members to support this report and its recommendations.

The Hon. T.G. CAMERON: Time has not permitted me to prepare a written speech in relation to this matter, the Statutes Amendments (Relationships) Bill 2004, which was dealt with by the Social Development Committee, but some of the comments that have been made by our esteemed chairperson prompt me to get on to my feet at an early stage of the debate, and it will be my intention to conclude at a later date.

Firstly, it should be pointed out to the council that the Hon. Gail Gago, the chairperson of the committee, continually refers to the committee's report and the majority report of the Social Development Committee. I think it ought to be pointed out, for the sake of fairness both for the honourable members of this council and to all those interested in a fair assessment of issues surveyed by the committee, that it was not a majority of the members of the committee that supported the report that the Hon. Gail Gago has just referred to. There are six members of the Social Development Committee, three from the Australian Labor Party, two from the Liberals and myself as an Independent.

I think from memory I am probably the longest serving member of the Social Development Committee. Heaven forbid, I go back to the days when the Hon. Sandra Kanck and I exchanged words some 10 years ago, and this is the only report handed down by the Social Development Committee during my 10-year stint on it that I have refused to endorse, and it would be appropriate for me at a later stage of this contribution to outline some of the reasons why I was not prepared to endorse the report, notwithstanding some agreement with many of the report's findings and some agreement with some of the recommendations that were endorsed by the committee. But when the Hon. Gail Gago refers to a majority report and the committee's report it should be pointed out, for the sake of balance and fairness, that there were only three members of the six members of the committee who supported this report. It is not a majority report in terms of numbers. In order for the report to be carried by the Social Development Committee, it was necessary on nearly all occasions for the chairperson to exercise both a deliberative and a casting vote.

The Hon. Sandra Kanck: We did that for the prostitution inquiry.

The Hon. T.G. CAMERON: Be that as it may—

The Hon. J. Gazzola: Oops!

The Hon. T.G. CAMERON: It is not a question of 'Oops' as the honourable member says, but I am setting that out so that people understand that three members of the committee supported this report and three members opposed it. It achieved a majority only on the basis of the deliberative and casting vote of the chairperson. I was one of the three members of the committee who was not prepared to endorse the report—and I repeat, the first report of the committee over the 10 years that I have sat on it that I was not prepared to endorse. The committee was supported by the Hon. Gail Gago and Fran Bedford, and it was also supported by Jack Snelling. Be that as it may, he supported not only the recommendations but supported the entire report. I do not intend to finish my contribution today, as I intend to go into quite some detail in relation to my views, but I will deal briefly at this stage with a list of recommendations. Recommendation 1 is:

The committee supports the bill and recommends that the South Australian Parliament supports the following:

1.1 That the term 'domestic partner' be replaced with the term 'spouse and de facto partner', and;

1.2 That the definition of 'de facto partner' and associated criteria in the bill remain unchanged.

I have no hesitation whatsoever, and I welcome the three members of the committee, in addition to the two members of the Liberal Opposition, who supported the changing of the name 'domestic partner' with the term 'spouse and de facto partner'. It may only be a personal matter but I found the use of the term 'domestic partner' an offensive term; not only somewhat offensive but I do not believe that it in any way accurately describes what it was that the bill was intending to do in terms of the definition. So I welcome the term 'spouse and de facto partner'—heaven forbid, I would get belted with a broom if I went home and called my wife a domestic partner instead of my spouse. Be that as it may, I think it is fair to say that every member of the committee supported that change.

The Hon. J. Gazzola interjecting:

The Hon. T.G. CAMERON: No, I think every member of the committee. The Hon. John Gazzola interjects and he knows that I will respond every time he does so—I do not mind a bit of repartee, as he knows.

The ACTING PRESIDENT (Hon. R.K. Sneath): It is out of order.

The Hon. T.G. CAMERON: Interjections are out of order; I am not sure that responding to them is out of order. I think everyone will welcome the fact that we are now going to move towards using the term 'spouse and de facto' instead of the term 'domestic partner'. Recommendation 1.2 states:

That the definition of de facto partner and associated criteria in the bill remain unchanged.

If my recollection of the dissenting report moved by the Liberal opposition is correct, it supports that recommendation. However, I do have some reservations about the criteria that have been set out in the last paragraph of page 18 of the report and, for those members who may not get around to reading this report, I think those ought to be put into my contribution. They refer to the duration of the relationship; the nature and extent of the common residence; whether or not a sexual relationship exists, or has existed; the degree of financial dependence and interdependence, or arrangements for financial support between the parties; the ownership, use or acquisition of property; the degree of mutual commitment to a shared life; the care and support of children; the performance of household duties; and the reputation and public aspects of the relationship.

It is intended that those nine criteria all act interdependently. It is not necessary to satisfy all of those criteria, merely to satisfy that a court, when deciding this matter, can make a judgment as to whether or not two people are cohabiting as a couple on a genuine domestic basis. It should be pointed out—as it was clearly pointed out in a legal examination of this issue before the committee—that it is not necessary for a sexual relationship to exist, or to have existed, in order to satisfy that criteria before a court. In fact, where these criteria have been used elsewhere interstate—and I do not think it is necessary to table the court's decisions in relation to how they have treated these criteria elsewhere—quite clearly, when it comes to an assessment of the criteria, it is not necessary for a sexual relationship to exist or to have existed in order to satisfy the test.

One would have to assume that by including the proposed criteria that have been set out on page 18 and have been noted elsewhere in the report—and that were certainly enunciated in quite some detail to the committee—once this bill has been passed, South Australian courts, in determining whether two people are de facto partners under the bill if they are not married but cohabit as a couple on a genuine domestic basis, regardless of whether they are of the opposite or the same sex, will be relying upon those criteria and upon decisions taken in other courts in other jurisdictions in other states in Australia.

The reason I am emphasising criterion (c), whether or not a sexual relationship exists or has existed, is that one of the principal reasons I chose to dissent from this report was on the basis of recommendation 4, which is set out on page five of the report, and I think it is appropriate, at this stage, to read that into my contribution. Recommendation 4 states:

The government explores the implications of extending some legal entitlements to a limited category of non-couple dependent domestic relationships.

I am quoting directly from the committee's report—not a majority report, but a report which was handed down supported by three members of the committee. The recommendation continues:

This should encompass:

4.1 A focus on those in the community who are most vulnerable, living in highly dependent relationships, and their carers; and

4.2 Safeguards to protect against rorting and to ensure that legal outcomes reflect the intention of those parties involved in the relationship.

It is my contention that if you examine the criteria for de facto partners set out on page 18 of the report and, in particular, you look at clause (c) which states, 'whether or not a sexual relationship exists, or has existed' and you accept—as was the evidence that was quite clearly put before the committee by all sorts of people; I think Matthew Loader, the Commissioner for Equal Opportunity, and a whole range of other public servants who somehow were bitten by the bug and saw the necessity to rush in and give evidence in support of this report—that whether or not a sexual relationship exists or has existed is not an intrinsic and necessary part of the criteria in determining whether you have a de facto relationship.

That brings me back to recommendation 4. I would have rather seen the committee deal with the question of non-couple dependent domestic relationships. Quite clearly, they will be the forgotten group in this exercise. I was particularly disappointed with the committee's focus on their situation. However, I am extremely heartened by what appears to be movement on the part of the three government members of the committee, particularly the member for Playford (Jack Snelling). If one reads the transcript, and the questions he asked, quite clearly he believes that there is a case for extending some legal entitlements to non-couple dependent domestic relationships. I strongly suspect that it was at the member for Playford's insistence that recommendation 4 ended up on the list of recommendations.

However, my concern is that, leaving the recommendation as merely that the government will explore the implications of extending some legal entitlements to a limited category of non-couple dependent domestic relationships, that means that the moment that the law is passed they will be consigned to the dustbin of history and that any possibility of extending some legal entitlements to non-couple domestic relationships

will have disappeared, whether the entitlements be of a limited or more extensive category than the authors of the report had in mind. I would much rather that a recommendation state that, with this bill, the government will introduce legal entitlements to non-couple dependent relationships. It almost seems that the recommendation is, if not a cop-out, merely window-dressing in order to appease those who believe that domestic co-dependants ought to be extended if not the same then similar rights to those extended to same-sex partners.

I do not believe that it is sufficient for the chair of the committee merely to dismiss these co-dependent relationships on the basis that the matter was raised on only 79 occasions and that only 4 per cent of all evidence put before the committee referred to domestic co-dependants. As a member of the committee, it can be quite difficult at times even to get them on the agenda, let alone discuss their plight in any real detail. It is one of the real weaknesses I see in the report.

From the contributions made by members and, in particular, by me (I moved the resolution that this matter be referred to the Social Development Committee), I think that it is quite clear that there is a real concern that domestic co-dependants are being forgotten, notwithstanding that some other states in Australia have already moved in relation to this issue. The chairperson is correct when she states that South Australia is lagging behind, if one compares its laws regarding same-sex couples with those in other states, notwithstanding that, when Don Dunstan was premier, in 1975 he led South Australia out of the 'sexual darkness' of our punitive and discriminatory laws.

I am cognisant of the time and that I still have a long way to go in my contribution. I will speak for another 10 minutes and then I will seek leave to conclude my remarks at a later stage. It is my view that, although the proponents (and certainly the three Labor members of the Social Development Committee) advocate their support for this report, for the bill and for the need for change on this issue in South Australia, I put it to the chamber that, when one reads recommendation 4, they are also agreeing that we need to do something in relation to non-couple dependent domestic relationships. I submit to the chamber that, in conjunction with the passing of the Statutes Amendment (Relationships) Bill, we need to do it now.

I would be hopeful, if not confident, that when this bill is back before the chamber amendments will be moved. If they are not moved by me, I can certainly see them being moved by the Hon. Michelle Lensink and, if they are not moved by her and carried by this chamber, I have no doubt that Joe Scalzi, who has been championing the rights of co-dependents for a number of years now, will seek to have the bill amended to reflect one of the most vulnerable groups in our society—people who have no legal rights and who often spend their life caring for people, only to find that person dies and they end up down shitter's ditch—for exactly the same reason one would stand up in this place and argue support for and recognition of their rights and the role they play in our society and, more importantly, the contribution they make to our society. For all of the arguments one would argue that for same-sex couples, I would argue that they are all sound and valid reasons to support doing something for co-dependents.

I do not accept—and I will not accept—that we cannot move now in relation to that matter. No evidence was put before the committee in relation to any financial prohibitions. Evidence was put before the committee from a number of financial people and, whilst I did not attend all meetings, I have had a good look at the transcript, and I cannot recall any evidence from any individual which said we cannot move now to help these people because of any financial considerations. It is my intention to come back to recommendation 4 a little later on in my final contribution, when I hope to put forward something a little more substantive than what I have done today. Recommendation 2 reads as follows:

> The Attorney-General considers amending the bill to explicitly enable educational or other institutions administered in accordance with the precepts of a particular religion to discriminate on the ground of cohabitation with another person of the same sex as a couple on a domestic basis where this is considered to be against the precepts of that religion.

Once again, I have no disagreement whatsoever with the recommendation. It is a sound recommendation that is based on an accurate assessment of the evidence that was put before the committee. Where I quarrel with the report is in the use of the word 'considers', based on the evidence that was put before the committee. I invite members to have a look at the transcript; it is available to members of the council if they wish to peruse it. Quite clearly, strongly argued evidence was put before the committee by a number of religious organisations—and I hasten to add, before I get labelled as one of those religious zealots who might dare to oppose this report or this bill, that I am not a religious zealot: I respect religions. However, I do not consider myself a practising Christian, notwithstanding that I believe in God, but I will not walk down the path of my views about all of that—merely to ascribe to those people who might be opposed to certain sections of this bill, or who have concerns about whether or not they as a religion would be able to employ people who are engaged in a same-sex relationship that for those people it confronts, if not affronts and offends, the intrinsic essence of their religion.

Two of the main religions we have on this earth—the Christian and the Muslim religions—put forward evidence to the committee about what they believe in as either Christians or Muslims. One does not necessarily have to accept the beliefs of a Christian or a Muslim, or a Hindu or a Buddhist, or an animist, atheist or an agnostic for that matter, to respect and empathise with the views they put forward. I believe that is what recommendation 2 is attempting to do. But, if any member in this place believes for one moment that the Islamic Society of South Australia, or some of the Christian groups, notwithstanding the evidence put forward by the Archbishop of the Catholic Church here in Adelaide in relation to what is basically the nub of this report—that is, extending the rights and privileges, etc. to same-sex couples—see it as an affront to what they believe in, we all know that, when parliaments pass bills, from time to time those bills affront or upset minority groups within our society.

I think one of the problems with politics over the last decade or so has been the influence of some minority groups far in excess of their real numbers within society. I am not a religious person and I do not have faith, so this question of faith is a mysterious concept. I am almost jealous of a person's capacity to have faith and what it means to them in the way that they lead their life.

In relation to recommendation 2, I accept what the Christian groups (in particular, the Islamic Society of South Australia) put to the committee. I see it as essential that this bill (if passed by the South Australian parliament) must include all clauses which explicitly enable educational or other institutions administered in accordance with the

precepts of a particular religion to discriminate on the ground of cohabitation with another person of the same sex as a couple on a domestic basis where this is considered to be against the precepts of that religion. I was disappointed that the committee's report only asks the Attorney-General to consider this matter. If I was writing this recommendation, it would have been to the effect that the Attorney-General will amend the bill in this respect. I do not say this lightly. Unlike perhaps the Hon. Andrew Evans who is well-known to this house for championing causes of a social nature—

The Hon. R.K. Sneath interjecting:

The Hon. T.G. CAMERON: Did I hear an interjection?

The PRESIDENT: It was just a grunt.

The Hon. T.G. CAMERON: The President says that it was just a grunt. Somebody grunted, but it was unintelligible. Let us not sully what is a very serious subject. I am in the middle of talking about respecting the role of the various religions in our society, and I do not want to be diverted from what is a very serious subject. As I have said, although I am not a religious person and I carry no banner or flag for any particular religion, I respect a person's right to believe in what they believe, particularly the Moslem religion where there are specific references in the Koran to matters of this kind, where teachers in their schools or their priests believe that having sex with a person of the same sex is against the will of God, that it is heresy. To support this recommendation would be tantamount to a desecration of the Koran or the Bible—and I am not prepared to do that.

Whilst I have great pleasure in supporting a bill which extends additional rights to same-sex couples, it will only be done in conjunction with supporting additional rights for co-dependents. As I see it—everyone may not share this view—I support the provisions which enable educational or other institutions on the basis of the precepts of that religion not to be forced to employ people who are in a same-sex relationship. To support anything other than that, to my way of thinking, would be to insult not only that religion but its believers and, in particular, those who preach in and practise that religion.

I will now refer to recommendation 3. I am sorry to be so long-winded, but I am only up to page 5 of a report that encompasses well over 100 pages. I will seek leave to conclude my remarks later after I deal with recommendation 3, because there is a whole lot of other statistical evidence and material—

The Hon. R.D. Lawson: Hear, hear!

The Hon. T.G. CAMERON: —do you want me to wind up—to which I would like to refer. I think someone once said that we have lies, lies and damned statistics. It is some of those damned statistics in this report that we have relied upon as facts upon which I cannot rely.

The Hon. R.D. Lawson: Gail's changing her mind.

The Hon. T.G. CAMERON: In politics one always changes their mind. I have always thought I have been pretty flexible, and my mind has been changed as a result of my participation in the Social Development Committee. One might say that I have had my eyes opened up a little and I now think a little more laterally on this subject. It is some of that lateral thinking that has got me into trouble on recommendations 2, 3 and 4. Recommendation 3 states:

> The Attorney-General implements improved community education regarding:
>
> 3.3 Rights and duties pertaining to de facto status, including changes resulting from the bill and
>
> 3.4 The importance of wills, powers of attorney and other relevant legal protections and how to obtain them.

Once again, I do not think that recommendation 3 goes far enough. I think that it should be mandatory upon the Attorney-General and/or the government to implement a wide ranging community education program in relation to the rights and duties pertaining to de facto status. However, if one has a look at the recommendation, one will see that it fails to call upon the Attorney-General to implement and improve community education programs in relation to one of the most significant changes in relation to the bill, that is, the extension of the de facto status, and all the rights, responsibilities and laws that appertain thereto, to same-sex couples.

I applaud the recommendation that calls upon the Attorney-General to implement improved community education. However, it must be not only in relation to the rights and duties pertaining to de facto status but it must also specifically refer to the changes that will be introduced for same-sex couples, because that is where the community needs education. The mere carriage of this bill, if it gets through, in my opinion, will leave the electorate in ignorance. I believe that it should be incumbent upon the Attorney-General and the government to make a specific commitment towards the community education program that it is conducting and that it also should be conducted within our school system, in our high schools, universities and TAFE.

The changes that could be ushered in by the carriage of this bill will impact upon ordinary people's lives in relation to their wills and a whole range of other relevant legal protections that a large number of people out there in the community may lose. There may well be hundreds, if not thousands, of sons and daughters of people who, as a result of this bill, could have what they are entitled to inherit dramatically changed by the Governor's approval of this bill. If we are to introduce those changes, I would like to see a clear commitment from the government that it is prepared to put its money where its mouth is, that is, if it is going to carry controversial legislation such as this, it should be prepared to front up and spend its money in improving community education where it is required, and not merely a statement that the Attorney-General implements improved community education.

At this stage of my address I have outlined which recommendations I support and my reasons for supporting them and which recommendations I oppose. It is my intention to go into further detail in relation to some of the body of the report, and I seek leave to conclude my remarks at a later stage.

Leave granted; debate adjourned.

CASINO (UNDERAGE GAMBLING) AMENDMENT BILL

Adjourned debate on second reading.

Continued from 8 December. Page 800.)

The Hon. NICK XENOPHON: I sought leave to conclude my remarks in relation to this bill on 8 December 2004 when I introduced this bill. At that time I was hopeful that an investigation that is currently being undertaken by the Office of the Liquor and Gambling Commissioner would have been concluded. My understanding is that that process has not yet concluded, so it would not be appropriate for me to comment on that further as to what action there will be with respect to that. The reason for seeking leave to

conclude my remarks was in the hope that, by this time, some conclusion would have been reached to the complaint that triggered the introduction of the bill. Notwithstanding that, the reasons I set out late last year are still relevant.

Questions need to be answered with respect to the casino's practices in relation to the blocking of minors and as to why further steps have not been taken. The issue of underage gambling in gambling establishments including, and particularly, the casino is one of significant concern. Whenever I speak at schools to Year 11 and Year 12 students, and I ask students under the age of 18 whether they have been able to gain access to the casino, there are disturbingly large numbers of students who put their hands up indicating that they have been able to get into the casino. Most recently, I spoke at a secondary college where one student from Cambodia told me that he had been to the casino and that he had no trouble getting in. He was 16 years of age. I think that most people on an objective basis would have thought that this young man looked well under 18, yet he was able to get into the casino unchallenged. That is a real area of concern.

This legislation changes aspects of the Casino Act to reduce the incidence of underage gambling and, also, to be fair to the casino, it ensures that for complaints of underage gambling, those security tapes are kept for a longer period of time. I note that the casino is undertaking something like a $20 million plus expansion. I would have thought that, given that Sky City is a significant public company, with extensive holdings both here and in New Zealand, it would certainly have the resources to implement a surveillance system that is more extensive than the current system in terms of keeping tapes and video records of those in the casino. Also, with the new digital technology, it is something that ought to be much easier to facilitate and store at a reasonable cost to the casino.

