LEGISLATIVE COUNCIL

Thursday 26 May 2005

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

STANDING ORDERS SUSPENSION

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

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

Motion carried.

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

Adjourned debate on second reading.

(Continued from 5 May. Page 1815.)

The Hon. NICK XENOPHON: This bill is part of the package of legislation that could be said to be part of the so-called Ipp reform legislation to do with the insurance industry. I cannot support this bill because I am concerned that it will mean a diminution in the rights of those who have been injured.

The Hon. R.D. Lawson interjecting:

The Hon. NICK XENOPHON: I am grateful to the Hon. Mr Lawson for indicating that it does not apply to personal injury claims but it does apply to claims for property damage and other forms of damage. My concern is that this has been part of a legislative trend and a push that has been largely at the behest of the insurance industry, and I believe that we have yet to see any real benefit to consumers and that we have seen benefits only at the margin. I support the view of those who say that the insurance industry is cyclical in nature and that these so-called reforms are very much a knee-jerk reaction to a push by the insurance industry to prop up its profits.

I am grateful to the Hon. Mr Lawson for his comprehensive contribution of 5 May, when he discussed figures published in the *Australian Financial Review* of 5 April 2005 that indicated that a survey had found that 30 per cent of community organisations have had no change in their insurance premiums but 62 per cent of respondents said that their insurance premiums had increased. That is why I think it is important that the ACCC continues to monitor the insurance industry.

My concern is that I believe this would be applicable to cases involving, for instance, the property spruikers—the Henry Kayes of this world—who have gone belly-up in recent months. What would be the implication for consumers in those cases if there are several parties that have had proceedings issued against them—for instance, a financial adviser or a lending institution as well as the property promoter—for false and misleading conduct and the promoter, the Henry Kaye type operator, has gone belly-up? Where does that leave those consumers? That is a real concern to me. They could well be left high and dry. My question to the government is: how different is this from the approach in Queensland where, as I understand it, they had some thresholds before this legislation applied so that smaller investors—consumers at the lower end of the scale, up to several hundred thousand dollars—would not be affected by this type of legislation. They are my main concerns. I am concerned that, again, this is part of the general push that we have seen in the personal injury field with the Ipp legislation and that this would be a further erosion of consumer rights. I believe that it is a retrograde step.

The Hon. IAN GILFILLAN: Our contribution will be relatively brief at the second reading stage. I indicate support for the second reading so that the matter can be looked at in more detail during the committee stage. We share in what I understood the Hon. Nick Xenophon to be signalling. We have regarded with some scepticism knee-jerk legislation under pressure from insurance companies crying poor. Balance reports, stock markets and share prices do not indicate that insurance companies are having it particularly tough. We will be looking to make sure that this is not just a sort of palliative approach to a particular emotional cry from insurance companies. I think it is important to place on the record two letters from the Law Society. The first is dated 25 June 2003 and is addressed to 'The Hon. K Foley, Deputy Premier and Treasurer'. It reads as follows:

Proportionate liability.

Thank you for your letter of 2 June 2003 in relation to the model of proportionate liability recently adopted by the Society. The issue was considered by the Society's Council at its April meeting, at which the President and Secretary-General of the Law Council of Australia were in attendance. It is fair to say that the issue of whether to adopt the Queensland model or the New South Wales model engendered considerable debate. At the end of the day the motion, which accords with Law Council's position, was carried on a split vote.

In the Society's (and Law Council's) view, what it is proposing should provide the benefits of proportionate liability to defendants where it is particularly needed, that is, major commercial claims. In our view, plaintiffs with claims in excess of $500 000 are likely to be sophisticated enough to appreciate risks. On the other hand, by retaining joint and several liability for lower value claims for pure economic loss and property damage, the Society believes that there is more likelihood of less sophisticated and more vulnerable plaintiffs receiving full compensation.

As you have noted, the Society also supports requiring a defendant to join other possible liable defendants. The defendant is usually in a far better position than the plaintiff to know which other partners might be liable, and it is for that reason that the defendant ought to bear the onus of deciding who ought to share liability. The plaintiff may otherwise have to join all potential defendants in circumstances where it is unclear as to other parties' responsibilities. In that instance the plaintiff may risk a substantial costs burden if subsequently found to have joined innocent parties. Thank you for this additional opportunity to provide comment on the matter. Please do not hesitate to contact me if you have any further matters you wish to raise.

Yours sincerely, Andrew Goode.

Mr Goode was president of the Law Society at that time.

The second letter was from the same year on 25 September and probably just reinforces the points made, but I read it again. It is addressed to Mr Foley, Deputy Premier and Treasurer, under the heading 'Proportionate liability'. It states:

I understand that the issue of Proportionate Liability will be considered by Cabinet in the very near future.

The Society would like to take this opportunity to restate its position previously communicated to you by letter of 25 June 2003. Our position is consistent with that of the Law Council of Australia, namely, that proportionate liability should apply for plaintiffs with claims in excess of $500 000. In our view those plaintiffs are likely to be sophisticated enough to appreciate risks. On the other hand, by retaining joint and several liability for lower value claims for pure economic loss and property damage, the Society believes that there

is more likelihood of less sophisticated and more vulnerable plaintiffs receiving full compensation.

The Society also supports requiring a defendant to join other possibly liable defendants. The defendant is usually in a far better position than the plaintiff to know which other partners might be liable, and it is for that reason that the defendant should bear the onus of deciding who ought to share liability. The plaintiff may otherwise have to join all potential defendants in circumstances where it is unclear as to other parties' responsibilities. In that instance the plaintiff may risk a substantial costs burden if subsequently found to have joined innocent parties.

The President and I would be more than happy to meet with you to discuss these matters further if you so wish.
Yours sincerely, Jan Martin, Executive Director.

I do not know whether there were further discussions: we have not been provided with that information. Also, I apologise to the chamber if in fact some of these matters have been dealt with in previous contributions. I confess that I have not had a chance to look through those in detail.

But, with that very clear message coming twice, and certainly it was nearly two years ago the matter was raised, it will obviously be a key point for us to hear, either in the second reading summing up or in the committee stage, how this government in this legislation has addressed the concerns of the Law Society. As I indicated, we support the second reading and will take part in the committee stage.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank honourable members for their contributions to this bill. The Hon. Mr Lawson asked about the progress of Tasmania and the Northern Territory in legislating for proportionate liability. I can confirm that Tasmania has passed the Civil Liability Amendment (Proportionate Liability) Act 2005 but that that act has yet to commence operation. The Northern Territory has passed the Proportionate Liability Act 2005 which is to commence on 1 June 2005.

The Hon. Mr Lawson also asked whether the government had considered a provision like that adopted by the Australian Capital Territory, excluding from the act liability for claims about consumer goods. The answer is that ministers nationally considered whether to exclude consumer claims but decided not to. The national model therefore makes no exception for consumer claims. The government chose to adopt the national model so as to produce uniformity with most other Australian jurisdictions on this point.

There is only one other comment I think I need make at this stage of the debate, and we will obviously have the opportunity to discuss the details during the committee stage. Comments were made by the Hon. Nick Xenophon suggesting that this legislation is brought forward at the behest of the insurance industry, and other claims of that nature. I think it is worth pointing out that the availability of insurance is an essential ingredient for the modern economy to exist. It is important that insurance be available and that it be available at a reasonable price. If that is not the case, we have seen the consequences that come from that in some areas, and we have addressed these in previous bills. The collapse of HIH Insurance was a case in point.