The whole issue of underage gambling is a serious one. The information I have had from students is that it is not hard to get into gambling establishments including the casino and that there is a very real problem. That is why I believe that this bill ought to be supported. If the government is serious in its commitment to problem gambling, let us deal particularly with those underage problem gamblers, because the consequences for students, particularly overseas students, can be quite disastrous with respect to a gambling problem. For people in the gambling counselling sector who deal with overseas students this is not an uncommon problem, and this bill aims to significantly reduce that problem, which will mean fewer problem gamblers in the future. I urge honourable members to support the bill.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (INDUSTRIAL MANSLAUGHTER) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 802.)

The Hon. NICK XENOPHON: I sought leave to conclude my remarks on 8 December 2004. I can indicate to the council that since that time an amendment to the government's safe work bill has been moved that is substantially the same as this particular bill, and that is something that will be dealt with by this place in the not-too-distant future, either this week or next week. Since that time my determination to bring about some fundamental reform in this area is even stronger, if that is possible, given the information that I have received, and since that time I have been contacted by Andrea Madeley, whose 18-year old son Daniel was killed in an horrific industrial accident in June last year. That matter is currently being investigated and it would not be appropriate to say anything that could in any way be seen as impinging or commenting on that process of investigation, but it would be appropriate to comment on the absolute devastation that that accident has caused, the dreadful impact to the loved ones of Daniel Madeley and, in particular, his mother Andrea who has been resolute and determined to get the answers that she deserves in relation to the death of her son, and who has already been outspoken and spoke out several weeks ago at a function organised at SA Unions in relation to the impact the death of her son has had on her, and about the broader issue of the responsibility in the workplace to ensure that we do have safe workplaces.

I note that the Hon. Bob Sneath also spoke at that event and he, like everyone else there, was deeply moved by what Andrea Madeley had to say about the death of her son and the impact on her. So, essentially, the provision in this bill will be considered by this chamber in the context of amendments to the safe work bill, and I hope that those amendments will be successful, but if they are not successful I will keep persisting with this because I believe it is the right thing to do and, as I indicated in my earlier contribution, I am convinced that had we had industrial manslaughter legislation a generation ago we would not be facing the number of deaths we are now seeing from asbestos-related disease, that if the directors of companies that manufactured and sold asbestos who exposed their workers in the asbestos-manufacturing process, such as James Hardie, had been subject to a law that would have led to their imprisonment by recklessly exposing their workers to a risk of serious injury or death, I believe the history of asbestos exposure in this country would be very different, particularly when you consider the facts that we have known for many years—some would say since the turn of the last century, at the very least since the 1940s—about the risk of exposure.

The Hon. R.D. Lawson: They could be charged with manslaughter now if they are culpable.

The Hon. NICK XENOPHON: I think the Hon. Mr Lawson is being just a touch disingenuous in relation to that, and I say that with respect to him. He is aware, as an eminent lawyer, as a senior counsel, of the current law on this, and I referred to that in my second reading speech on 8 December 2004, of the 1972 House of Lords' decision of Tesco Supermarkets Ltd and Nattrass, which is the current law in Australia, where it is quite restrictive in terms of the corporate veil and in terms of corporate conduct getting a prosecution. Further to that—and I am grateful to the Hon. Mr Lawson for his interjection—if we look at, for instance, section 59 of the current Occupational Health, Safety and Welfare Act which relates to aggravated offences where there is a penalty that includes imprisonment, in the 19 years since that particular section has been in force there has yet to be one prosecution.

The Hon. R.D. Lawson: That is how effective the law is.

The Hon. NICK XENOPHON: The Hon. Mr Lawson says that is how effective the law is.

The Hon. R.D. Lawson: A tough penalty, that is all you need.

The Hon. NICK XENOPHON: We may be coming from different directions on this particular issue. We have a

government that says it is tough on law and order, but when it comes to corporate criminal responsibility where workers are seriously injured and killed it seems that to date the government has not shown the same enthusiasm in dealing with that as it has with other areas of the criminal law.

The Hon. R.D. Lawson interjecting:

The Hon. NICK XENOPHON: I know the Hon. Mr Lawson says the government is being hypocritical. I am not endorsing that comment. I am just saying that there appears to be an inconsistency in its enthusiasm for dealing with issues of industrial manslaughter, of dealing with corporate responsibility in the workplace for workers who are seriously injured or who are killed, and that is something that this bill is attempting to deal with in a substantive way. We have already had this legislation in place in the ACT. The sky has not fallen in.

I note that the business community which opposes this bill resolutely has been working cooperatively, on the information I have obtained, to ensure compliance with the legislation and that people do not fall foul of this legislation. For those good employers who are seriously concerned with occupational health and safety, and I think if we look at our major employers such as Mitsubishi and General Motors and Clipsal, for instance, just to name three large employers, I do not think there is any question that they do take their responsibilities seriously. But for those cowboys who do not, who show a contemptuous or cavalier disregard for the safety of their workers, we need stronger legislation.

This legislation deals with the limitations that the House of Lords decision in Tesco Supermarkets Limited v Nattrass set out in terms of the difficulty in obtaining a conviction under the current law. This is about changing the corporate culture for those corporations that do not do the right thing and it will, ultimately, lead to safer workplaces and a reduction in needless deaths and serious injuries in the workplace. What happened to Andrea Madeley over the death of her son Daniel is a nightmare to which no-one else should be subjected, and I fear that, unless we reform the law in a substantive way, we will continue to see more needless deaths and serious injuries in the workplace. I commend the bill to honourable members and seek their support.

The Hon. J.M.A. LENSINK secured the adjournment of the debate.

LIABILITY OF DIRECTORS (ASBESTOS RELATED ILLNESSES) BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 802.)

The Hon. NICK XENOPHON: I introduced this bill last December, at a time when James Hardie Industries was still playing ducks and drakes with the many thousands of its victims of asbestos exposure in terms of their liability. There appeared to be some settlement reached with the union movement, in which Greg Combet was quite heavily involved, but since that time it seems the settlement has been stalled because of additional liabilities, and I understand that in the United States there are legal issues arising out of James Hardie's behaviour, in a sense, and the exposure of its liabilities in other countries, including developing countries. So it seems that it has been close in terms of a settlement, but my understanding is that the matter has not been resolved.

I hope this bill will not ultimately need the consideration of honourable members. I was hoping that by this time there would be a final resolution without any loose ends with respect to the liabilities of James Hardie and its settlement with asbestos victims. It appears that there are still some matters that need to be attended to but, should there be a breakdown in negotiations that means South Australian victims of asbestos exposure will be left high and dry, I believe that this bill will need to be seriously considered. I hope that settlement discussions will continue and that there will be a satisfactory resolution for the victims of asbestos exposure in this state.

It is worth mentioning again that, based on information I have received from the Asbestos Victims Association here in South Australia, this state now has the dubious distinction of having the highest per capita incidence of mesothelioma in the world. That is why it is absolutely vital that the directors of James Hardie are held responsible for their company's actions in the context of those people who have been left dying or for the families of asbestos victims who have already died as a result of their exposure to James Hardie products. I commend the bill to the council but, again, I hope that I can withdraw it if there is a satisfactory resolution of all matters relating to the compensation of victims in the not too distant future.

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

INFORMATION INDUSTRY DEVELOPMENT CENTRE

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a copy of a ministerial statement relating to the Information Industry Development Centre made on 25 May 2005 in another place by the Minister for Science and Information Economy (Hon. K.A. Maywald).

EDUCATION (EXTENSION) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to extend the sunset clause associated with the Materials and Services charging provisions of s106A of the *Education Act 1972* for one year to 1 September 2006.

The current provisions enable schools to charge and legally recover a fee for the cost of materials and services used or consumed by students undertaking essential curriculum.

Although the notion of 'school fees' arose during the 1960's, it wasn't until the late nineties, under the previous government, that a decision was taken to formalise the process of charging parents, and in 2000 this process was enshrined in legislation.

The intention of a compulsory Materials and Services Charge under this Government, has always been limited to providing materials, historically funded by parents, deemed essential for the curriculum, through the cheapest and most equitable approach.

In 2003, after the previous Minister had been alerted to concerns in the community, this Government introduced into Parliament a range of legislative improvements to enhance clarity and transparency with regard to the Charge. During the debate on this Bill, a range of amendments were introduced both by Independents and the Opposition and subsequently passed. One of these amendments was the requirement for a sunset clause. Although the Government did

not support this amendment, as it did not allow sufficient time for the new legislation to be fully trialled in schools, an investigation into this Charge has been conducted by the Government in order to honour this clause. Therefore in 2004, the Department of Education and Children's Services (DECS) was asked to investigate the Charge and the success of the legislative changes passed in 2003.

The Chief Executive of DECS then engaged Mr Graham Foreman to undertake an external review of the Charge. This investigation was spear-headed by a Reference Group comprising of representatives from peak groups in the education sector including members of Principals' and Parents' Associations. Mr. Graham Foreman also received submissions and comments from Members of Parliament, Unions, parents and other interested members of the community.

As a result of this investigation, the Chief Executive provided information about the spectrum of issues raised during the consultation process. Some of the issues brought to the attention of the Government, though concerning, do not require legislative change for improvements to be made. It was also evident that there had not been sufficient time to properly assess many of the legislative changes introduced in 2003. For example, in 2004 only one school successfully polled to charge a higher legally recoverable amount than the standard sum and again this year there were only 23 schools that have successfully carried out a poll.

The department has immediately acted on many of the concerns raised by preparing improved departmental guidelines and tightening practices to ensure that schools undertake the setting and collection of the Charge appropriately and in accordance with existing legislation. While a small number of schools have had difficulties in administering the Charge, most schools do abide by the rules. Additional assistance will be provided to all schools to ensure compliance over the coming year.

This Government will therefore ensure that a broad range of improvements not requiring legislative change will be introduced immediately in order to address the concerns raised during the consultation process. These improvements will make the Charge simpler and fairer for parents whilst preserving the ability for schools to recover the cost of materials and services supplied to students. Following the Government's request, the department has prepared a new set of Administrative Instructions and Guidelines in line with these changes.

For the information of the House, the issues raised during the consultation process revolved around a lack of clarity about what was included in the Charge and what families should expect to receive in return for payment of the Charge. It also highlighted the fact that there was some confusion in schools about both the debt-collection process and the polling process. There were also reports of students being excluded from the curriculum as well as a lack of discretion in some schools regarding students on School Card. Most of the issues raised stemmed from a lack of understanding of both the Charge and the School Card subsidy.

This Government has already identified solutions to address the above problems, which will be implemented over the coming months.

- A new, mandatory Notice for calculating the Charge will be provided to all schools across the State. Some of the new conditions of this form will include:
  - Schools calculating the actual costs of the items supplied to students and clearly indicating what will be provided to the student. This will give parents a better understanding of exactly what they are getting for their dollar.
  - The Notice will have to go through a central approval process so that we can address consistency and equity for the Charge across the State. Once approved schools will have to release the Notice to parents and give parents adequate time to raise any concerns they may have. When the cost of the items included in the Charge has been approved by the school community, the school will be required to issue invoices to parents based upon the original approved Notice.
  - There will be increased auditing and checking measures to ensure compliance with legislation and the new guidelines. Any reports of non-compliance with the new guidelines will be addressed through the central approval process and if necessary the school may be required to re-issue the Notice and Invoice.
  - Better information will be provided to schools including step-by-step instructions on how to calculate the Charge, compile the Notice and issue an invoice. The defined list of items will also be reinforced in the Department's Administrative Instructions and Guidelines to assist schools in identifying and calculating the cost of the essential materials and services for the curriculum. This is a major improvement, which will help parents to understand exactly what their child will get in return for payment of the Charge and will provide schools with much needed instructions on how to administer the Charge.
- Improved guidelines for undertaking polling will be introduced. Step-by-step instructions will be provided to schools regarding both the debt-collection process and the polling process. This will clear up any confusion that may have arisen and will make it easier for schools to administer both procedures. Templates will also be available to ensure the process is as simple for schools as possible.
- To ensure that no student is excluded from activities because of non-payment of the Charge, the guidelines will be strengthened to make certain children are in no way disadvantaged because their parents have not paid the Charge. Similar instructions will also be reinforced to ensure the dignity and confidentiality for School Card applicants and School Card holders is preserved. Clear instructions and training will be provided to schools about how to manage School Card applications discreetly.
- To create greater equity and fairness, the ability for schools to negotiate payment by instalment over the year will also be strengthened through step-by-step instructions to help schools to manage their budgets and allow for this provision in their own administration.

The above improvements will transform the process of charging parents by addressing the key issues of transparency, equity and fair operation of the Charge and enhancing the legislative changes already made by this Government. To complement these changes an extensive communication strategy will be implemented. An extensive campaign to encourage all eligible parents to apply for School Card will be rolled-out so that all financially disadvantaged families reap the benefits of the School Card subsidy. District Office Staff, School Administration Officers, Principals and Governing Councils will all be provided with training, detailed information and support to help implement these improvements.

This Government is taking action now and will continue to closely monitor the Charge over the coming year. The extension of the sunset clause will enable a proper assessment of some of the legislative provisions, which have only been trialled in a handful of schools.

In order to ensure the Government is continually updated on this matter, members of the reference group set up during last year's consultation process will be invited to remain as a point of reference for the government on this matter. They will be invited to continue in an advisory role throughout 2005 and 2006 to discuss current issues and provide advice on these matters.

The Government is committed to getting this right – this is an important issue for schools, parents and children alike and we need to continually monitor it to ensure it is as equitable, fair and simple as possible.

With the extension of the sunset clause until September 2006, this Bill will maintain existing legislative provisions, which have already been substantially improved upon by this Government.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Education Act 1972*

3—Amendment of section 106A—Materials and services charges for curricular activities

Subsection (16) provides that section 106A will expire on 1 September 2005. The amendment alters the date of expiry to 1 September 2006.

The Hon. R.D. LAWSON secured the adjournment of the debate.

STATUTES AMENDMENT (ENVIRONMENT AND CONSERVATION PORTFOLIO) BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

ENVIRONMENT PROTECTION (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

HERITAGE (HERITAGE DIRECTIONS) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

The *Heritage (Heritage Directions) Amendment Bill 2005* is an important step towards fulfilling the Government's suite of heritage reform policy.

Heritage has always been an important issue for our community as it is part of what defines us and is integral to the culture we live in. More than ever, heritage issues are becoming of increasing interest within our communities. Through initiatives such as the Government's Thinkers in Residence program, we are being asked to re-consider who we are, and where we are heading as a community. As we work towards defining our identity and determining our preferred future, we inevitably turn to the past to consider where we came from. The prospect of losing our common heritage – through demolition or inappropriate management – provokes a strong response from the community, particularly as we fight to conserve our heritage for the benefit of future generations.

At the last election, in response to increasing community concern regarding heritage matters, the Government proposed a package of heritage commitments. We promised to establish a Heritage Advisory Committee consisting of representatives from relevant Government authorities, departments and key community organisations. We promised a new grant program to restore Heritage Cemeteries. We promised to hold an Architecture Symposium every two years, and to celebrate our State's heritage through a new heritage awards program, the Edmund Wright Heritage Awards. We have delivered on these commitments.

Over the past year or more we have been working on the bigger question of how we protect built heritage in South Australia. We have asked how we can save buildings of significance from demolition and how we can help to protect the character of our communities. This work revealed cracks in the system.

In 2003, the Government commissioned the *Heritage Directions* report to propose new ways to improve heritage protection. Public forums were held, and more than 80 written submissions were received from groups such as the National Trust, the Property Council, the Conservation Council and the Royal Australian Institute of Architects, and from resident groups and concerned individuals.

Meanwhile, heritage issues were prominent in the pages and airwaves of local media. The message is clear—the community wants better protection for the heritage of our city and suburbs.

This Government is responding to those concerns, demonstrating our continued and unwavering commitment to improve heritage protection in South Australia.

In May 2004, the Government announced that the Government would deliver better heritage protection, through an increase to heritage funding, and through proposed amendments to strengthen both the *Heritage* and *Development Acts*.

Heritage Directions includes an extra $448 000 in 2004/05, followed by $676 000 in 2005/06, $798 000 in 2006/07 and $986 000 in 2007/08.

Approximately $2 million in total of this funding over five years is being directed towards support for Local Heritage, with an expansion of the network of Heritage Advisers to $777 000. This will result in an increased number of councils having access to professional heritage advice at the local level. This extra funding is being targeted to local councils because, more than ever before, heritage protection will be the joint responsibility of Local and State Government.

Extra funding is also being directed towards improved management of State-owned heritage assets. This includes an extra $650 000 over 5 years for the National Trust, which manages 42 State heritage buildings on the Government's behalf. This funding is being used to develop a property management program to provide a framework for sustainable management of properties.

Heritage Directions also provides $500 000 over 5 years for new heritage information and interpretation programs.

As a package, this will be the most significant heritage reform in decades.

The next, critical stage of *Heritage Directions* is to strengthen the legislation. The *Heritage (Heritage Directions) Amendment Bill 2005* has been drafted in consultation with the Department for Environment and Heritage and Planning SA, and complements the *Development* (*Sustainable Development) Amendment Bill 2005*.

The focus of this Bill is on State Heritage, and institutional arrangements, whilst the proposed Sustainable Development Bill has a focus on Local Heritage. There are strong links between the two Bills, with the intention of tying heritage protection legislation closer together after both have passed.

In early August 2004, the Government released the draft *Heritage (Heritage Directions) Amendment Bill 2004* for public consultation. I am pleased to advise that 52 submissions were received on the Bill. It is also pleasing to note the support that has been received for the Bill from a number of peak bodies.

Heritage Directions is deliberately strategic; we are working to reform and strengthen the heritage system to ensure that heritage management can be appropriately addressed well into the future.

Importantly, however—and in recognition of current inadequacies in the management of Local Heritage—this Government is working to strengthen the heritage system itself. This is being addressed both through the Sustainable Development Bill, and through *Heritage Directions'* increased funding to the Heritage Advisers network, which operates through local councils to provide support and advice to owners of heritage places.

This Government is working to fix the system and provide a strategic approach to the management of South Australia's heritage that will benefit generations to come.

In respect to this issue of increased resources for the management of heritage places, it is also this Government's intention to continue to work with our interstate counterparts, at a national level, to explore heritage incentive opportunities for owners of heritage places.

The issue of support for owners of Heritage Places has also been raised. In the past, owners of State Heritage Places have been eligible for reduced valuations where heritage listing has been determined to reduce the practical value of that place. This provision will now extend to owners of Local Heritage properties. This is included as an amendment in this Bill to the *Valuation of Land Act 1971*. The effect of this change is that expenses such as water rates, council rates, and land tax – in fact, all expenses related to property values – will be reduced for affected owners.

I take this opportunity to draw to the House's attention that the Valuer-General has advised that, in the majority of cases, heritage listing does not reduce the value of properties. This indicates that practical use can be made of heritage listed properties without affecting their valuation. None-the-less, the measure introduced in this Bill ensures that in those instances where the valuation is affected, adjustments can be made.

After taking into account the many excellent public submissions we have received, some of the key changes that the *Heritage (Heritage Directions) Amendment Bill 2005* seeks to make are as follows:

South Australian Heritage Council

The State Heritage Authority will be reconstituted as the South Australian Heritage Council. The Council will have a more strategic role, and will be given broader responsibilities, including advising the Minister on national and international developments in heritage policy and practice.