The Hon. Nick Xenophon interjecting:

The Hon. P. HOLLOWAY: Maybe so, but the point is that insurance has not always been available in the building industry and in professional cases (and I stress that of course we are not dealing with personal liability here), and the availability of insurance is important. But it has to be available at a reasonable price, because the premiums are paid by the public. There are two sides to the story. If premiums are unreasonably high, people will tend to not take out insurance cover (and we see this in the housing industry), and that burden can often then be passed on to the taxpayer or the public at large.

So I just make the point that there does need to be a balance in this area. What we are talking about here in terms of contributory negligence and apportionment of liability is I think a very fair principle, and I think we should address it in that context. It is presently the law that, if two wrongdoers concurrently bring about the same harm, the wronged party can sue either or both of them for the full amount of the damage. If only one of them pays for the damage, that person can then pursue the other for contribution and the court will work out what the share of each should be. But it can happen that one or more of the wrongdoers cannot be made to pay, perhaps because they are impecunious or because they cannot be found. In that case, under a system of joint and several liability, the one who is able to pay is made to pay in full even though only partly responsible for the damage. So there is a very important principle behind this bill, and I think that, if one is to have confidence in an insurance system and confidence in an economic system, it has to meet those principles of fairness. I believe that is why all the other jurisdictions in this country have adopted similar legislation.

I think at this stage it is probably best that we move into committee and we can deal with specific debate on the bill at that stage. Again, I thank all honourable members for their contribution and commend the bill to the council.

Bill read a second time.

In committee.

Clause 1.

The Hon. NICK XENOPHON: First, has the government had any advice—either from the insurance industry or from its own research or internal advice—as to what the likely impact of these changes to the law will be on insurance premiums? Secondly, what advice has the government had with respect to the potential impact of these proposed changes on consumers or on a plaintiff bringing a claim? Has there been any forecasting or research done with respect to that?

The Hon. P. HOLLOWAY: I refer the honourable member to the Trowbridge Deloitte report (these are both fellows of the Institute of Actuaries of Australia). In their report they concluded that, when combined with other measures that parliaments of Australia have dealt with, in particular the professional standards legislation we dealt with earlier, and I quote:

Although there was mixed reaction from our respondents, as a broad indication, premium savings might be in the range 10 per cent to 20 per cent for smaller firms that do not buy high limits of cover, and more for the medium size and larger firms that currently purchase high limits of cover.

The Hon. Nick Xenophon: What was the date of that?

The Hon. P. HOLLOWAY: The date this work was done was 13 November 2002 but, as I said, these measures are combined with the earlier professional standards measures.

The Hon. NICK XENOPHON: The second part of the question related to the potential impact on consumers. Has some assessment been done of the sort of people who will be missing out on claims and what the impact will be on people bringing a claim (the sorts of matters that will be most directly affected by this type of legislation)? I gave the Henry Kaye property spruiker example and, I hope the Hon. Mr Lawson does not mind but I think he said that in his view that may not be the best example to give—but I will stand corrected if that is not an accurate representation of his views. What will be the potential impact to consumers who have a

claim and who will be affected by this legislation? Also, given that the Trowbridge report was published some two and a half years ago, what role will the state government play in ensuring that the insurance industry is brought to account or that there is a monitoring of the impact of premiums? The people of South Australia should know what the effect of this and other pieces of legislation are, given that we have gone through this sweeping change that has affected the rights of plaintiffs in a whole range of areas from personal injury to matters such as those before us in this bill. How will we know whether it has been worth it in terms of the purported benefits to which the Trowbridge report alluded?

The Hon. P. HOLLOWAY: In relation to the question about what the impact would be on consumers, the government concedes that there will be cases where, if this bill is passed, consumers may not be able to recover 100 per cent of their claims because one of the other parties who is liable will be insolvent, or by other means will not be able to recover it. The government makes the concession that in this bill there is, essentially, a shifting of the risk from the defendant to the plaintiff. That is acknowledged.

However, to answer the question thoroughly, one would need to consider the downstream effects of all this and, during the second reading speech, I gave the case of someone who is involved in a car accident which involves several vehicles—some may have third party insurance but others may not and may not have the capacity to pay. I think what may well come from this bill, if we properly and fairly apportion liability through the system, is that one would hope that that would flow through into other behaviour. In the case of that motor vehicle accident, for example, I know that there has been discussion around for many years as to whether third party property damage should be compulsory, and governments of all persuasions have tended not to support that course of action. However, it is the sort of change in behaviour that may ultimately come out of these changes. At present it is, sadly, all too easy to let the burden of risk fall unfairly on a certain section of the population. We have seen that with household insurance at times of bushfire risk or large-scale disasters.

Some people will not insure, but inevitably the public pressure at the time is that the taxpayer has to bail out those people, even though those who are prudent and have done the right thing and have managed their risks through taking insurance are covered. There are important issues of public behaviour that will flow through from these sort of changes. In my opinion they will over time be positive changes that will tend to encourage people to manage their own risks more than they do at the moment. That is an intangible factor and we can only guess how important that might be.

The Hon. R.D. LAWSON: The Hon. Mr Xenophon mentioned the fact that I did not consider the case of a financial adviser to be the best sort of example of situations where this act might have some effect, but there are a vast number of situations in which it will have effect, notwithstanding the fact that personal injuries are excluded. A more likely effect in the financial area would be somebody who purchases a business as a result of poor advice and the purchaser of that business might complain about the negligence of his accountant in suggesting that he go into the transaction, or about the valuer who was retained to value the stock or some part of the premises.

There may have been misrepresentation by an agent involved in the sale, and the person from whom the business was bought might have misrepresented the takings or made some other misrepresentation. In a complex situation of that kind one can see a prudent plaintiff joining a number of defendants who may be in some measure responsible for the damage. I recall a case I was involved in myself, acting for a driver in a car rally who had a collision with another participant in the same rally. Although it was a personal injuries claim, a similar claim could have been made in respect of the damage suffered by the vehicles in the particular collision. However, in that case there was a vast array of people who were joined as defendants, including the Confederation of Motorsport under whose auspices the event was conducted; those who had laid out the course in such a way that it created a situation where collisions were likely; the club that was organising the particular event under the auspices of CAMS; the marshals who were present on the course at the time; and the people who had put up the warning devices, the signs, the flags, etc. on the course. In a situation of that kind, clearly there is a wide range of liability to be apportioned. One can imagine, certainly on building sites, that a collapsed crane or wall might give rise to claims against designers, builders and other contractors, subcontractors and the like.

The Hon. Nick Xenophon interjecting:

The Hon. R.D. LAWSON: The honourable member makes a perfectly obvious point: a scheme of this kind encourage plaintiffs to join more defendants rather than less, thereby complicating proceedings, increasing the cost and bringing more people within the net. I do not think so. In my experience, under the current system every effort is made to join every possible party and I cannot see there being much change in relation to that. Prudence will always dictate that a lawyer will advise his client to join all possible defendants because very often, until the case is under way, discovery is made and witnesses are called, it is very difficult to identify the precise source of the damage. So, I do not believe that this measure will simplify proceedings. I do not believe that it will lead to less complex litigation, but I believe it will lead to fairer results and will lessen the risk insurers have. At the moment they have to charge a premium based on the expectation that their client, who may be engaged in a relatively risk-free occupation, by reason of a 1 per cent contribution to a particular situation, is required to pay 100 per cent of the damages. Clearly, that means that that client in a risk-free occupation will be paying premiums way above what he should pay, having regard to the risk of his particular activity.

The Hon. NICK XENOPHON: I am grateful to the Leader of the Government for his candid answer about the issue of, for instance, third party property damage, because it is a problem. We keep talking about it as an issue, and I believe that this legislation may well force further consideration of that, as the minister effectively conceded in terms of his views. The Hon. Mr Lawson said that we will have fairer results with this, but that will be the case only if all the other parties have insurance, and two issues arise out of that. Given that we are to have a sea change with respect to proportionate liability, contributory negligence and these types of matters, what effort will there be to at least publicise these changes so that there is a greater emphasis on it if you are caught up in a prang, for example? People's cars are their second biggest asset although, I hasten to add, not in my case.