As a result of comments received in the public consultation process, the make-up of the Council has been amended to provide for an increase (by one) in its size and the ability to form Committees to undertake specific tasks. The functions of the proposed South

Australian Heritage Council have also been clarified, in order to highlight its strategic role and the reduction of its administrative role.

South Australian Heritage Fund and Heritage Register

The State Heritage Fund will be renamed the South Australian Heritage Fund, and the State Heritage Register, the South Australian Heritage Register. The Register will list buildings of both State and local significance, making the listing process simpler and improving protection for local heritage buildings. The scope of the Register will be expanded to include local heritage places and Local Heritage Zones (known as Historic (conservation) Zones in the current *Development Act 1993*.

Movable Objects

The Act will allow for movable objects to be included in the entry of a place in the State Heritage Register if they are judged to be related intrinsically to the heritage value of the place.

Archaeological Provisions

Sections of the Act relating to excavation and removal of artefacts, and protection of archaeological sites or artefacts, will be strengthened and extended.

Places of Speleological Significance

The Act will allow for the designation of places for their speleological significance, in addition to the existing provisions for geological, archaeological and palaeontological significance. The amendments also allow for an increase in fines for damage of such places and for not complying with the conditions of the South Australian Heritage Council's permits relating to them.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Heritage Act 1993*

4—Substitution of long title

The long title of the Act is to be revised in order to make reference to the principal purposes of the Act, being to make provision for the identification, recording and conservation of places and objects on non-Aboriginal heritage significance, and to establish the South Australian Heritage Council.

5—Amendment of section 1—Short title

The short title of the Act is to be altered to the *Heritage Places Act 1993*.

6—Insertion of section 2

The objects of the Act are to be expressed as follows:

- to recognise the importance of South Australia's heritage places and related objects in understanding the course of the State's history, including its natural history; and
- to provide for the identification and documentation of places and related objects of State heritage significance; and
- to provide for and promote the conservation of places and related objects of State heritage significance; and
- to promote an understanding and appreciation of the State's heritage; and
- to encourage the sustainable use and adaptation of heritage places in a manner consistent with high standards of conservation practice, the retention of their heritage significance, and relevant development policies.

7—Amendment of section 3—Interpretation

This clause makes provision for the definitions required for the purposes of the Act. A key definition to be inserted into the Act will be a definition of ***place***, which is to be defined as follows:

place means—

(a) any site or area, with or without improvements;

(b) any land;

(c) any building, structure or other work, whether temporary or permanent or moveable or immovable (including an item or thing that is permanently fixed or moored);

(d) any other location, item or thing that constitutes a place within the State,

and includes—

(e) any fixtures or fittings;

(f) any land where a place is situated;

(g) any subsurface area;

(h) any part of a place.

8—Substitution of heading to Part 2 Division 1

This is a consequential amendment.

9—Substitution of sections 4 and 5

The *South Australian Heritage Council* is to replace the State Heritage Authority. The Council will consist of the following members:

(a) not less than 6 and not more than 8 persons who, in the opinion of the Governor, have knowledge of or experience in history, archaeology, architecture, the natural sciences, heritage conservation, public administration, urban and regional planning or property development (or any combination of 2 or more of these fields), or some other relevant field; and

(b) 1 person with knowledge of or experience in heritage conservation chosen from a panel of 3 such persons submitted to the Minister by the Local Government Association of South Australia.

The functions of the Council are to be revised so as to provide as follows:

(a) to provide advice (especially from a strategic perspective) to the Minister on matters relating to—

(i) trends, shortcomings and opportunities with respect to heritage protection at the State and local level and, insofar as may be relevant, at the national level; and

(ii) the development and effectiveness of heritage conservation programs, policies, initiatives and incentives; and

(iii) the operation and enforcement of the Act; and

(iv) other issues referred to the Council by the Minister for consideration and report;

(b) in connection with the administration of the Act—

(i) to administer the *South Australian Heritage Register*; and

(ii) to identify places, and related objects, of State heritage significance, and to enter them in the Register; and

(iii) to identify areas of State heritage significance, and to promote their establishment, in appropriate cases, as State Heritage Areas under the *Development Act 1993*; and

(iv) to initiate or support community awareness programs that promote public understanding and appreciation of the State's heritage, taking into account the objects of the Act; and

(v) to promote the objects of the Act in such other manner as the Council thinks fit, including through the work of other bodies or persons;

(c) to provide advice (especially from a strategic perspective) to the Minister to whom the administration of the *Development Act 1993* is committed on matters relating to—

(i) the interpretation or application of the criteria set out in section 23(4) of that Act (and, if appropriate, the consideration of any potential amendment with respect to those criteria); and

(ii) other matters on which that Minister is required to consult with the Council under the provisions of that Act;

(d) to perform any other function assigned to the Council by or under the principal Act or any other Act.

10—Amendment of section 6—Conditions of membership

11—Amendment of section 7—Proceedings of Council

These are consequential amendments.

12—Insertion of section 7A

The Council is to be given express power to establish committees (which may, but need not, consist of or include members of the Council).

13—Amendment of section 8—Delegation

It is appropriate to allow the Council to delegate a power or function to a person for the time being holding or acting in a particular office or provision.

14—Amendment of section 9—Remuneration

This is a consequential amendment.

15—Substitution of heading to Part 2 Division 2

16—Amendment of section 10—South Australian Heritage Fund

The State Heritage Fund is to continue as the *South Australian Heritage Fund*.

17—Amendment of section 12—Application of money from Fund

This is a consequential amendment.

18—Substitution of heading to Part 3

19—Amendment of section 13—The Register

The State Heritage Register is to continue as the *South Australian Heritage Register*.

20—Substitution of section 14

The Register will contain a description or notes with respect to—

(a) any place entered (either as a provisional or confirmed entry) in the Register under Part 4 of the Act; and

(b) any place taken to be entered in the Register under Schedule 1 (as enacted on the commencement of the Act);

(c) any local heritage place designated by a Development Plan; and

(d) any State Heritage Area; and

(e) any local heritage zone or local heritage policy area established by a Development Plan; and

(f) any place within the State—

(i) entered in any register of places of natural or historic significance; or

(ii) declared to be a *World Heritage Property*,

under a law of the Commonwealth; and

(g) any heritage agreement; and

(h) any other matter prescribed by the regulations.

The Council will be able, in relation to a place or area that is entered in the Register—

(a) to include as part of the entry for the place any tree, component or other item, feature or attribute that, in the opinion of the Council, forms part of, or contributes to, the heritage significance of the place or area; or

(b) to include as part of the Register any object (not necessarily being located at the relevant place or area) that is, in the opinion of the Council, an object of heritage significance.

21—Amendment of section 15—Register to be available for public inspection

The Register will be kept available at a designated office and may be kept in the form of a computer record. The Council will be able to exclude from public inspection details of the location of any place or object that may be at risk if the location is disclosed.

22—Amendment of section 16—Heritage significance

The term ***heritage value*** is to be replaced with ***heritage significance***. The heritage significance of an object (as it relates to a place or area entered in the Register) may now be important in its own right.

23—Variation of section 17—Proposal to make entry in Register

A number of consequential amendments must be made to section 17 of the Act.

24—Amendment of section 18—Submissions and confirmation or removal of entries

The Minister will be able to direct the Council, by instrument in writing, to defer making a decision on whether or not to confirm a provisional entry in the Register if the Minister is of the opinion that the confirmation may be contrary to the public interest. The Minister will also be able, after consultation with the Council, by instrument in writing, to direct that a provisional entry be removed from the Register if the Minister is of the opinion that the confirmation of the entry would be contrary to the public interest.

25—Amendment of section 19—Registration in Lands Titles Registration Office

This is a consequential amendment.

26—Amendment of section 20—Appeals

An appeal will not lie against the removal of a provisional entry at the direction of the Minister.

27—Amendment of section 21—Correction of errors

The Council will be able to correct an error in the Register. The Council will give appropriate notice of a decision to take action under section 21.

28—Amendment of section 22—Certificate of exclusion

The Council will be able to decide whether or not to invite public submissions on an application under section 22 (but will be required to take into account the criteria under section 16 in making this decision).

29—Substitution of heading to Part 4 Division 4

This is a consequential amendment.

30—Amendment of section 23—Council may act if registration at State level not justified

It is to be clear that section 23(1) of the Act relates to a State Heritage Place.

31—Substitution of section 24

This amendment revises the scheme for altering the designation of a place from a State Heritage Place to a place of local heritage value. The Council will be required to invite submissions on the matter. The Council may then make a recommendation to the Minister to whom the administration of the *Development Act 1993* is committed that the appropriate Development Plan be amended so that the relevant place is designated as a place of local heritage value.

32—Substitution of heading to Part 5 Division 1

This is a consequential amendment.

33—Amendment of section 25—Places of geological, palaeontological or speleological significance

The penalty under section 25 of the Act is to be revised. Items of speleological significance are to be protected under this measure.

34—Amendment of section 26—Places of archaeological significance

The penalty under section 26 of the Act is to be revised.

35—Substitution of sections 27 and 28

The provisions relating to the protection of archaeological artefacts are to be revised. A person who is aware or believes that he or she has discovered an archaeological artefact of heritage significance will be required to notify the Council of the location of the artefact (unless the person has reason to believe that the Council is already aware of the relevant object).

36—Amendment of section 29—Permits

An express power is to be given to the Council to vary or revoke a permit, or the conditions of a permit. A person who is dissatisfied with the exercise of a power under section 29 will be able to appeal to the Minister about the matter.

37—Insertion of section 29A

It will be an offence for a person to buy or sell an object that the person knows, or has reasonable grounds to believe, has been recovered in contravention of these provisions (unless the person is acting with the consent of the Council).

38—Amendment of section 30—Stop orders

39—Repeal of section 31

These are consequential amendments.

40—Amendment of section 32—Heritage agreements

A heritage agreement may be expressed to apply to the person who is the occupier of the land from time to time.

41—Amendment of section 33—Effect of heritage agreement

42—Amendment of section 34—Registration of heritage agreements

These are consequential amendments.

43—Substitution of section 36

New section 36 will provide for a series of offences designed to provide greater protection for places that constitute State Heritage Places. Higher penalties will apply in relation to intentional or reckless damage to a State Heritage Place. Various defences will apply.

44—Repeal of section 37

Section 37 of the Act is to be incorporated into proposed new section 38A.

45—Amendment of section 38—No development orders

These are consequential amendments, plus a penalty is to be revised.

46—Insertion of section 38A

If a person has engaged in conduct in contravention of the Act, an application may be made to the Court for 1 or more of the following orders:

(a) an order restraining the person, or an associate of the person, from engaging in the conduct and, if the Court considers it appropriate to do so, requiring the person, or an associate of the person, to take such action as may appear appropriate to the Court in the circumstances (including an order to rectify the consequences of any conduct (including an order to make good, to the satisfac-

tion of the Minister, any damage caused by any conduct), or to ensure that a further contravention does not occur);

(b) an order that the person pay into the Fund an amount, determined by the Court to be appropriate in the circumstances, on account of any financial benefit that the person, or an associate of the person, has gained, or can reasonably be expected to gain, as a result of the contravention;

(c) an order that the person pay into the Fund an amount as a monetary penalty on account of the contravention.

The power to make un order under this section will only be exercised by a Judge of the Court.

47—Amendment of section 39—Right of entry

Express power is to be given to a person authorised by the Minister to enter and inspect a place, or to inspect any object in a place—

(a) for the purpose of determining whether a provision of the Act is being, or has been, complied with; or

(b) for the purpose of investigating any alleged contravention of the Act.

48—Insertion of section 39A

The Minister will be able to issue an order to ensure or secure compliance with a requirement imposed by or under the Act. A right of appeal will lie to the Court against the making (or variation) of an order.

49—Amendment of section 40—Erection of signs

This is a consequential amendment.

50—Amendment of section 41—Obstruction

The penalty provision under section 41 of the Act is to be revised.

51—Insertion of section 41B

No personal liability will attach to a member of the Council or any other person engaged in the administration of the Act for an honest act or omission in the exercise or discharge of a power, function or duty under the Act. Instead, the liability will lie against the Crown.

52—Amendment of section 42—General provisions relating to offences

An offence against the Act will lie within the criminal jurisdiction of the Court.

53—Amendment of section 43—Service of notices

It will be possible to serve a notice under the Act by facsimile transmission or electronically.

54—Amendment of section 44—Evidence

These are consequential amendments.

55—Substitution of section 45

The regulation-making powers under the Act are to be revised.

Schedule 1—Related amendments and transitional provisions

A number of related amendments are to be made to the *Development Act 1993*, the *History Trust of South Australia Act 1981* and the *Valuation of Land Act 1971*.

The Hon. R.D. LAWSON secured the adjournment of the debate.

JOINT PARLIAMENTARY SERVICE COMMITTEE

The House of Assembly informed the Legislative Council that, pursuant to section 5 of the Parliament (Joint Services) Act 1985, it had appointed Mr Snelling to be the alternate member to the Speaker (Hon. R.B. Such) and Ms Breuer to be the alternate member to Mrs Geraghty.

SEX OFFENDERS

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a ministerial statement on the sentencing of sex offenders made today by the Attorney-General.

[Sitting suspended from 5.55 to 7.45 p.m.]

DISABILITY SERVICES

The Hon. KATE REYNOLDS: I move:

That the Social Development Committee investigate and report upon the opportunities for people with disabilities as defined under the Disability Discrimination Act 1992 (Cth) and their carers, to take part in all aspects of social, economic, political and cultural life, with particular regard to:

1. The adequacy and suitability of existing accommodation opportunities for people with a disability, including the adequacy of plans to meet targets identified in the SA Strategic Plan for moving people from institutional care into community-style accommodation;
2. Access to appropriate and affordable equipment services, accessible transport, recreation, education, advocacy, rehabilitation and employment services for people with a disability;
3. The adequacy of support services for carers;
4. The adequacy of services for people living outside metropolitan Adelaide;
5. The progress being made by SA government agencies in the development and implementation of disability action plans;
6. The level of protection provided under the Equal Opportunity Act 1984 (SA); and
7. Any other relevant matter.

As members will see from the wording of the motion, this is primarily about improving services for people with disabilities and people who have responsibility for assisting and caring for people with disabilities. Given that tomorrow is a fairly significant day in terms of the funds that may or may not be available in the future to boost and improve service delivery, I want to draw attention to an article that appeared in the *Review* section of Saturday's *Advertiser*. The article is entitled 'The man who makes the government squirm'. I am sure that most members would have read the article, which focuses on the campaign that is being spearheaded by an Adelaide businessman, David Holst, who is the father of a young woman with an intellectual disability. His daughter Kim has featured in a lot of the advertising and campaign material the coalition's Dignity for the Disabled has been circulating around Adelaide and country communities for the past eight or nine months.

I will read part of that article into the record because, in many ways, it speaks for itself about the dire need for us to improve disability services in South Australia. The article states:

'Despite the critical need, despite diminished services for people who are unable to look after themselves, despite undertakings to parents that the crisis will be addressed, the stress and trauma of those in desperate need is continuing.' Mr Holst says, 'I have been horrified by many of the personal accounts. Marriage breakdowns, depression and other illnesses are commonplace among families and carers.'

I am sure that you, Mr President, and other members in this place would have heard many heart-rending stories from people with a disability, or from their friends or carers, or, indeed, from people who work in the disability services sector, which not only increase our levels of frustration but also increase the desperation advocates and members of parliament who involve themselves in these issues feel. The article goes on:

Regrettably, Mr Holst says they have no peak body to represent them, but only 'a fragmented group of families, service providers and disabled battling to get by day to day. Unfortunately, the political system perpetuates this problem, by requiring funding recipients to sign agreements which forbid them from speaking out against the government, no matter how great the need,' he says.

I am sure that that view is not restricted to the current government. The article goes on:

'This is un-Australian. It is simply not our way for governments to cover up unmet need, but that is effectively what happens when groups are forced into a code of silence in exchange for meagre financial support. This culture has scared people and agencies from speaking out publicly and agitating for fear of financial reprisals.'

The article concludes:

Mr Holst says that the disability sector has, as a result, become the 'forgotten sector' and he is determined to speak out. 'Enough is enough. This issue is huge and needs urgent attention, and it has to be now,' he says.

In closing my remarks tonight, I highlight (as does the article) that the latest Productivity Commission figures show that South Australia is the worst of all states and territories for disability funding with just a 7 per cent increase over the past five years compared with 26 per cent nationally. Clearly, what that shows is that the need for spending in disability services across the nation is increasing for a multitude of reasons, not just because we all need to play catch-up, not just because nowadays we recognise that people with disabilities have rights too, and not just because we have more children and adults surviving trauma, brain injury and being born with complex physical and intellectual disabilities and so on, but because people nationally recognised that we have to dramatically improve how we care for people with disabilities and how we support them to achieve their potential.

I hope that has given members a little bit of a taste of what is to come. All being well, we may find that some of the points that I have included in the motion may be able to be withdrawn if we get some good news tomorrow, but at this stage I am flagging that it is the Democrats' view that we need a comprehensive review of disability services in South Australia. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

STATUTES AMENDMENT (UNIVERSITIES) BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

The *Statutes Amendment (Universities) Bill 2005* makes a number of amendments to South Australia's three university Acts. The Bill is primarily a response to Federal reforms in the higher education sector, and in particular to section 33-15 of the *Higher Education Support Act 2003* of the Commonwealth. The receipt by the universities of growth funds from the Commonwealth (namely 2.5% in 2005, 5% in 2006 and 7.5% in 2007) is contingent on the implementation of the Commonwealth's National Governance Protocols by the Bill.

The universities will suffer significant financial disadvantage if the provisions of the Bill relating to the protocols are not implemented by 31 August 2005. The potential loss amounts to around $20 million to SA universities in 2006, an amount that will be permanently removed from university grants.

The Protocols require that the enabling legislation of each university must:

- specify the university's objectives and functions; and
- include the duties of the members of the governing body, and the sanctions for a breach of these duties; and
- appoint or elect *ad personam* each Council member (except for Chancellor, Vice-Chancellor and the Presiding Member of the Academic Board); and
- incorporate best practice provisions in respect of Council members' activities, including conflict of interest, good faith, duty relating to the use of due care and diligence and conflict of interest; and
- specify that Councils can only remove a member for a breach of duty with a two-thirds majority.

The following amendments are strongly recommended in the National Governance Protocols and, although not compulsory, are included in the Bill:

- that at least two Council members have financial expertise, and at least one member has commercial expertise;
- a limitation on the time served by a member of Council so that a member may only hold office for more than 12 years by resolution of the Council.

It is noted that, although the Bill removes the presiding members of the Student Associations as *ex officio* members, the Councils maintain the same number of student members as at present; that is, three for each Council.

The Federal Department of Education, Science and Training has confirmed that the Bill complies with the National Governance Protocols.

The Bill contains three types of amendments—

- those required for the relevant Acts to be compliant with the Protocols; and
- those sought by the Flinders University of South Australia and the University of South Australia in order to establish parity with the *University of Adelaide Act 1971*, which was amended in 2003; and
- a number of miscellaneous amendments.

The Bill deals with each university Act individually, with the amendments required by the Protocols being replicated in relation to each of those Acts. Given that the*University of Adelaide Act 1971* was only recently amended, it already meets the requirements of a number of the Protocols and hence is shorter than the Parts related to the other universities.

The following powers have been sought by the universities in consultation with the Government:

- provisions for the protection of titles, logos and official insignia;
- a statement that the universities are not agencies or instrumentalities of the Crown;
- changes to the universities power to deal with land (being only land that is not the subject of a trust or other such limitation);
- provisions that the universities are able to exercise their powers interstate and overseas;
- providing for the Vice-Chancellor to be the universities' Chief Executive Officer and principal academic (this is also required by the Protocols).

Most of these amendments are to bring the Flinders University and the University of South Australia into line with the University of Adelaide.

The Bill also extends the existing power to confer awards to include awards jointly conferred with another university, registered training organisation (within the meaning of the *Training and Skills Development Act 2003*) and other specified bodies.

The presiding members of the three Student Associations were consulted in relation to the Bill. With their agreement, the requirement that Student Associations be consulted in relation to the appointment or election of student members of Council in each university act has been removed. Given that a likely outcome of legislation currently before the Federal Parliament will be to stop payments to students unions, and hence will result in the closure of those unions, the requirement of consultation with those bodies in the course of appointing or electing student members would obviously be a barrier to the efficient appointment or election of those members. The Bill amends the relevant section of each act to enable the process for electing or selecting student members to be determined by the Council of each university. However, the Bill includes transitional provisions to enable current *ex officio* student and graduate members to see out the remainder of their terms.

As a result of ongoing discussions with the Federal Minister, the State has agreed that the proposed changes are in the best interests of the universities and the national higher education sector.

The Government has consulted broadly on the Bill with a range of stakeholders, including the Opposition, university Councils, student representatives, union representatives and other interested parties.

The Bill will assist the achievement of the South Australian Strategic Plan target T6.16 (increasing university participation to exceed the national average within 10 years). The loss of income to the universities should this Bill not pass in time would seriously challenge the State's ability to meet this target.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *The Flinders University of South Australia Act 1966*

4—Amendment of section 1—Short title

This clause amends section 1 of the principal Act to remove "*The*" from the short title so as to make the short title consisted with current practice.

5—Amendment of section 2—Interpretation

This clause amends section 2 of the principal Act by inserting the definitions of terms used in provisions to be inserted by this measure.

6—Amendment of section 3—Establishment and incorporation of The Flinders University of South Australia

This clause makes a consequential amendment to section 3 of the principal Act to remove references to the convocation of the University.

The clause also substitutes new subclauses (3) to (7) which clearly set out the powers of the University so that those powers are consistent between all 3 universities.

7—Insertion of sections 4A and 4B

This clause inserts new sections 4A and 4B into the principal Act. Those sections provide that "The Flinders University of South Australia" and "Flinders University" are official titles, and provide for the protection of the proprietary interests of the University, that is official logos, official symbols and official titles. Those terms are defined in section 2 of the principal Act. Offences relating to the use without consent of those things are established, carrying a maximum penalty of $20 000. These provisions are consistent with those currently found in the *University of Adelaide Act 1971*.

8—Amendment of section 5—Council

This clause amends section 5 of the principal Act to set out the primary responsibilities of the Council.

The clause also inserts a new subsection (2a), requiring that the Council must in all matters endeavour to advance the interests of the University.

The clause removes subsection (3)(c), abolishing the *ex officio* office on the Council of the General Secretary of the Students Association of the University, with subsection (3)(h) also being amended to make the above office an *ad personam* one, subject to the provisions of that paragraph.

Finally, the clause amends subsection (3b) to require that at least 2 members of the Council must have financial management expertise and at least 1 must have commercial expertise.

9—Amendment of section 6—Term of office

This clause amends section 6 of the principal Act to provide that a person may not, except by resolution of the Council, be appointed or elected as a member of the Council if the appointment or election (as the case requires) would result in the person being a member of the Council for more than 12 years. The clause also makes consequential amendments.

This clause also inserts a new subsection (6a), providing that an appointed or elected member of the Council may only be removed under subsection (6)(d) for serious misconduct by resolution passed by at least a two-thirds majority of the members of the Council.

The clause also inserts a new subsection (7)(f), providing that the office of an appointed or elected member becomes vacant if the member is disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth.

10—Amendment of section 16—Appointment of Chancellor, Vice-Chancellor, etc

This clause inserts a new subsection (1a) into section 16 of the principal Act, providing that the Vice-Chancellor is the principal academic and chief executive officer of the University and is responsible to the Council for the academic standards, management and administration of the University.

This clause also amends subsections (2) and (6) to include the position of Deputy Chancellor in those provisions.

11—Repeal of section 17

This clause repeals section 17 of the principal Act, abolishing the convocation of the University.

12—Insertion of sections 18A to 18E

This clause inserts new sections 18A to 18E into the principal Act.

18A—Duty of Council members to exercise care and diligence etc

This clause provides that a member of the Council must at all times in the performance of his or her functions exercise a reasonable degree of care and diligence, and act in the best interest of the University.

18B—Duty of Council members to act in good faith etc

This clause provides that member of the Council must at all times act in good faith, honestly and for a proper purpose in the performance of the functions of his or her office, whether within or outside the State. However, that does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the interest of the University.

The clause also provides that a member of the Council must not improperly use his or her position to gain an advantage for himself or herself or another person, whether within or outside the State.

18C—Duty of Council members with respect to conflict of interest

This clause sets out provisions relating to conflict of interest. These provisions are consistent with those found in the *University of Adelaide Act 1971* and the *Public Sector Management Act 1995*.

18D—Removal of Council members for contravention of section 18A, 18B or 18C

This clause provides that on-compliance by a member of the Council with a duty imposed under proposed section 18A, 18B or 18C will be taken to be serious misconduct and a ground for removal of the member from office.

18E—Civil liability for contravention of section 18B or 18C

This clause provides that if a person who is a member of the Council or a former member of the Council is guilty of a contravention of section or 18C, the University may recover from the person by action in a court of competent jurisdiction an amount equal to the profit made by the person or any other person (if one was made) and compensation for the loss or damage suffered as a result of the contravention.

13—Amendment of section 20—Power of Council to make statutes, regulations and by-laws

This clause amends section 20(1)(h) of the principal Act consequential upon the proposed repeal of section 17.

14—Amendment of section 21—Power to confer awards

This clause amends section 21(1a) of the principal Act to allow the University to confer academic awards jointly with another university, a registered training organisation or another body specified in the regulations.

This clause also inserts new subsections (4) and (5) into the section, allowing the Governor to make regulations specifying a body for the purposes of proposed subsection (1a), and excluding a registered training organisation from the ambit of the definition of registered training organisation.

Proposed subclause (5) defines ***registered training organisation***.

15—Repeal of section 23

This clause repeals section 23 of the principal Act (a prohibition on religious tests), as it is properly a matter for the *Equal Opportunity Act 1984*.

16—Repeal of sections 25 and 26

This clause repeals obsolete sections 25 and 26 of the principal Act.

17—Insertion of section 29

This clause inserts new section 29 into the principal Act, providing immunity from civil liability for members of the Council for an act or omission in the exercise or purported exercise of official powers or functions. This is consistent with the position of board members in corporations.

Part 3—Amendment of *University of Adelaide Act 1971*

18—Amendment of section 3—Interpretation

This clause amends section 3 of the principal Act to make a consequential amendment due to the joint conferral of awards.

19—Amendment of section 4—Continuance and powers of University

This clause inserts subsection (7) of section 4 of the principal Act, a provision that clarifies (should there be any doubt) that subsection (5) does not confer any power to alienate land contrary to the terms of a trust relating to the land.

20—Insertion of section 4A

This clause inserts new section 4A into the principal Act, providing that the object of the University is the advancement of learning and knowledge, including the provision of university education.

21—Amendment of section 6—Power to confer awards

This clause amends section 6(1a) of the principal Act to allow awards to be conferred jointly with another university, a registered training organisation or another body specified in the regulations.

This clause also inserts new subsections (4) and (5) into the section, allowing the Governor to make regulations specifying a body for the purposes of proposed subsection (1a), and excluding a registered training organisation from the ambit of the definition of registered training organisation.

Proposed subclause (5) defines ***registered training organisation***.

22—Amendment of section 9—Council to be the governing body of University

This clause amends section 9 of the principal Act to set out the primary responsibilities of the Council.

23—Amendment of section 12—Constitution of Council

The clause deletes subsection (1)(ab), abolishing the *ex officio* office on the Council of the presiding member of the Students Association of the University, with subsection (1)(g) also being substituted to make the above office an *ad personam* one, subject to the provisions of that paragraph.

This clause also deletes subsection (1)(ac), abolishing the *ex officio* office on the Council of the presiding member of the Graduate Association of the University, with subsection (1)(h) also being amended to make the above office an *ad personam* one, subject to the provisions of that paragraph.

Finally, the clause amends subsection (3) to require that at least 2 members of the Council must have financial management expertise and at least 1 must have commercial expertise.

24—Insertion of section 12A

This clause inserts new section 12A of the principal Act, setting out provisions relating to the terms of office of various Council members.

25—Amendment of section 13—Casual vacancies

This clause amends section 13(1) of the principal Act by the insertion of new paragraph (f), providing for the vacation of the office of a member who is disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth.

This clause also provides that an appointed or elected member of the Council may only be removed under subsection (1)(d) by resolution passed by at least a two-thirds majority of the members of the Council.

26—Substitution of section 15

This clause substitutes section 15 of the principal Act to include a reference to acting in the best interest of the University with the current provision.

27—Amendment of section 16—Duty of Council members to act in good faith etc

This clause amends section 16 of the principal Act to include references to acting in good faith and for a proper purpose.

This clause also inserts new subsection (1a), providing that a member of the Council must not improperly use his or her position to gain an advantage for himself or herself or another person, whether within or outside the State.

28—Amendment of section 17A—Removal of Council members for contravention of section 15, 16 or 17

This clause makes a minor technical amendment to section 17A of the principal Act.

29—Amendment of section 23—By-laws

This clause amends section 23(3a) of the principal Act to remove the requirement that by-laws be sealed with the seal of the University.

30—Amendment of section 25—Report

This clause amends section 25(1) of the principal Act to change the month in which a report must be presented to the Governor from September to June.

31—Insertion of section 29

This clause inserts new section 29 into the principal Act, providing immunity from civil liability for members of the Council for an act or omission in the exercise or purported exercise of official powers or functions. This is consistent with the position of board members in corporations.

Part 4—Amendment of *University of South Australia Act 1990*

32—Amendment of section 3—Interpretation

This clause amends section 3 of the principal Act by inserting the definitions of terms used in provisions to be inserted by this measure.

33—Amendment of section 4—Establishment of the University

This clause substitutes subsection (2) of section 4 of the principal Act, setting out the corporate nature of the University.

This clause also provides that the University is neither an agency nor instrumentality of the Crown.

34—Amendment of section 6—Powers of the University

This clause amends section 6(1a) of the principal Act to allow awards to be conferred jointly with another university, a registered training organisation or another body specified in the regulations.

This clause also inserts new subsection (1b) into the section, allowing the Governor to make regulations specifying a body for the purposes of proposed subsection (1a), and excluding a registered training organisation from the ambit of the definition of registered training organisation.

The clause substitutes subclauses (2), (3) and (4), and inserts new subclause (5). Subclauses (2), (3) and (4) set out provisions related to the exercise of the University's powers. Proposed subclause (5) defines ***registered training organisation***.

35—Amendment of section 7—Principles to be observed by the University

This clause repeals subsections (2), (3) and (4) of section 7 of the principal Act. These are matters properly left to the *Equal Opportunity Act 1984*.

36—Insertion of sections 9B and 9C

This clause inserts new sections 9B and 9C into the principal Act. Those sections provide that "The University of South Australia" and "UniSA" are official titles, and provide for the protection of the proprietary interests of the University, that is official logos, official symbols and official titles. Those terms are defined in section 3 of the principal Act. Offences relating to the use without consent of those things are established, carrying a maximum penalty of $20 000. These provisions are consistent with those currently found in the *University of Adelaide Act 1971*.

37—Amendment of section 10—Establishment of the Council

This clause amends section 10 of the principal Act to set out the primary responsibilities of the Council.

The clause also inserts a new subsection (2a), requiring that the Council must in all matters endeavour to advance the interests of the University.

The clause removes subsection (3)(c), abolishing the *ex officio* office on the Council of the presiding member of the Students Association of the University, with subsection (3)(h) also being amended to make the above office an *ad personam* one, subject to the provisions of that paragraph.

Finally, the clause amends subsection (5) to require that at least 2 members of the Council must have financial management expertise and at least 1 must have commercial expertise.

38—Amendment of section 11—Term of office

This clause amends section 11 of the principal Act to provide that a person may not, except by resolution of the Council, be appointed or elected as a member of the Council if the appointment or election (as the case requires) would result in the person being a member of the Council for more than 12 years. The clause also makes consequential amendments.

The clause also inserts a new subsection (7)(f), providing that the office of an appointed or elected member becomes vacant if the member is disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth.

This clause also inserts a new subsection (7a), providing that an appointed or elected member of the Council may only be removed under subsection (6)(d) for serious misconduct by resolution passed by at least a two-thirds majority of the members of the Council.

39—Amendment of section 12—Chancellor and Deputy Chancellor, etc

This clause inserts new subsection (4) into section 12 of the principal Act, allowing the Council to appoint not more than 2 Pro-Chancellors for a term of 2 years on terms and conditions fixed by the Council, and makes consequential amends related to the same.

40—Insertion of sections 15A to 15E

This clause inserts new sections 15A to 15E into the principal Act.

15A—Duty of Council members to exercise care and diligence etc

This clause provides that a member of the Council must at all times in the performance of his or her functions exercise a reasonable degree of care and diligence, and act in the best interest of the University.

15B—Duty of Council members to act in good faith etc

This clause provides that member of the Council must at all times act in good faith, honestly and for a proper purpose in the performance of the functions of his or her office, whether within or outside the State. However, that does not apply to conduct that is merely of a trivial character and does not result in significant detriment to the interest of the University.

The clause also provides that a member of the Council must not improperly use his or her position to gain an advantage for himself or herself or another person, whether within or outside the State.

15C—Duty of Council members with respect to conflict of interest

This clause sets out provisions relating to conflict of interest. These provisions are consistent with those found in the *University of Adelaide Act 1971* and the *Public Sector Management Act 1995*.

15D—Removal of Council members for contravention of section 15A, 15B or 15C

This clause provides that on-compliance by a member of the Council with a duty imposed under proposed section 15A, 15B or 15C will be taken to be serious misconduct and a ground for removal of the member from office.

15E—Civil liability for contravention of section 15B or 15C

This clause provides that if a person who is a member of the Council or a former member of the Council is guilty of a contravention of section 15B or 15C, the University may recover from the person by action in a court of competent jurisdiction an amount equal to the profit made by the person or any other person (if one was made) and compensation for the loss or damage suffered as a result of the contravention.

41—Amendment of section 16—Vice Chancellor

This clause substitutes a new subsection (2) into section 16 of the principal Act, providing that the Vice-Chancellor is the principal academic and chief executive officer of the University and is responsible to the Council for the academic standards, management and administration of the University.

42—Amendment of section 18—Annual report

This clause amends section 18 of the principal Act to require that a copy of every statute of the University confirmed by the Governor during the year ending on the preceding 31 December be included with the Annual report presented to the Minister.

43—Amendment of section 22—Jurisdiction of Industrial Commission

This clause amends an obsolete reference.

44—Amendment of section 24—Power to make statutes

This clause amends section 24 of the principal Act to remove the requirement that statutes be sealed with the seal of the University.

45—Amendment of section 25—Power to make by-laws

This clause amends section 25 of the principal Act to remove the requirement that by-laws be sealed with the seal of the University.

46—Insertion of section 27

This clause inserts new section 27 into the principal Act, providing immunity from civil liability for members of the Council for an act or omission in the exercise or purported exercise of official powers or functions. This is consistent with the position of board members in corporations.

Schedule 1—Transitional provisions

Part 1—Transitional provisions related to *The Flinders University of South Australia Act 1966*

1—Council members

This clause provides a transitional provision allowing the General Secretary of the Students Association (currently an *ex officio* position on the Council) to continue to hold office as a member of the Council until the end of his or her term.

Part 2—Transitional provisions related to *University of Adelaide Act 1971*

2—Council members

This clause provides a transitional provision allowing the presiding member of the Students Association and the presiding member of the Graduate Association (currently *ex officio* positions on the Council) to continue to hold office as a member of the Council until the end of his or her term.

Part 3—Transitional provisions related to *University of South Australia Act 1990*

3—Council members

This clause provides a transitional provision allowing the presiding member of the Students Association (currently an *ex officio* position on the Council) to continue to hold office as a member of the Council until the end of his or her term.

The Hon. R.D. LAWSON secured the adjournment of the debate.

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

Adjourned debate on second reading.

(Continued from 4 May. Page 1782.)

The Hon. A.J. REDFORD: I rise to speak on behalf of the opposition in relation to this bill. I note that contributions have already been made by the Hon. Andrew Evans and the Hon. Nick Xenophon. I indicate that the opposition at this stage supports the second reading but our position in relation to further processing of the bill will depend substantially on what happens in committee. The legislation before us is a consequence of the Stanley report which was a review instigated by the government in 2002. Mr Stanley produced a three volume report in relation to reforms to WorkCover and occupational health and safety. My understanding is that this bill represents the government's response to a large number of recommendations made by Mr Stanley in his report.

As a member of the committee on the Occupational Health, Safety and Welfare (SafeWork SA) Amendment Bill, I am not sure whether this is the entire response from the government to the Stanley report so far as occupational health and safety is concerned. Some months ago, the committee wrote to the minister seeking some understanding as to whether this is the entire response to the Stanley report as far as occupational health and safety is concerned. As per normal, as we on this side of the chamber are used to, the

minister has failed to respond to that correspondence. This is the worst minister in terms of dealing with constituent and other correspondence that I have seen in my more than a decade as a member of this parliament. Not only does he ignore letters from constituents and members of parliament but he ignores letters (pretty bland ones at that) from parliamentary committees. He is the only minister that has consistently done that.

Occupational health and safety, and in particular WorkCover, clearly have some problems in this state. If you combine the unfunded liability of WorkCover with the total liability of the public sector work force in relation to this government's management of WorkCover, we now have pretty close to a billion dollars worth of liability that did not exist when this government took office. Indeed, over the past three years this minister has continued to do a very good and very handsome impersonation of a combination of Sergeant Schultz and Corporal Agarn in that he appears to know nothing, say nothing and do nothing in relation to WorkCover.

You might recall, Mr President, that on many occasions the minister has stood up in relation to the WorkCover unfunded liability and the fact that it has blown out to nearly $700 million (and I note that we do not receive regular figures any more; we receive only half yearly figures). The minister regularly points the finger at the former government and says, 'It was the former government that caused all of this and I am fixing it up.' WorkCover has gone from an unfunded liability of approximately $85 million or $86 million to an unfunded liability of $780 million. If that is fixing something up, the minister has an extraordinary understanding of what 'fixing up' means. It certainly would differ in the eyes and the views of many people in this chamber and, indeed, many people out in the community.

Indeed, in relation to this unfunded liability the minister said that, in terms of a reduction in the levy that took place in 2001, the former government interfered in the process. The committee called in the former chair of WorkCover and asked, 'Was there any government interference in the setting of levies under the previous government?' and the former chair, Mr Perry Gunner, said 'No, there was not'; they set the levy and then they told the government.

When the minister came before the committee, we asked him whether he had any evidence for his assertions that the former government wrongfully and unfairly interfered in the WorkCover board's job of fixing the levy, and the minister said that he had no evidence. Even today he stood up in another place and continued to perpetuate the myth that he created—I suspect quite deliberately—which he said before the committee he had no evidence to back up. Indeed, what the minister conveniently forgets in relation to the issue of setting the levy in 2001 is that one of the first things he did when he took office was to sign off on a continued reduction of the levy in April 2002. So, he wants to blame the former government for what he did and what he approved and signed off himself.

That is the sort of minister we are dealing with when we look at these issues in relation to WorkCover—and, when I sought documents evidencing meetings between him and the chair of WorkCover during a period in which this minister managed to clumsily lose a couple of hundred million dollars, the notes went missing. So, we have a minister sitting there having meetings with the chair of the largest corporation with the largest amount of money, probably the most important stewardship of a state government, and he is sitting there la-di-dadying his way through these meetings ensuring that no notes are taken or, if they are taken, that they go missing.

Indeed, I draw members' attention to the fact that the Ombudsman was highly critical of the way in which this minister accounted for what went on in meetings between Mr Gunner and himself. When things go wrong with this minister, he blames everyone else except himself, and in this case he blamed the former chair of WorkCover. So, that is what we have in relation to this minister. The minister then came before this parliament and said, 'I want some changes to the occupational health and safety regime.' One can understand why we on this side will treat any claims made by this minister, having regard to the fact that he cannot keep proper records of meetings with the chair of WorkCover, with a great deal of suspicion.

The first thing the bill does is that it enables government departments to be prosecuted for occupational health and safety breaches, and we support that. The second thing is that the minister wants to increase the range of penalties that might be applied to a business for breaches of occupational health and safety to include non-monetary penalties and, again, we support that. The third thing the minister wants to do is consolidate (as he euphemistically calls it) occupational health and safety administration. The opposition opposes that, and I will go into some detail in that respect later in this contribution. I warn you, Mr President, when we reach those clauses, which are right at the end of the bill, the debate will be vigorous, and we will expect answers to questions which the minister failed to give in another place when this was dealt with and which the minister has continually failed to give, despite his being asked a series of questions. I ask all members of the Legislative Council to support us in the endeavour to obtain answers to some of these important questions about the administration of WorkCover before we pass this bill.

The fourth issue relates to what is euphemistically known, in an Orwellian way, as inappropriate behaviour, but what you and I would understand, Mr President, to be bullying. We support some measures in relation to that, but we have some concerns about the way in which it is expressed in the bill and we have some amendments. The fifth ask from the government in this bill is an increase in inspectors' powers, and I can indicate that that will be simply dealt with. We oppose that provision. The sixth is a provision to enable workplace inspectors to issue expiation notices, and we support that, with one minor exception. The seventh thing is to change employers' duties and, again, the government comes along and euphemistically claims that this is to clarify those duties. Mr President, I am sure that, during the committee stage, you will look on, perhaps with some mirth, as we explore how this proposal seeks to clarify anything, because the provision is twice as long and twice as confusing.

The next change the government wants is record keeping in relation to training for occupational health and safety. We oppose that; we see that as an unnecessary burden on small business without necessarily leading to any improved occupational health and safety outcomes. The ninth thing is in relation to prohibition notices. The government wants to enable workplace inspectors to issue a prohibition notice in relation to machinery that is not currently in use. In other words, if you have an old car down the back with the brakes not working and you do not intend to use it, notwithstanding that, this government wants to give inspectors the power to force small business to fix up the brakes just in case you might use it. Finally, the government wants to make some

amendments in relation to time limits for prosecutions and, indeed, we support the general thrust of what the government wants, but we have some amendments which will bring some degree of certainty in relation to the extension of time limits.

I strongly urge members who are taking an interest in this matter to read the seventh report of the committee into the Occupational Health, Safety and Welfare (Safework SA) Amendment Bill, which was tabled in parliament in October last year. I know that the members of that committee worked exceptionally hard to produce that report, and they were Kris Hanna, the member for Mitchell, Mrs Redmond, the member for Heysen, Paul Caica, the member for Colton, who chaired the committee in conjunction with the Hon. Ian Gilfillan, the Hon. John Gazzola and myself. I think we all worked very well together in producing this report.

The report—and I have already made contributions about this report on another occasion, so I will not go into the detail I did then—makes a series of recommendations; indeed, it makes 20-odd recommendations. The report itself sets out in some detail the arguments for and against each of the provisions. I think that the committee, given its political make-up, did exceptionally well in coming to a landing on many of the recommendations. We received submissions from quite a range of people, but I want to single out a couple of people who went to a lot of trouble to put submissions to the committee and who have continued to take trouble to ensure that we, on this side, and I suspect those on the other side, and other members, have been well-informed.

We certainly appreciate the assistance given to us by Business SA. We do not agree with everything that it has suggested, but Business SA has been tireless in its work assisting the committee, other members and me in relation to our understanding of the issues. We also sought and received assistance from the Association of Independent Schools of South Australia, which provided a pretty good submission, the Printing Industries Association, the Chamber of Mines and Energy, the South Australian Farmers Federation, the Self Insurers of South Australia, who represent exempt employers in the WorkCover system, and the UTLC, which gave a considered submission. We did not agree with all the submissions but, certainly, they were made in good faith and, generally speaking, they were made on the basis of some research. In relation to the issues, I think I should outline the reasons in general terms why the opposition takes the positions it does in relation to some of these matters.

The first issue I want to touch on is the fact that the bill seeks to create SafeWork SA and to remove much of the responsibility for occupational health and safety from WorkCover to Workplace Services. In respect of the creation of SafeWork SA, I draw members' attention to the provisions contained in clause 13 of the bill which set out the functions of this body which is described in the bill as SafeWork SA authority. If one looks at clause 13, one is struck by the fact that the principal role of SafeWork SA authority is to provide advice to the minister (detailed advice) and to collect, analyse and publish information to initiate and promote public discussion, to promote occupational health and safety, to consult and advise on developments in other states and a range of other purposes.

In the course of the committee, it became apparent to the majority of members that the functions of this body were more akin to that of a committee than that of an authority. It has no authority per se to do anything: it is an advisory body. The authority, under the legislation, if passed unamended, still resides with the minister as does the responsibility. The majority of the committee comprising all members, except those from the government, supported the change of name of the SafeWork SA authority to that of committee to properly reflect the functions that are set out in clause 13 of the bill.

The second issue is in relation to the shifting of occupational health and safety from WorkCover to the government department which we now know as Workplace Services. Opposition members oppose that because we believe that this would diminish the accountability of WorkCover and occupational health and safety administration by substantially removing any capacity to control the cost of workplace accidents through improved occupational health and safety outcomes and lessening capacity to control its income through the setting of levies. We have dealt with that particular issue in other legislation.

It is the opposition's view that the effect of this is to substantially diminish the accountability of WorkCover in keeping the cost of workplace safety to a minimum. Further, the proposals would create an atmosphere of conflict in the area of occupational health and safety from what is now a cooperative model. There is no evidence that a prosecution-based approach will improve occupational health and safety outcomes. Indeed, I note that the government has substantially increased the number of workplace safety inspectors and the government is putting all its eggs in one basket in relation to improvement of occupational health and safety outcomes in this state, and that is prosecute, prosecute, prosecute, and that is akin to saying that they are going to adopt a policy of harassing small business into complying with occupational health and safety standards. I have to say that we on this side do not agree with that approach. We are far more attracted to a cooperative model where people work together.

There are other issues associated with shifting occupational health and safety responsibilities from WorkCover to this government department. The bill provides that a portion of the WorkCover levy be used to improve occupational health and safety. The bill requires that a percentage will be specified and gazetted by the minister and be paid to the department. The proposal has been met with general concern by Business SA, SAFF and the Self-Insured of South Australia Association. The bill does not provide for any consultation process or any definition as to how the funds are to be applied. Further, the money goes to the department as opposed to any independent authority, and the department is of course DAIS and Workplace Services.

The effect, if I can put it in these terms, is to allow the minister to get into his pantechnicon, back it up to the money bank of WorkCover and help himself, without any check, without any balance, without any responsibility. What the minister fails to understand in putting these clauses in this bill is that it is not taxpayers' money, technically. It is employers' and employees' money. But that will not stop the minister. All he is going to do is say, 'I need this amount out of WorkCover to do what I need to do', which is to run around with his 100-odd inspectors and harass small business. That is what he is about, and he is going to do it without any reference to anybody else. This minister does not even have the viewpoint that it should be done by regulation so there would be some degree of parliamentary scrutiny.

There is nothing to stop the minister from helping himself to as much money out of WorkCover as he wants, to embark upon some little personal program—not that we need worry about that because he could not be described as anything other than indolent in relation to the way he operates, but technically he can just walk in and help himself.

An honourable member interjecting:

The Hon. A.J. REDFORD: Yes, and that is concerning. The transitional provisions provide that the minister can transfer WorkCover staff, assets, rights or liabilities to the department, the Crown or the minister. There is no provision for consultation. He will say 'I'm going to consult', and we have heard that before. Consultation with this government is a minister walking into an office and telling people what they are going to do. The minister engaged a consultant in relation to this issue to prepare a due diligence report. Brian Bottomley and Associates, in its due diligence report dated May 2003, identified that just over 100 staff would be transferred to the department, and somewhere between $12 million and $14 million per annum would be transferred from WorkCover. This would mean that, of the $45 million which WorkCover receives after payment of claims, over 25 per cent would be transferred to the government department. This is not tax money. This is levies paid for the purposes of WorkCover, not for the purposes of the minister, but what we are going to do here if we approve this is allow the minister to help himself.

Further, of a current work force of some 380 people, over 100 people would transfer to SafeWork SA, according to Brian Bottomley. There has been no formal response to the due diligence report. Indeed, the committee went to a lot of trouble to see whether it could get information from the WorkCover board, this independent board, about what its attitude was to these provisions and, despite numerous requests, the WorkCover board did not provide us with any submission.

The Hon. J.F. Stefani: Probably forbidden to.

The Hon. A.J. REDFORD: No, they were not forbidden to; they just did not do it, and my confidence in the WorkCover board has severely diminished simply as a result of that. They do not have the guts to come into a parliamentary committee and say—

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: The Hon. Mr Bob Sneath ought to remember that he is sitting over there on the back bench and not in the chair. The current WorkCover board chose not to present any evidence to the committee in relation to its views on either this bill or the governance bill. Indeed, the board attempted to deny the opposition access to any internal documents which might assist in determining what the current board view was through the freedom of information process.

As we observed in our minority report, parliamentary committees are always reliant upon advice from those who are most directly involved and who will be charged with the future responsibility of administering proposed legislation. We described WorkCover's conduct in these terms:

> At best, WorkCover's failure to present its view on this legislation can be described as a dereliction of its duty: at worst, a contempt of the parliamentary process.

Indeed, it was interesting because Bruce Carter, the chair of WorkCover, actually came into the parliamentary committee and sought to criticise that finding and justify the position that, if the WorkCover Board did not want to cooperate with a parliamentary committee, it did not have to. It sought to justify its position on holding back information from a parliamentary committee.

The Hon. R.K. Sneath: That parliamentary committee reported here.

The Hon. A.J. REDFORD: Yes, the parliamentary committee reported. You are obviously not following it; I said that right at the start.

The Hon. R.K. Sneath: Which parliamentary committee was it? There are two looking at it.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The Hon. Mr Sneath made a comment earlier about interjections being out of order. He should take his own advice.

The Hon. A.J. REDFORD: I have mentioned only one committee. I cannot slow down my speech and shorten the words just for the benefit of the Hon. Bob Sneath; he is going to have to try to keep up with this.

The Hon. R.K. Sneath: There are two committees that have been looking at it; which one are you referring to? You do not know that there are two committees looking at it, do you? You are a bit behind the times.

The Hon. A.J. REDFORD: I have referred to only one report.

The ACTING PRESIDENT: Order!

The Hon. A.J. REDFORD: So there we have it. We have WorkCover sitting there saying, 'We don't have to give this information.' Indeed, he had the temerity to come before the parliamentary committee after it reported to defend his position and say that he took exception to that observation. Based on that performance, I have to say that I do not think he has learned anything. For a chair of a major government-owned enterprise to go to a parliamentary committee and say, 'I can pick and choose what information I am going to give a parliamentary committee' is a contempt of the parliament. If anyone did that in the federal parliament (because they take these things more seriously federally), the fellow would lose his job.

This minister would not be very capable because he does not understand the Westminster system at all, but he needs to go on a crash course about the importance of the Westminster system, about the levels of accountability to this parliament ultimately and the role of parliamentary committees so that the next time a parliamentary committee comes into contact with him it gets a full report from WorkCover.

This Bottomley report suggested that among items requiring further consideration was the occupational health and safety audit function for self-insured employees, which has a budget of $1.3 million. This issue was contained in a report provided to the minister some two years ago, and I will explain so that the Hon. Bob Sneath understands. What happens with exempt employers is that they have to maintain a better-than-average occupational health and safety standard in order to retain their exempt status, and they have to convince WorkCover of that if they are to receive and/or maintain an exempt status. WorkCover carries out that function. This bill proposes to take all the occupational health and safety out of WorkCover—it is going to take out those 100-odd people and all that money.

What the minister has failed to do, either for the committee or the lower house in terms of questions, is explain who is going to continue to carry out that function—WorkCover or Workplace Services? He has completely ignored what is going to happen in relation to that occupational health and safety function of WorkCover in assessing exempt employers. For members who do not understand, that is a significant component of our work force—in fact, it is about 25 per cent of employees in this state, so it is not an insignificant function. The other matters that the Bottomley report referred to included an audit in assurance and central marketing programs, both of which could be part of the new corporate

infrastructure which has a combined budget allocation of $810 000. So, here we have it. We have about $2 million (which is about 10 per cent) that no-one knows what is going to happen with—and this is recurrent expenditure.

These issues were considered by the board of WorkCover. It might surprise you (it did not surprise me) that when I sought access to these documents through the freedom of information process I had to go all the way to the Ombudsman to get them. The WorkCover board and WorkCover administration did everything in their power to prevent the opposition from having the opportunity to get this information.

The Hon. J.F. Stefani: Why?

The Hon. A.J. REDFORD: I think it will become apparent when I go through what we got, because Access Economics' report (and Access Economics is a body that the government uses quite a lot) made a number of comments. In the foreword of the report from Access Economics in Canberra that was prepared in May 2003 it says:

> WorkCover has commissioned Access Economics to undertake a review of the costs associated with the demerger of its business with the transfer of occupational health and safety to the Department of Administrative Services.

That is the issue that I am debating right at this moment.

In its executive summary it says a number of things. First, it says that there is a substantial dispute between WorkCover and the government about how much money the government can help itself to and siphon off out of WorkCover. There is no agreement between the WorkCover board and the minister but, based on this particular piece of legislation, I can tell you who is going to win the argument—it is going to be the minister. He is going to take as much as he can. It says this—and this is Access Economics, the independent body—in a report that was hidden from people such as the Hon. Ian Gilfillan, the Hon. John Gazzola, the member for Mitchell, Kris Hanna, and myself when we were considering this issue before the parliamentary committee. It states this:

> Diseconomies of scale are to be expected from a demerger of this kind and are evident in the estimates.

What we have here is a statement from Access Economics—an independent umpire, so to speak—which states that, if we proceed with shifting occupational health and safety out of WorkCover, it will cost money and will not be efficient. I urge members to seriously consider that we have a minister, who has managed to lose nearly $1 billion, coming into this place with a proposal and a report (which his agency has sat on and kept secret from members of parliament) that states that it will cost more. We on this side of the chamber are disappointed that the WorkCover unfunded liability keeps blowing out, and the quicker we can get rid of this government and try to fix the mess the better. In relation to diseconomies of scale, the report continues:

> This is particularly the case for operating expenses. It appears that in some areas where less than entire programs have been transferred no operating expenses have been included.

The report is stating that the Bottomley report understates how much money the minister will steal from WorkCover, our employers and our employees. The report further states:

> Savings from the resources portfolio are also minimal. . . whether the occupational health and safety function will require more or less funding to be carried out in its new environment is beyond the scope of this study. Information would be needed on whether the economies might be available in Workplace Services.

I am surprised that WorkCover did not seek that information; nevertheless, the report is damning enough without it. The report also states:

> Similarly, the cost of workers compensation in the new environment depends on funding mechanisms on which we currently have no information. If Workplace Services requires more than WorkCover's avoidable costs to run the occupational health and safety function—

and I emphasise the next statement—

> there is likely to be an additional cost to industry.

This is information that was kept secret from the parliamentary committee, from Business SA and other employer groups, and WorkCover fought tooth and nail to make sure that it did not come out. I remind members that the current levy rate in Victoria is about 1.8 per cent and that in South Australia it is more than double that figure. So, our competitor—the people over the border who are trying to get this boat contract and competing with us with the federal government—can at least look the Prime Minister in the eye and say, 'We've got a WorkCover system that's fully funded and that costs half of what those fools in South Australia have.' Here we have a report that says it will cost more. That is why the opposition is so strong on this aspect. Indeed, the report continues:

> In some ways, the most interesting issue is whether the demerger could have any adverse flow-on effects on workers compensation claims through changed incentives.

The report is alluding to the fact that we might, as a consequence of this, get more claims against the WorkCover system. I remind members that this was kept secret from us. It is significant that, in relation to the risk assessment of what this government proposes through this legislation, the report further states:

> If synergies have been achieved within WorkCover, for example through information sharing, that have benefited claims management, the destruction of such synergies could increase WorkCover's risks.

So, here we have a government, which in 3½ short years has managed to burn up about $700 million, bringing legislation to this parliament—having kept secret a report that states that this bill increases the risk of WorkCover. This is State Bank stuff. All I can say is that, over and over again, we hear the mantra from WorkCover, 'Everything is okay. Don't you worry about that.' Every time we receive a quarterly report, we hear, 'It's on track. We'll have this fully funded by the year 2013.' I can guarantee that this minister will not be a minister in 2013, so he does not have to worry about it. However, some of us who will be around the state for a little longer are worried about it.

There are real concerns about the financial impact on WorkCover as a consequence of this legislation. My questions to the government in this second reading contribution are: what does it propose to do to address the outstanding issues alluded to in the Bryan Bottomley report, in particular the audit function for self-insured employers, the audit insurance and central marketing programs, which could be part of the new corporate infrastructure? What legislative guarantees do the employers and employees of South Australia have that a minister will not just simply help himself to moneys that morally belong to our employers and employees?

The second issue I want to talk about is the creation of an offence imposing a duty on employers and self-employed persons to ensure that third parties are safe from injury. This is an amendment to section 22(2) of the act. Existing section

22(2) requires employees and self-employed persons to take reasonable care to avoid adversely affecting the health and safety of third parties through an act or omission at work. The Stanley report recommended that the term 'avoid adversely affecting the health and safety' be changed to 'ensure the health and safety'. In other words, instead of requiring an employer not to do something, which is fairly simple to understand, it puts a positive onus on an employer. That provides a great deal of uncertainty to employers about what they should or should not do in a given circumstance.injury.

The amendment actually goes further than recommended by Mr Stanley. In summary, it requires an employer or a self-employer to ensure, so far as is reasonably practicable (whatever that might mean)—and that is usually decided by a judge who is on a couple of hundred thousand dollars a year, as opposed to some small businessmen who is on about $15 000 to $20 000 a year—that third parties are safe from injury and health risks where the third party is in a workplace, or where they are in 'a situation where he or she could be adversely affected through an act or omission occurring in connection with the work of the employer or self-employed person'. Only last year, we were dealing with the Ipp bill, where we were changing the law to make sure that obligations on the part of owners and occupiers and that sort of thing were clearly defined so that we would not get these ridiculous claims, and here we have, on the other hand, the government, with an incompetent minister, bringing in a bill that does exactly the opposite.

The other issue is that, while section 22 imposes penalties that can lead to prosecutions, it is just as important to note that it can also lead to civil liability for the tort of breach of statutory duty. The Law Society does support this amendment. It is not clear whether or not this section could be used to avoid section 17C of the Wrongs Act, which relates to the duty of occupiers and owners of land to third parties. Section 17C restricts the right at common law of people to sue, because premiums being applied to owners of land were becoming so high as to be unaffordable. What I am concerned about here is that, if we extend section 22, all the work we did amending the insurance legislation last year will be undone because people will be able to use section 22 to avoid section 17C of the Wrongs Act. We put questions about that in committee, but we did not receive any specific answer. I would be grateful if the minister could provide something that is remotely relevant to our concerns in relation to that issue.

The third issue is that this bill imposes a duty on employers to keep information and records relating to OH&S training undertaken by employees. It was argued by Stanley that there is currently a wide disparity across workplaces and worker classifications in relation to record keeping. Business SA provided a submission to the committee recommending that this measure be reviewed, and I agree: it should be reviewed right out of the bill. SAFF is opposed to it, and it expressed concern about the cost of compliance and the imposition of a criminal sanction for noncompliance.

Some people in government agencies think that small business has nothing better to do but sit home and keep records. I do not know when they are expected to make money and pay the taxes to fund our salaries and our handsome superannuation benefits. According to this government, they have to sit home and write records about training. We asked just about every single witness who was in favour of this: 'How does that improve occupational health and safety standards? How does that stop accidents happening in the workplace?', and we did not get a single answer. Our position is that, in the absence of any evidence that this would lead to improved occupational health and safety outcomes and given the significant cost of compliance to small employers, we oppose the measure.

The next issue I want to talk about is compulsory training for occupational health and safety officers and the prescription of persons who are entitled to take time off from work to participate in OH&S training courses (the maintenance of their pay, etc.) and the publication by SafeWork SA of training guidelines. The bill makes a number of changes regarding training, including, first, a health and safety representative. The deputy or a member of a health and safety committee is entitled to take time off from work (as authorised by regulations) for OH&S training, as approved by SafeWork SA. We have not seen the regulations, so we are not sure what the government has in mind in relation to how much time these people are expected to take off from work. The Hon. Nick Xenophon works in a legal office—

The Hon. Nick Xenophon: I used to.

The Hon. A.J. REDFORD: Or he used to, and I used to work in a small office. It is a pretty substantial imposition when you are in a small business and people start shooting off to training courses, and I will come to that issue now. It goes on to provide that, where an employer has 10 or fewer employees and does not have a supplementary levy, the representative is only entitled to take reasonable time off (whatever that might mean). However, our view is that, if the government wants to protect small business from the impact of this measure, it ought to use a normal definition of 'small business'. Our view is that it should adopt the definition used by the Australian Bureau of Statistics. The ABS defines a small business as having fewer than 20 employees. So, I do not know where this figure of 10 employees came from. Obviously, the minister plucked it out of the air, which is a precursor for how much money is going to rain out of WorkCover to run his little bureaucratic empire that he is currently building down at Workplace Services.

Businesses and stakeholders generally support the need for training. However, I have some specific criticisms, including: first, that the threshold of 10 employees is too low; secondly, that regulations relating to the amount of time off expenses have not been seen; and thirdly, there is no provision for credit to be given to existing occupational health and safety programs provided by employers. Some employers run some pretty good programs now, but there is nothing in this bill that would give them credit for those programs, and there has been nothing stated publicly that would enable those businesses, if they are currently running occupational health and safety programs, to get credit for what they are doing so that they do not have their employees marching off to all sorts of conferences at places like Victor Harbor.

The Hon. Nick Xenophon interjecting:

The Hon. A.J. REDFORD: It depends on what the regulations say. We don't know. The Construction Industry Training Board says, 'We don't care what training you do within your business; you are obliged to pay the levy but you will get no credit for it.' I am a bit cynical of government agencies when it comes to this sort of thing. The fourth issue is the lack of flexibility in relation to occupational health and safety. The Association of Independent Schools wants courses to be industry specific and it wants them only to take place during school holidays. You can imagine if you are running a school and the independent schools say, 'If we are going to have this occupational health and safety stuff, can we make sure that the teachers go to these courses only

during school holidays so there is minimal impact upon staff/student contact.' Again, we have not had anything from the government about what they propose to do.

Finally, the bill sets out provisions in relation to the election of health and safety representatives, but there is no requirement for any consultation with employers regarding the process or timing of such elections. As a consequence, we have real concerns about that particular proposal. The government has had this bill on its books for a long time. One might have thought they would be some way down the track about enlightening us about what they propose with this, but we have heard nothing. With a minister who has the capacity to lose a lazy $700 million or $800 million, we on this side of the chamber are not in a particularly trusting mood about his degree of confidence and capability to manage something like this.

The next issue is the extension of powers of inspectors in relation to the investigation of occupational health and safety breaches. The bill proposes to extend the power of inspectors. The proposed extensions include: the power to obtain names and addresses; the power to require persons (including witnesses) to answer questions; the power to record interviews by video or other means; and the power to require answers to questions even if those answers might be incriminating. We note that, where answers are given that might be incriminating, they are not admissible as evidence.

These extensions are generally opposed by employer groups. SAFF argues that they should not have powers greater than the police—and this would give them that. The self-insured of South Australia argue that persons being interviewed should be entitled to legal representation. There is no protection in that respect in this bill. Business SA argues that the proposed increase in powers is not justified, and it also points out that there is no provision for what happens if an inspector acts inappropriately. The Stanley report itself noted that, generally, academics and employer groups were opposed to extending the power of inspectors. Academics suggested that the inspectors may benefit from the extension of the scope of their training, while employers thought that the number of inspectors was too low in comparison with interstate jurisdictions. So, I have to say that, in the absence of any specific justification for the increase in the powers of inspectors, we do not support that measure.

The next issue relates to improvement notices and prohibition notices. For those who are not familiar with how this legislation works, a workplace safety inspector can turn up at a worksite and issue an improvement notice. That is a notice that says that you have to do a, b, c, d, e, f, g or you are in trouble. We fully support that. We think that is an outstanding measure and that it works terribly well. You get a great deal of discussion and discourse between employers (who sometimes are acting in ignorance) and inspectors when that process is used. The bill has a proposal that employers are required to fill out a compliance notice. They are given an improvement notice and when they fix it all up they have to tick the boxes and say that they have complied with that improvement notice. Business SA opposes that particular measure, but we do not think it is unreasonable to require an employer to advise a workplace safety inspector that he has complied with this improvement notice.

The bill also proposes an amendment to increase the circumstances in which an inspector may issue a prohibition notice. The act currently gives an inspector a power to go along and slap a prohibition notice on an employer and say, 'You can cease and desist from that activity or the use of that piece of equipment because it is unsafe.' In the past, workplace inspectors have used that power relatively responsibly. I have not heard of any cases where it has been abused. However, the government wants to give workplace inspectors a power to issue an improvement notice, not in relation just to equipment and circumstances that might be actually happening, but in relation to something that might happen.

I cited this example earlier in my contribution. You might have an old car out the back that is up on bricks, but because there is the potential for that car to be unsafe the government wants to give the inspectors a power to issue an improvement notice in relation to equipment that is not currently in use. I note there has been some comment about that. Perhaps if I can take members to the specific provision.

For the benefit of some members, clause 17 of the bill seeks to amend section 40(1) by adding a provision that, where an inspector is of the opinion that there could be an immediate risk to the health and safety of a person at work, they can issue a prohibition notice. That is specifically the only change to that clause, and I hope we receive support in relation to it.

The other issue is the matter of an extension of time for prosecution. The government is seeking to extend the time in which prosecutions might be initiated by the state in circumstances 'if the Director of Public Prosecutions is satisfied that a prosecution could not reasonably be commenced within the relevant period' due to a delay in the onset of an injury or a disease or a condition or a defect of any kind. The opposition does not have any problem with an extension of time to prosecute. There are many occasions where injuries manifest themselves many years after the event. I know that the Hon. Nick Xenophon has been a passionate campaigner (and I support his campaign) for the tragic sufferers of asbestos-related diseases; and you, sir, also have been a passionate campaigner in that area and I acknowledge that.

Often these conditions do not manifest themselves for many years. If there is a breach in occupational health and safety standards that causes the problem the employer should be prosecuted. However, it is our view that the decision about whether or not there has been a delay should not be in the hands of the prosecutor: it should be in the hands of the court, the independent umpire, to make a finding that there has been a delay in the onset or manifestation of an injury.

The final issue that I want to talk about, which is the most difficult of the lot in relation to this bill, is bullying. The bill inserts a new section entitled 'Inappropriate behaviour towards an employee' (as I said earlier, a rather Orwellian comment), but what we are talking about here is bullying. It provides that, where an inspector receives a complaint from an employee of bullying or abuse at work, the inspector must investigate the matter and it can be referred to the Industrial Commission.

The opposition's original viewpoint was set out in the minority, or dissenting, report. Nearly all employer groups strongly opposed anything in relation to this, and the opposition has parted company, because we believe that there are occasions where bullying is so bad that it constitutes an occupational health and safety risk in a place of employment and we believe there should be some mechanism within which it can be addressed. I am mindful of the fact that the Employee Ombudsman year after year has been reporting on issues associated with bullying in the workplace, and I am pleased to see that this bill is making a genuine attempt to address it.

It is clear that workplace bullying has become an increasing issue over the past six or seven years. The Employee Ombudsman has referred to workplace bullying in his annual report since the inception of his office and, in particular, I draw members' attention to his reports on the Queen Elizabeth Hospital. Currently, in certain circumstances, workplace bullying may be dealt with through anti-discrimination or equal opportunity legislation, but not in every case. Unfortunately, the bill does not define bullying or abuse at work. We on this side are of the view that bullying can be categorised as a workplace injury under the act. Mr Bishop, who assisted in the promulgation of the Stanley review, described workplace bullying as a big problem. However, he cautioned the committee that workplace bullying has the potential to become the RSI of the 21st century—and I can give some examples of where bullying claims can be made by employees in circumstances that would tend to undermine the genuine cases of bullying.

The United Trades and Labor Council (and other union groups) has identified bullying as number one on the list of workers' concerns at work. We on this side of the chamber accept that observation. All stakeholders except the UTLC and Business SA question whether the matter should be referred to the Industrial Commission. The Employee Ombudsman himself questioned whether or not workplace bullying claims should be referred to the Industrial Commission, and I will come to the reasons why in a minute. The Employee Ombudsman, who has significant experience in this, suggested to the committee that he be given the powers of a workplace inspector and that he be given the opportunity to conciliate or mediate in relation to complaints about workplace bullying. The prospect of resolving complaints depends upon effective management and, in particular, the Employee Ombudsman (and every expert in this area) says that, if we are to resolve workplace bullying, we need to intervene in a conciliatory way in a very timely fashion.

We on this side are concerned about three principal areas. First, we want workplace bullying properly defined so that it is not abused. Secondly, we want a mechanism where conciliation takes place in a timely fashion; that it does not drag out in the courts. Thirdly, we want conciliation to take place at the workplace as informally as possible before the parties become too entrenched so that these issues can be resolved. The Employee Ombudsman, who adopts those techniques, reported to me that he gets an 80 to 90 per cent successful outcome if he can have those three elements present when he becomes involved.

The Hon. Nick Xenophon: In terms of a long-term resolution?

The Hon. A.J. REDFORD: Yes—and he is very effective. The World Health Organisation defined workplace bullying as follows:

> . . . repeated unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety.

It went on to say that this is a hazard. It stated:

> In our view, it should be treated in the same way as all other significant hazards, through regulations that prescribe identification, assessment and treatment strategies through an approved code of practice.

The International Labour Organisation recently reported that workplace bullying is one of the fastest-growing forms of workplace violence. It said that this phenomenon constitutes offensive behaviours through vindictive, cruel, malicious or humiliating attempts to undermine an individual or group. The ILO goes on to say that ganging up, or mobbing, is a growing problem in Australia, Germany, the United Kingdom and the United States and a significant cause of suicide.

From our experience, and anecdotally, one of the problems that WorkCover is currently facing is an increase in stress claims in either of two situations. The first is where an employee is either given a written or verbal warning as a precursor to dismissal. Often workers, who are given written or verbal warnings prior to dismissal, claim that they are under stress and, indeed, some in the public sector claim that that very act is bullying. On this side, we are concerned that, if we pass legislation, we do not interfere with the legitimate rights of employers to manage their work force.

The other issue that causes us concern is where an employee fails an attempt to secure a promotion. Often, in the public sector, we see situations where individual employees fail to secure promotion and, immediately following that failure, they either make a stress claim or claim that they failed in securing that promotion as a consequence of workplace bullying. There is a real risk that, unless there is a tight definition, employees may assert that a warning or a failure to obtain a promotion might constitute bullying. It is our view that we need to be very cautious because we do not want this to fail—we want this to work.

The Employee Ombudsman also gave evidence that it is generally too late to conciliate a bullying complaint by the time it gets to the commission. Our initial position was—and I think this position was put in another place—that workplace bullying should be dealt with by the Employee Ombudsman because of his considerable experience. Since the matter was debated in another place, I have had the opportunity to meet with a number of employee groups to discuss this particularly difficult issue.

Currently section 19 of the Occupational Health and Safety Act imposes the duty of employers to provide a safe working environment. It is a broad duty and, arguably, it includes the mental wellbeing of employees. The committee was unanimous—I think the Hon. John Gazzola would agree with me—that workplace bullying, if not addressed, can impose a risk to a safe working environment. We were also told in the committee that there is an estimated 200 to 500 potential complaints of bullying each year. The real issue is how we deal with, in a procedural sense, complaints of workplace bullying to ensure that we get the sort of outcomes that the Employee Ombudsman gets so that they do not become ongoing problems. The principal issue in terms of that is that we need to ensure timely and early intervention, and we need to ensure that the processes are as informal as possible.

The logical people, or potential parties, who can conciliate or mediate these complaints probably fall into four categories: the industrial commission, workplace inspectors, the Employee Ombudsman, and independent mediators. The arguments for using the Industrial Commission are that it is perceived as independent and, certainly, it has a great deal of experience in dealing with workplace issues. The arguments against using the Industrial Commission are that, first, conciliation should take place before investigation. This bill requires an investigation first, and the problem I see with investigation is that it is a process that could cause parties to entrench their positions and make it that much more difficult to conciliate or mediate an outcome.

The second argument against the commission is that it does not have the resources or a culture to act in a timely fashion. Thirdly, despite having the power to do so, the

commission rarely attends workplaces to conciliate. The second option is to use workplace inspectors. The argument in favour of that is that they might be perceived as independent, although I suspect that some employers will see them as policemen, but they have the capacity to act in a timely fashion. However, the arguments against include the confusion in roles of an inspector between being a policeman and a conciliator, the current lack of training of inspectors in terms of conciliation and/or mediation and an inherent suspicion on the part of employers of inspectors undermining the prospect of a successful conciliation or mediation.

The third option is the Employee Ombudsman. He has considerable experience, as I have said, in conciliating bullying complaints with a good record of success. Anecdotally, he is well regarded by employers. However, the concern is, particularly on the part of some business groups, that he is not perceived—I emphasise the word 'perceived'—as being independent. That, by itself, may well undermine the potential success of conciliation or mediation. Another issue is that it may well be that the Employee Ombudsman, as he currently is, Gary Collis, a man for whom I have great regard and confidence in, is not going to be in this job for ever, and the next employee ombudsman may not have his skill, and we have to consider some of these issues on the basis of an absence of personality.

The fourth option is independent mediators. If you put aside the cost, it is the best option. It would be timely and independent, and these people have a very good track record; however, the cost, and who should bear the cost, is an issue that has not been resolved. Indeed, the cost of using independent mediators, particularly in small business, could prove to be prohibitive. The opposition, having discussed this with business groups, has come to the difficult decision that we will support the commission being the appropriate body to mediate or conciliate in these areas, provided there are a number of preconditions.

The Hon. Nick Xenophon: What if both parties agree to the Employee Ombudsman, though?

The Hon. A.J. REDFORD: I am happy to talk to the Hon. Nick Xenophon about that, and I suppose one of the difficulties is that we try to legislate in the absence of personalities. We do not always have someone of the calibre of Gary Collis in that particular job.

The Hon. R.K. Sneath: You might get someone who is better.

The Hon. A.J. REDFORD: The Hon. Bob Sneath said someone better, and I am sure he will let me know who he has in mind.

An honourable member interjecting:

The Hon. A.J. REDFORD: He could do both jobs, I suppose. He does not do much here. The conditions are firstly that the commission would be required to commence conciliation and/or mediation within five days of a complaint being made. The second is that the commission would be required to deal with the issue at the workplace if required by either party. The third is that the commission be required to conciliate and mediate formally, and finally that there be no or minimal investigation prior to any conciliation by a workplace inspector. They are the preconditions.

I suspect the government might have some problems with that on one basis. That is, if the assessment is correct that there are some 200 to 500 potential complaints of bullying each year, and the commission is required to deal with it in a timely fashion, there will have to be some increase in the resources of the commission to enable it to cope with that. That is a problem the government will just have to deal with.

The Hon. R.K. Sneath: What about if Collis had to deal with them all?

The Hon. A.J. REDFORD: The honourable member obviously does not keep up with the Employee Ombudsman, but his government has been starving the Employee Ombudsman now since it was elected into office, but he is still carrying out his job.

The Hon. R.K. Sneath: What about if he had to deal with 500 bullies?

The Hon. A.J. REDFORD: He says in his submission to the committee—you should read the report—that he is quite able to manage it. That was his submission. It is all there in the report, for the benefit of the Hon. Bob Sneath.

The Hon. R.K. Sneath: Trade unions will deal with a lot of them.

The Hon. A.J. REDFORD: The Hon. Bob Sneath again demonstrates that he is not keeping up, and it is a disappointment. The trade unionists would not be independent. I think every other member in this chamber got that point except the honourable member, and that is disappointing but hardly surprising.

The Hon. R.K. Sneath: Collis came from a trade union.

The Hon. A.J. REDFORD: He may well have come from a trade union, but he was done over by the AWU well before he got there, which gave him that sort of independent streak.

The Hon. R.K. Sneath: No, that is not true. He was not done over. He left.

The Hon. A.J. REDFORD: Perhaps the Hon. Bob Sneath has a different adjective for it.

The Hon. R.K. Sneath: No, he panicked and left.

The Hon. A.J. REDFORD: He panicked and left! He thinks very highly of the Hon. Bob Sneath, too. That is the position the opposition has come to. It is an exceedingly difficult issue, we have to say. However, having changed our mind once, that is not to say that we will not listen to arguments that might be put by the Hon. Nick Xenophon to convince us to a different position, but I think we can all acknowledge that it is a difficult issue. We want to get it right. We do not want bullying to become the RSI of the 21st century. We do not want it to be abused. We do not want people to go forum shopping. We want these things to be resolved quickly in the workplace so that employers and employees can get back to what they should be doing, which is earning lots of money and paying lots of tax to pay for pensions such as the Hon. Bob Sneath might earn over the next few years.

In closing, I thank all those people who have gone to considerable trouble to assist us in coming to our position, and I look forward to the debate. However, I remind members that this minister has spent the last 3½ years avoiding questions, and I would hope that we might get a direct answer to some simple questions that we are going to put during the committee stage, because at the moment this minister, who has lost a lazy $700-million-odd and happens to lose notes of important meetings with the CEO and chair of WorkCover—

The Hon. T.G. Cameron: You are too hard on him.

The Hon. A.J. REDFORD: I am not. I expect a high standard.

The Hon. R.K. Sneath: Did Business SA write all of that for you or just that last bit?

The Hon. A.J. REDFORD: No, Business SA has not written any of it.

The Hon. R.K. Sneath: They wrote it all for you, didn't they?

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Hon. Mr Sneath will get his opportunity to make a contribution if he wishes.

The Hon. R.K. Sneath interjecting:

The ACTING PRESIDENT: Order!

The Hon. A.J. REDFORD: So, with those few words, as I said, I look forward to the committee stage.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank all honourable members for their contribution to the debate thus far.

The Hon. Nick Xenophon: Some more than others.

The Hon. CARMEL ZOLLO: Some more than others, said the Hon. Nick Xenophon. I also acknowledge the work that has been undertaken by members of the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation in considering this bill. As members would be aware, the government has filed a series of minor technical amendments, largely in response to issues raised in the other place.

The shadow minister in the other place made some inquiries about savings from the resources portfolio. WorkCover advises that, if this reference is understood correctly, it refers to the cost centre that existed in WorkCover in 2003 under previous operating budget arrangements to manage the payroll, human resources and finances services for the corporation. As this cost centre made no distinction between those services provided to support workers' compensation and OH&S services, Access Economics rightly commented that, in the merger arrangement, this would not be the area in which savings would be made, as it would be impractical to extricate and separate these costs from the general functions of the corporation.

Since the Access Economics report, as the lower house has already been advised, the WorkCover board in consultation with the Department of Administrative and Information Services has now agreed budget transfer arrangements for the first two years. I am advised that the budget transfer from Workcover to SafeWork SA agreed to for year 1 is $8 million, comprising $7 million in cash and $1 million in kind. I understand that, in year 2, the agreed budget for transfer is $9.5 million, comprising $8.3 million in cash and $1.2 million in kind.

We all know the importance of occupational health and safety, and it is imperative that we all work together to foster sustainable safe and healthy workplaces and dramatically improve our occupational health and safety performance in South Australia. I will provide members with a few statistics which might help to put the significance of this bill into context. The recent National Occupational Health and Safety Commission study, entitled 'The cost of work-related injury and illness for Australian employers, workers and the community', estimates the cost of workplace injury and illness to the Australian economy for the financial year 2000-01 at $34.3 billion. I am advised that this is equivalent to 5 per cent of the Australian gross domestic product for that year. I am also advised that, in terms of injury, disease and fatality statistics in Australia, from 2003-04 there were 144 fatalities resulting from workplace accidents. A further 2 290 died from exposure to hazardous substances and 1 297 die each year from occupational cancer. This toll is simply staggering and it is unacceptable.

To help prevent these tragedies the South Australian government has taken action in the form of this bill and through the biggest ever investment in our occupational health and safety inspectorate to improve occupational health and safety in South Australia. The passage of the bill through parliament will provide key reforms which will help all South Australians to work together to achieve better occupational health and safety outcomes. I commend this important bill to the chamber and look forward to debate on specific clauses during the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. NICK XENOPHON: In accordance with the practice of this place there are general ambit issues with respect to the bill, given that this is a package of measures. I think the government is saying that some of these measures are, in a sense, catching up with what other jurisdictions are doing interstate in terms of occupational health, safety and welfare measures. What is the government hoping to achieve in terms of reduction of, say, deaths and serious injuries and injuries overall in the workplace? Has any work been done on that? Have we seen, from interstate, any other measures that have had some impact on workplace safety and injury rates, even in certain sectors of industry?

The Hon. CARMEL ZOLLO: Obviously, the government has targets in place to reduce injury and some of them, of course, are administrative. It is difficult to segregate or really quantify the numbers at this time.

The Hon. NICK XENOPHON: To go back to the original question, as I understand it the government's position (and I am certainly not critical of this) is that we have lagged behind in some respects with occupational health and safety legislation, that this is a review, and that other states have implemented a number of these measures. Have we seen a downward trend in other jurisdictions where similar measures have been implemented or can a reasonable comparison not be made with those other jurisdictions? Also, given that the minister has helpfully said that there are targets in place, can she tell us what those targets are for a reduction of injuries and deaths in the workplace?

The Hon. CARMEL ZOLLO: All states have basically been trending down, some faster than others.

The Hon. A.J. REDFORD: Can I just assist the Hon. Nick Xenophon, because this government is disingenuous and does not actually tell you the full picture? In other jurisdictions, particularly in Victoria (which has the best outcomes), they have shifted the responsibility for prosecution and the workplace inspectorate into their WorkCover organisation. They did the opposite of what we are doing. They have had some benefits, but no-one can point to whether or not the benefits have accrued as a consequence. However, when they say that they have amalgamated these areas, they have not done so in exactly the same way as this bill proposes. That is the first point.

The Hon. Nick Xenophon: They were introduced into common law in Victoria as well.

The Hon. A.J. REDFORD: That's right. They have not all operated in the same way. New South Wales is another case in point, and it has a serious WorkCover unfunded liability—but not as incompetently managed as this one. I have some questions in relation to the comments made in the contribution closing the second reading debate. The minister indicates that, in the first year, SafeWork SA will help itself to $8 million of employers' money, comprising $7 million in

cash and $1 million in kind. I wonder what is meant by the term '$1 million in kind'. What are we talking about?

The Hon. CARMEL ZOLLO: I understand that the two main aspects of '$1 million in kind' are accommodation and IT support. For the record, the target in our State Strategic Plan is for a 20 per cent reduction in injuries by 2007 and 40 per cent by 2012.

The Hon. A.J. REDFORD: The minister might recall that I made some comments about this bill's giving the minister the equivalent of a pantechnicon he could park up against WorkCover and start helping himself to money. I note that he has been very kind in the first year and will whip off $8 million. However, in the second year, he will whip off $9½ million dollars, which is a 20 per cent increase—nearly six times the rate of inflation. Why is it that it goes up by 19 per cent in the second year?

The Hon. CARMEL ZOLLO: I advise that these are the figures agreed by the WorkCover board, and some phasing-in arrangements are in place that reflect the higher figure in the subsequent year.

The Hon. A.J. REDFORD: The minister will have to do a bit better than that. It is a 20 per cent increase, and the minister is giving me the answer that it will be phased in. The only phasing-in of which I have had experience with this minister is his managing to phase-in an $82 million unfunded liability into a $700 million unfunded liability. Those percentage figures are quite large and probably started at 19 per cent in the first year. Why does WorkCover need to pay in the second year an extra $1½ million—a 19 per cent increase? Do not tell me that it was phasing in but tell me why, specifically?

The Hon. CARMEL ZOLLO: I am advised that it is the figure determined by the board for occupational health and safety. At this stage, we are debating the title of the bill; perhaps it might be more appropriate to debate these issues at the appropriate part of the bill.

The Hon. A.J. REDFORD: I am endeavouring to be cooperative with the government. However, if I receive such bland answers, I will move that we report progress so that the minister can go away and tell us, at a timely stage, so that we can consider our position, what exactly this extra money is. The next issue I raise is: what happens in years 3, 4 and 5, given that it is the practice of governments, government agencies and government departments to plan these financial expenditures over five years? On this side of the chamber, we have made it clear that this is a seminal issue for us. To give the minister the power to park himself up against the WorkCover treasury and help himself to money is something that causes us concern. Of the only two figures we have, one is a 19 per cent increase in one year—six times the rate of inflation. We are getting more and more suspicious.

The Hon. CARMEL ZOLLO: One occupational health and safety work group will remain with WorkCover during that first year, and it will then subsequently move across. I guess that is the main reason for the higher funding in the latter year. Secondly, the funding has been agreed this year amicably for the first two years, and we have no reason to expect that in the future it will not be amicably agreed.

The Hon. A.J. REDFORD: When were these figures agreed?

The Hon. CARMEL ZOLLO: To the best of our recollection, it was March this year. If that is wrong, we will let the honourable member know subsequently.

The Hon. A.J. REDFORD: By the time we get to clause 32 of the bill, will the minister be able to provide me with a copy of correspondence which evidences the agreement between WorkCover and the minister regarding these funding arrangements?

The Hon. CARMEL ZOLLO: I do not see why that would be a problem, and we will look to assist the honourable member in that way.

The Hon. A.J. REDFORD: Is there some sort of formula the government and WorkCover have adopted in working out how much money is to be transferred from WorkCover?

The Hon. CARMEL ZOLLO: An assessment was undertaken for the appropriate level of funding for the appropriate level of occupational health and safety activities. That is basically how it was determined. I am not of aware of any mathematical formula. There was an assessment of the work that needed to be done and the funds required for that work to be undertaken.

Clause passed.

Clause 2.

The Hon. A.J. REDFORD: This clause indicates that the act will come into operation on a day to be fixed by proclamation. When does the government anticipate this act coming into operation?

The Hon. CARMEL ZOLLO: I cannot advise an exact date, because we obviously have to wait until the bill has passed the parliament, and I guess we will then have to liaise with the stakeholders.

The Hon. A.J. REDFORD: Assuming the bill is passed in the next 48 hours, how long does the minister think it will take before this act is proclaimed and comes into operation?

The Hon. CARMEL ZOLLO: As I have already advised, we would, of course, have to speak to the stakeholders. But, I guess, one possibility would be 1 July.

The Hon. A.J. REDFORD: What work needs to be done prior to the act coming into operation?

The Hon. CARMEL ZOLLO: As I mentioned before, we have to talk to the stakeholders about the potential nominations for the SafeWork SA authority and ensure that all final details are in place for the approval of responsibilities.

The Hon. A.J. REDFORD: Obviously, regulations need to be prepared. Has any work being done, to date, in relation to the preparation of regulations, and are there any drafts in existence that we might consider as an early stage?

The Hon. CARMEL ZOLLO: There are no drafts in existence. We will consult with the stakeholders once the bill has been passed.

The Hon. A.J. REDFORD: You have to set up the committee or the authority and you have to prepare the regulations, and all that will be done in the space of the next five weeks, assuming we pass the bill within the next 24 hours.

The Hon. CARMEL ZOLLO: As I said at the outset, we will work as quickly as we can. We cannot give you a definitive answer until we start the work.

The Hon. T.G. Cameron: What about a ballpark figure?

The Hon. CARMEL ZOLLO: I have given a ballpark figure already—1 July.

Clause passed.

Clause 3 passed.

Clause 4.

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

Page 4, after line 13—Insert: 'Advisory committee means the SafeWork SA Advisory Committee established under part 2;'.

For the benefit of the committee, although I have an 18 page document containing 119 amendments and another page on which I have six amendments (a total of 125 amendments), so that members are not frightened by this, I inform the committee that 87 of those amendments relate to the specific issue. So, this takes up a fair number of those amendments, and this will be a test for 87 of my amendments.

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: It's really a matter of just getting it done. As I said in my second reading contribution, the occupational health and safety parliamentary committee has considered this bill in detail. When we looked at clause 13, which sets out the functions of the authority, we came to the conclusion that the authority's functions were basically advisory. It does not have any authority; it does not prosecute. We were told in evidence that it would not even have its own staff, that it would rely upon staff provided by Workplace Services.

The member for Mitchell was of the view that Workplace Services ought to be transferred into SafeWork SA, that SafeWork SA ought to be a separate statutory authority and that, in those circumstances, he would agree to its being called an authority, but he was on his own with that particular view. Following discussion, the Hon. Ian Gilfillan, the member for Mitchell and the two Liberal members were of the view that, if you have a body which is really only an advisory body—it does not have any functions to direct people, to prosecute people, to pass laws, or to establish protocols, etc.—it is not really an authority, it is only an advisory committee, because ultimately it is the minister who makes the decisions. The committee was of the view that, by calling it an authority, you would create the perception in the public that this body had some sort of clout, and it does not.

It is an important committee, there is no doubt about that. What it does have are some significant powers to advise the minister. The first function is to keep the administration and enforcement of the act under review and make recommendations. It does not actually do anything; it makes recommendations. The second function is to advise the minister on legislation, etc. The third function is to provide a forum for ensuring consultation. The fourth function is to prepare, adopt or endorse strategies, which are subsequently to be approved by the minister in any event. The next one is to prepare, adopt, promote or endorse prevention strategies (again, to be adopted by the minister), and to promote education, to keep the provision of services relevant.

This is all done with the assistance of the staff of SafeWork SA. They will not have their own building or offices. They are merely a conduit, and an important one, where the minister can have employee and employer groups sitting together in a room looking at some important issues in relation to workplace safety and going to the minister and saying, 'Look, minister, this is what we think you should be doing.' So, it is not, in a real sense, an authority. It is not like the Independent Gambling Authority, which has some significant powers to engage in serious inquiries and establish codes of conduct and things of that nature. This body does not have powers to coerce people to give evidence or anything of that nature. It does not have powers to adopt codes of conduct or anything of that nature. It is, in essence, an advisory committee. The majority of the Occupational Safety, Rehabilitation and Compensation Committee supported that principle, and this amendment—

The Hon. Nick Xenophon: So, it is not a statutory authority—

The Hon. A.J. REDFORD: I could not answer that question. So, that is our position.

The Hon. CARMEL ZOLLO: The assertion that the authority's only function is to advise the minister is simply not correct. I refer members to new section 13 of the bill, which sets out the functions of the authority: in particular, to promote education and training with respect to occupational health, safety and welfare, to develop, support, accredit, approve or promote courses or programs relating to occupational health, safety or welfare, and to accredit, approve or recognise education providers in the field of occupational health, safety and welfare; to collect, analyse and publish information and statistics in relation to occupational health, safety or welfare; to commission or sponsor research in relation to any matter relevant to occupational health, safety or welfare; and to initiate, coordinate or support projects and activities that promote public discussion or comment in relation to the development or operation of legislation, codes of practice and other material relevant to occupational health, safety or welfare.

The Hon. IAN GILFILLAN: I was on the committee and I was part of the majority regarding the responsibility, as far as I can recollect; I cannot remember all the detail of the discussion. To be quite frank, I do not regard this as a decision of enormous consequence to the effective working of the legislation. I agree with the Hon. Angus Redford that its tasks do not necessarily put it into the category of what one would normally expect to be an authority. On balance, I believe that it is a reasonable amendment to have it referred to as an advisory committee.

The Hon. NICK XENOPHON: Does the government concede, following the Hon. Mr Gilfillan's contribution, that calling it an advisory committee rather than an authority will not in any way limit or derogate from its activities given that, in new section 7(4), the authority is subject to the control and direction of the minister? In other words, if we call it an advisory committee, it will not limit the work that is proposed of this body, whether it is called an authority or an advisory committee.

The Hon. CARMEL ZOLLO: My reply would be that we do not, because occupational health and safety and the industry stakeholders that sit on the authority should be given the greatest possible status to promote occupational health and safety, and downgrading its status downgrades the perception of occupational health and safety.

The Hon. NICK XENOPHON: You could still call it SafeWork SA under the umbrella of an advisory committee. In terms of the public perception it would be SafeWork SA fulfilling these functions. There is nothing to stop you from doing that, is there?

The Hon. CARMEL ZOLLO: The government proposes that the SafeWork SA authority carries with it some status, and we believe that this amendment takes that away. Clearly, I think the authority's functions under new section 13(1)(e) and clause 20 of the bill fall within the *Macquarie Dictionary's* definition of 'authority', which includes a person or body with the right to determine, adjudicate or otherwise settle issues or disputes; the right to control, command or determine. Another part of the definition of 'authority' in the *Macquarie Dictionary* is 'an expert on a subject'. Quite clearly, the government's intention is that the proposed authority will be a real repository of expertise on occupational health and safety, and many of the functions that I referred to before are extremely appropriate things for an expert body—an authority on a subject—to undertake. The proposed

SafeWork SA authority is appropriately named, and I think that this chamber should not support the amendments of the shadow minister in that regard.

The Hon. NICK XENOPHON: Does the minister consider that what she has just said sits at odds in terms of the proposed authority being able to adjudicate and have all these functions? The fact is that it is subject to the control and direction of the minister. Is there not a tension between that and what she has just said, or an inconsistency at the very least?

The Hon. CARMEL ZOLLO: I indicate to the honourable member that it has been given the authority to make specific decisions, and we do not think it is at odds at all. With the Democrats indicating support for the amendment, we clearly recognise that we do not have the numbers.

The Hon. T.G. CAMERON: I was originally leaning the government's way on this, but the persuasive rhetoric of the Hon. Ian Gilfillan, who was a member of the committee, I think summed it up well when he said that it does not matter much one way or the other. I think the Hon. Angus Redford is right. Let us move on.

The committee divided on the amendment:

AYES (13)

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

NOES (6)

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

PAIR

Stephens, T. J.	Roberts, T. G.

Majority of 7 for the ayes.

Amendment thus carried.

The Hon. A.J. REDFORD: Amendments Nos 2 and 3 are consequential. I move:

Page 4—
Line 14—Delete 'Authority' twice occurring and substitute in each case: Advisory Committee.
Lines 16 and 17—Delete subclause (2).

The Hon. CARMEL ZOLLO: As these two amendments are consequential to the first one, we obviously reject them as well, but I indicate that we will not divide.

Amendments carried; clause as amended passed.

[Sitting suspended from 10.03 to 10.33 p.m.]

Clause 5.

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

Page 5—
Line 3—delete the heading and substitute:
Part 2—The SafeWork SA Advisory Committee
Line 4—delete the heading and substitute:
Division 1—Establishment of Advisory Committee
Lines 5 to 13—delete section 7 and substitute:
7—Establishment of Advisory Committee
The *SafeWork SA Advisory Committee* is established.
Line 14—delete the heading and substitute:
Division 2—The Advisory Committee's membership
Line 16—delete 'Authority' and substitute:
Advisory Committee
Page 6—
Line 2—delete 'Authority' and substitute:
Advisory Committee
Line 5—delete 'Authority' and substitute:
Advisory Committee
Line 7—delete 'Authority' and substitute:
Advisory Committee
Line 8—delete 'Authority' and substitute:
Advisory Committee
Line 9—delete 'Authority' and substitute:
Advisory Committee
Line 11—delete 'Authority' and substitute:
Advisory Committee
Line 14—delete 'Authority' and substitute:
Advisory Committee
Line 33—delete 'Authority' and substitute:
Advisory Committee

These are consequential amendments, and I appreciate that the government opposes them.

The Hon. CARMEL ZOLLO: As I indicated previously, they are consequential and we do oppose them but we will not divide because we do not have the numbers.

The Hon. NICK XENOPHON: For the record, my understanding (and I will stand corrected) is that the government's bill would have allowed the Statutory Authorities Review Committee to have some scrutiny of the functions of SafeWork SA but that that cannot occur now if it is simply an advisory committee. I say that as a comment, not a criticism, and I wonder whether the paradox is that there may be less scrutiny of the work of this committee in its proposed new form than in the original form.

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: Because of these consequential amendments. Not much may turn on that, but it is an observation. If I am wrong I will stand corrected, but that is my understanding.

The Hon. J.F. STEFANI: Can the minister advise the chamber whether the word 'authority' changing to 'committee' and describing it as a body corporate has any legal effect at all in terms of the possibility of the Statutory Authorities Review Committee investigating the committee which is a corporate body?

The Hon. CARMEL ZOLLO: I am advised that, by not making it a body corporate, it will take it out of the Statutory Authorities Review Committee purview, rather than the change of name itself.

The Hon. A.J. REDFORD: I remind the Hon. Nick Xenophon that the Statutory Authorities Review Committee is not the only committee in town; there are other committees, including the Economic and Finance Committee.

The Hon. Caroline Schaefer: Not many as good, though.

The Hon. A.J. REDFORD: Self praise! For the benefit of the Hon. Nick Xenophon, I point out that section 15C(b) of the Parliamentary Committees Act provides:

(b) To perform such other functions as are imposed on the Committee under this or any other Act or by resolution of both Houses.

I have absolutely no doubt that, if they really have it in their mind that they want to investigate this advisory committee, they would get a resolution through both houses of parliament without too much difficulty—if that is what they really want to do. Given that the amendments are consequential, I suggest that we move on.

Amendments carried.

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

Page 6, lines 36 and 37—Delete subsection (5) and substitute:
(5) The Minister must ensure that a vacant office is filled within 6 months after the vacancy occurs.

This amends subclause (5) in relation to the terms and conditions of the office of the committee. The current provision is that the minister should seek to fill a vacant office as expeditiously as possible. The opposition prefers its amendment, and the reason is that it is anxious to ensure that this body always has a full complement of people. I give one example of the sort of behaviour this government gets up to in another of my portfolio responsibility areas. I do not think that many members are aware of the Prisons Advisory Committee. It was formerly chaired by Mr Gordon Barrett QC, who had some strong views about prisons. The committee provides advice to the minister and, indeed, sometimes—back when it used to sit—I used to be able to FOI that advice, come in here and ask the minister why he was not following it.

The minister stumbled upon a strategy; that is, when a couple of people resigned from the committee, he did not appoint anyone else to it, so now the committee never meets and now I cannot FOI anything. I am upset. This is a statutory committee required to sit and do certain things but, because the minister will not appoint anyone—and I have asked him questions on three separate occasions—the committee cannot meet. So, now there is no committee saying to the minister, 'You should be doing this,' or, 'You should be doing that.'I know what this government is about. It does not like these bodies; it likes to pretend that it does, but it does not really like them. So, we want to make absolutely sure that there is a statutory obligation on the part of the minister to ensure that this committee has a full complement of members. The problem is that this government has form. It is a shame that we have to move amendments such as this, but that is the way we feel about it.

The Hon. IAN GILFILLAN: I indicate Democrat support for the amendment. We do not subscribe to the gratuitous insults unjustifiably lavished upon the current government by the Hon. Angus Redford. However, if one analyses the wording of subclause (5), it is pretty vacuous and carries no punch. If there is some intention to stir the minister to act, you do not use nice neat words such as 'as expeditiously as possible'. What pressure do they have? The amendment has a precise definition and has some effect; therefore, it is worthy of support.

The Hon. NICK XENOPHON: I ask the Hon. Angus Redford, the mover of the amendment: why six months? Was any consideration given to a lesser period, such as three or four months? It is not a criticism but, given the important role the committee is meant to have in occupational health and safety, what was the rationale?

The Hon. A.J. REDFORD: To be absolutely frank and candid with the honourable member, I cannot think why we picked six months and not three. If the honourable member prefers three months, I am happy to go along with that.

The Hon. T.G. CAMERON: When I first looked at the amendment, I was somewhat surprised to see that there is no requirement to fill this office until six months has passed. Notwithstanding the contribution made by the Hon. Ian Gilfillan, I think he has probably got it a little bit wrong. I would not be so critical, and I certainly would not use the words he used to lampoon the statement that the minister 'should seek to fill a vacant office as expeditiously as possible'. If one looks at that and the Redford amendment, which talks about vacancies being filled within six months, I can envisage a situation where, if the government so desires, it will not fill vacancies until the six months is up, which I believe is a little too long. Notwithstanding the Hon. Ian Gilfillan's interpretation of the wording 'as expeditiously as possible', I would have thought we would probably have just as good a chance of the vacancies being filled as early, if not earlier, with the provision that 'the minister should seek to fill a vacant office as expeditiously as possible' as we would with the provision that they can wait for up to six months before the vacancy occurs. I know the argument the Hon. Ian Gilfillan put forward—

The Hon. Ian Gilfillan interjecting:

The Hon. T.G. CAMERON: I just think it has a few holes in it. Not everything the Hon. Mr Gilfillan says is a pearl of wisdom.

The Hon. Ian Gilfillan: I am desperately waiting for a logical rebuttal; I am listening intently for it.

The Hon. T.G. CAMERON: I suggest the honourable member keeps listening. If I have not got it through by now, I will continue for the honourable member's benefit and edification. In relation to 'the minister should seek to fill a vacant office as expeditiously as possible', I am not sure how we could come up with language which would require the government to move more quickly. I do not know whether the Hon. Angus Redford's amendment (which provides that it will be filled within six months) will necessarily mean that we will be seeing appointments any more quickly than we would with the wording the government has used.

I guess the advantage is based on a presumption by the Hon. Ian Gilfillan that, if we put six months in there, at least the vacancies will be filled within the six-month period, based on the assumption that the government will wait longer than six months to fill these vacancies. So, I would have rather seen the wording 'the minister must ensure that a vacant office is filled within three months', not six months.

The Hon. CARMEL ZOLLO: The government opposes this amendment. I hope the Hon. Ian Gilfillan will view my comments as a logical rebuttal. Of course, we would want to fill vacancies quickly, but this proposal could, in some circumstances, lead to a breach of the act through no fault of the minister of the day—for example, if someone is selected after consultation and then pulls out at the last minute or if that potentially happens twice due to sickness or some other reason. The minister in the other place commented that the reason we opposed this amendment is that it leaves no flexibility if something does go wrong. In the majority of circumstances, the appointment would be made well in advance of six months, but there may be circumstances, for example—and maybe it is not a great example—where someone may be lined up and it may have taken a period of time because of the various consultation steps you have to go through and the person might pull the pin or pass away, or whatever. It would not be the norm that you would take six months. You would want to fill a vacancy as quickly as possible. Unforeseen circumstances that have nothing to do with the responsibility of the government of the day may make it illegal through this amendment.

The Hon. T.G. CAMERON: If this amendment is carried, what happens if the government does not fill the vacancy within six months? As far as I can see, the government could just ignore it.

The Hon. CARMEL ZOLLO: Presumably, Her Majesty's Opposition would hold the government to account.

Amendment carried.

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

Page 7—

Line 1—Delete 'Authority' and substitute 'Advisory Committee'

Line 2—Delete 'Authority' and substitute 'Advisory Committee'
Line 5—Delete 'Authority' and substitute 'Advisory Committee'
Line 7—Delete 'Authority' and substitute 'Advisory Committee'
Line 8—Delete 'Authority' and substitute 'Advisory Committee'

These amendments are consequential.

The Hon. CARMEL ZOLLO: I indicate that we will not accept these amendments. But, again, we will not be dividing because we do not have the numbers.

Amendments carried.

The CHAIRMAN: Because the Hon. Angus Redford's amendments to delete 'Authority' and substitute 'Advisory Committee' have been accepted by the committee, the Hon. Carmel Zollo's amendment must be moved in an amended form. Wherever the word 'Authority' appears, it will be substituted with 'Advisory Committee'.

The Hon. CARMEL ZOLLO: I move:

Page 7, after line 9—Insert:

(6a) Subsection (6) operates subject to the qualification that a member of the Advisory Committee who has made a disclosure under that subsection may, with the permission of a majority of the members of the Advisory Committee who may vote on the matter, attend or remain at the meeting in order to ask or answer questions, or to provide any other information or material that may be relevant to the deliberations of the Advisory Committee, provided that the member then withdraws from the room and does not in any other way take part in any deliberations or vote on the matter.

This amendment is in relation to disclosure of interest for members of the SafeWork SA authority. The government has proposed this amendment to provide greater clarity.

In relation to disclosure of interest for members of the proposed authority, the government proposes two amendments to provide greater clarity and address the matters raised in the lower house debate. The first amendment addresses a point made by the member for Heysen in the other place. It allows for members of the authority to disclose a personal or pecuniary interest to, with the permission of the majority of members, attend or remain at the meeting in order to ask or answer questions or to provide any other information or material that may be relevant to the deliberations of the proposed authority, provided that the member then withdraws and does not take part in any deliberations or vote on the matter.

The Hon. A.J. REDFORD: The opposition supports the amendment.

The Hon. IAN GILFILLAN: Is this clause modelled on a precedent or is this fresh innovative drafting?

The Hon. CARMEL ZOLLO: I understand it is modelled on the Local Government Act where there is a similar provision for local councils.

Amendment carried.

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

Page 7—
Line 15—Delete 'Authority' and substitute 'Advisory Committee'.
Line 22—Delete 'Authority' and substitute 'Advisory Committee'.
Line 25—Delete 'Authority' and substitute 'Advisory Committee'.
Line 26—Delete 'Authority' and substitute 'Advisory Committee'.
Line 28—Delete 'Authority's' and substitute 'Advisory Committee's'
Line 31—Delete 'Authority' and substitute 'Advisory Committee'.
Line 34—Delete 'Authority' and substitute 'Advisory Committee'.
Page 8—
Line 1—Delete 'Authority' and substitute 'Advisory Committee'.
Line 2—Delete 'Authority' and substitute 'Advisory Committee'.

These amendments are consequential.

The Hon. CARMEL ZOLLO: We do not accept these amendments but, again, we will not call for a division.

Amendments carried.

The Hon. CARMEL ZOLLO: I move:

Page 8, line 10—After 'the matter' insert '(unless the issue is resolved in another way)'.

This amendment relates to voting for members of the authority. The government amendment clarifies that, where a vote of the authority results in a deadlock and the presiding member is absent, the matter can be deferred until the presiding member is present to resolve it or the matter is resolved in another way. It simply clarifies that, where a vote of the authority results in a deadlock and the presiding member happens to be absent, the authority may defer the matter until the presiding member is present to resolve the matter or resolve the issue in another way.

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

Page 8, lines 6 to 10—Delete paragraph (b) and substitute:

(b) if those deliberative votes are equal, the person presiding at the meeting does not have a casting vote.

I will explain the make-up of the committee. We have already voted on this, but the committee is comprised of 11 members, one of whom is the Director of Workplace Services; another is the Director or CEO of WorkCover; there are four appointed on the recommendation of employers; and there are four appointed on the recommendation of employees. It is the opposition's view that industrial relations and occupational health and safety have been areas of great tension between employers and employees ever since Adam was a boy.

The best way to deal with some of these issues is essentially through consensus. This should not be a number-crunching exercise. The sorts of functions that the advisory committee has should be capable of being able to be dealt with and resolved by way of a consensus or agreement between the employer and employee groups. The presiding officer is the person appointed by the minister, so he or she is the minister's person. It is our view that you should not resolve conflict between employer and employee groups by a casting vote of a nominee of the minister.

I say this whether the minister comes from my side of politics or the government's side of politics. If we are to make changes in occupational health and safety and make improvements, we have to bring both sets of people along with us. That is what we are about. Business SA made a strong submission to us in relation to this in favour of this consensus model. Is it not great to see one side of the general debate saying, 'We want to deal with this by way of consensus. We want these issues and the discussions that we have to be dealt with by way of consensus.' That is what we are seeking to achieve here by deleting the government's model which gives the presiding officer a casting vote and putting the pressure back on employer and employee groups to operate, as I said, on a consensus model.

The Hon. IAN GILFILLAN: Under common usage, I would assume that the tied vote then becomes a negative vote and the proposal before the committee is defeated.

The Hon. A.J. REDFORD: That is correct. Nothing happens on the tied vote.

The Hon. CARMEL ZOLLO: I indicate that the government will not accept this amendment. Boards and committees commonly operate with the chair having a casting vote. In any event, as with the current advisory committee, the advisory committee that is proposed to be set up will be expected to operate in an environment where consensus is reached on issues and casting votes are likely to be exceedingly rare. If we are serious about workplace safety, if we are serious about giving a tripartite representative body a real role, there must be the ability to make decisions about hard questions. In other circumstances, presiding members have a casting vote, and it is quite appropriate here. To accept the opposition's amendment is to stifle workplace safety reforms.

The Hon. T.G. CAMERON: As I understand the proposition being put forward by the Hon. Angus Redford, the chairperson will not have any vote, either deliberative or casting.

The Hon. A.J. Redford: That is right.

The Hon. T.G. CAMERON: And the model that has been put forward by the government only provides for a casting vote for the chair in the event of a tie?

The Hon. CARMEL ZOLLO: That is correct.

The Hon. IAN GILFILLAN: I indicate Democrat support for the amendment. I think it is worthwhile reflecting that this is not an ultimate decision-making body, it is an advisory body, and advice to the government that the committee is split is advice of some significance. I do not feel that there is any great advantage to be gained by the chair's having the casting vote, which would then give a decision on a very slender minority from a presiding officer appointed by a minister. I think that the amendment of the Hon. Angus Redford is the most appropriate one to support.

The Hon. J.F. STEFANI: I concur with the comments made by the Hon. Ian Gilfillan, but there is one other observation that I would like to add. If the advice comes to WorkCover—or the government, for that matter—in a split vote, the government can always make a decision in terms of an issue from the advisory committee to adopt either one side of the coin or the other. The fact is that the government and WorkCover have the ability to make decisions based on their own best judgment if they wish to proceed with a recommendation that comes from the committee in a split manner.

The Hon. NICK XENOPHON: I support the government's position. Given that it is now simply an advisory committee there may not be much in it, but I think it is important that, if a decision is made, it is up to the minister to accept or reject that decision—although given what the Hon. Mr Stefani has said it may not make that much difference at the end of the day. However, I just wonder whether it does set a precedent with respect to the presiding member's not having any vote at all and whether that is necessarily desirable.

The Hon. T.G. CAMERON: I have not been persuaded by the arguments of the Hon. Angus Redford and, in particular, the Hon. Ian Gilfillan, to oppose the position that the government has adopted. Once again, I think we are going through an exercise of splitting hairs a little bit—perhaps like we did with the name of this body. When you put people together in committees and you look at the composition of the committee I guess there are two arguments that can be brought to bear on this. One is the argument that was put forward by the Hon. Ian Gilfillan, but I think there is a counter argument to it.

Firstly, as we know, this is an advisory body. There are four persons who have been put up by the employers and four persons who have been put up by the employees. If one was to be hypothetical for a moment, one could imagine that one of the employee advocates was the Hon. Bob Sneath. How on earth would you ever resolve a tie break there? Bob would dig in his heels on behalf of the worker, and rightly so—

The Hon. Nick Xenophon: Arm wrestle.

The Hon. T.G. CAMERON: As the Hon. Nick Xenophon said, the only way we would break a tie would probably be with an arm wrestle. Here we are talking about committees not comprising a whole bunch of people from various sectors; we have four from the employers and four from the employees. If the chairperson, who has a casting vote, is continually exercising that casting vote to support the government position, in my opinion, he would only undermine and erode any respect or credibility in his position. To suggest that any chairperson of this advisory committee would be no more than a rubber stamp for the government, I think, is premising the argument on erroneous grounds.

However, I think one can advocate the argument that an independent chairperson with a casting vote will often force two diametrically opposed sides of an argument into a compromise position, particularly if the chairperson is indicating to one side or the other what his thinking is or which way he is leaning. In situations such as that, when you feel the way the wind is blowing, if there is a compromise position whereby you can get out of it without the need for the chairperson to exercise a casting vote, that is the way the debate will gravitate. That has been my experience—

The Hon. R.K. Sneath: Are you saying that I should be an independent chair?

The Hon. T.G. CAMERON: No, I am certainly not saying that. The Hon. Mr Sneath would be about as—well, I had better resile from that. The Hon. Mr Sneath would not be terribly independent at all. I was referring to one of the advocates appointed by the government to represent the employees. In the event, all one side would have to do would be to say, 'Well, stuff you. We'll just tie the vote and make it four all, so nothing is going to go out of this committee.' To my way of thinking, that could act against a proper debate and discussion of the issues concerned. Both sides know that there is somebody there who will break the tiebreak, particularly if some people are being a little silly and digging their heels in.

To me, that kind of model would have more chance of effecting a compromise position out of this advisory committee, which is really what we are looking for—trying to get the two sides together. Could you imagine the state executive of the Australian Labor Party where the President did not have a casting vote and the Left had 12 votes and the Right had 12 votes? You could sit there for two weeks and you would not get an agreement out of them; they would dig in their heels and say no. However, if you know you have someone sitting there who can break the tie and who can push people towards a compromise position, to me, that is a model that would work better than creating a situation where one side could put their hands in their pocket and say, 'That is it. We are just not voting for this. We will tie the vote.' I think that that model would be counterproductive for what I think the government is trying to achieve.

The Hon. CARMEL ZOLLO: I thank the Hon. Terry Cameron for his indication of support and his excellent argument, other than the Sneath hypothetical. I remind the Hon. Ian Gilfillan that we are yet to deal with the other

provisions in this bill that allow this group to make a decision. It is not really simply about providing advice.

The committee divided on the Hon. A.J. Redford's amendment:

AYES (11)

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

NOES (8)

Cameron, T. G.	Evans, A. L.
Gago, G. E.	Gazzola, J.
Holloway, P.	Sneath, R. K.
Xenophon, N.	Zollo, C. (teller)

PAIR

Roberts, T. G.	Stephens, T. J.

Majority of 3 for the ayes.

Amendment thus carried.

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

Page 8—
Line 11—Delete 'Authority' and substitute:
Committee
Line 13—Delete 'Authority' and substitute:
Committee.

These amendments are consequential.

Amendments carried.

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

Page 8, line 15—After 'subsection (2)' insert:
(a).

I note that this is consequential.

Amendment carried.

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

Page 8—
Line 15—After 'subsection (2)' insert:
(a)
Lines 15, 16, 18, 19, 21, 22, 23, 25, 27, 29, 30, 31, 32, 34, 35, 38, and 42—Delete 'Authority' and substitute:
Advisory Committee
Page 10, lines 2, 5, 7, 8, 11, 14, 24, 27, 29, 30, 32, 34, and 38—Delete 'Authority' and substitute:
Advisory Committee
Page 11, lines 1, 6, 10, 12 and 15—Delete 'Authority' and substitute:
Advisory Committee

These amendments are consequential.

Amendments carried.

The Hon. CARMEL ZOLLO: I move:

Page 11, line 15—Delete 'prepare' and substitute:
provide to the Minister.

As proposed by the opposition during the lower house debate, the government is proposing two amendments to clarify the arrangements for the SafeWork committee's annual report. This, the first amendment, ensures that the annual report must be provided to the minister before 30 September each year. The second amendment, which will be moved shortly, provides for copy of the report to be laid before both houses of parliament within 12 sitting days after the report is received by the minister.

The Hon. A.J. REDFORD: The Opposition supports the amendment. This is simply a technical drafting matter.

Amendment carried.

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

Page 11, line 16—Delete 'authority' and substitute:
Advisory Committee.

This is consequential.

Amendment carried.

The Hon. CARMEL ZOLLO: I move:

Page 11, line 23—Delete 'prepared' and substitute:
received by the Minister.

I have already indicated the reason for this amendment.

Amendment carried; clause as amended passed.

Progress reported; committee to sit again.

CRIMINAL ASSETS CONFISCATION BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

NARACOORTE TOWN SQUARE BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

ADJOURNMENT

At 11.23 p.m. the council adjourned until Thursday 26 May at 11 a.m.