What do we do about that? It could be that a plaintiff will not take action against certain parties if they know that that party has no insurance, and they have no prospect of recovering insurance. So, rather than dragging somebody in who will

be impecunious because of their lack of insurance cover, what provision currently in our court rules and in the District Court and Supreme Court legislation ensures that we can find that out? The Hon. Mr Lawson might be able to assist with this issue. I do know the answer; perhaps I should. I think it will be a very live issue, given these changes.

To sum up, there are two issues: first, how will we publicise these changes; secondly, as they currently stand, will the court rules and the court process allow for pre-action discovery of whether somebody has insurance cover?

The Hon. P. HOLLOWAY: We will have to get back to the honourable member in relation to the court rules. However, as to the question about publicity, I would have thought that the principal source of information is the legal profession. After all, we are talking about liability. If a person suffers some property loss, in the vast majority of cases they would consult lawyers, who would be able to explain to their clients the changed situation.

The Hon. Nick Xenophon: This is encouraging people to take up insurance to know that—

The Hon. P. HOLLOWAY: I think that is something that will come through time. In the first instance, it is really the government's duty to ensure that, if this bill is passed and becomes an act, the legal profession is well aware of it, because it will be the principal source of information for their clients about the changed situation. In terms of public debate, certainly the government has done its part in the past to make people aware of these sorts of issues, and it will continue to do so in the future. However, it does not have any specific plans for a major advertising campaign, if that is what the honourable member is suggesting.

The Hon. IAN GILFILLAN: In my second reading contribution I read into *Hansard* two letters sent by the Law Society. I wonder whether the minister will indicate how the government responded to those—in particular, to the suggestion, or recommendation, that proportionate liability should apply to plaintiffs with claims in excess of $500 000, as was recommended in June and September 2003.

The Hon. P. HOLLOWAY: Unfortunately, we do not have the correspondence replying to the Law Society on that matter. However, I can inform the honourable member that, after consideration, the government did not accept the proposal for a $500 000 threshold for essentially two reasons: all the other state jurisdictions (with the possible exception of Queensland) had rejected it, and the main reason (and this advice came from professionals, including those in the insurance industry) was that it is the large number of smaller claims that have the biggest effect on premiums, rather than the larger claims.

The Hon. T.G. Cameron: Is that because of administration costs—processing and so on?

The Hon. P. HOLLOWAY: Yes—although, obviously, there were would be similar costs in each case. However, if you have a small claim, the cost of processing is a much higher proportion than in a large claim. That is why most jurisdictions, including South Australia, decided not to go down that path. However, consideration was given to it.

The Hon. T.G. CAMERON: I am pretty supportive of what the government is attempting to do with this legislation. Having listened to the Hon. Nick Xenophon, I think that he flagged a couple of concerns. Will the government indicate whether it would be prepared to monitor the impact of the bill and perhaps bring back a report to the parliament in two years? I do not know whether that has already been requested. I do not want to move a resolution. I will not be here, but you can post a copy to me somewhere in Asia.

The Hon. P. HOLLOWAY: I suspect that there will be in the financial year, because I am advised that the ACCC is conducting a national review of the legislation. In relation to this bill, it needs to be pointed out that, as was the case with similar bills that impacted liability, South Australia is a relatively small part of a national insurance market. So, often the price for insurance is set in the larger Eastern State markets, particularly New South Wales, rather than here, and we have to ensure that our laws and rules in relation to these things are roughly on a par with those in other states so that we are able to be protected by the insurance principle that our risks are spread across. I think it is worth making the point that we, in that sense, are probably price takers (which is probably the economic word) in relation to some of the insurance, because of the size of our market.

The Hon. NICK XENOPHON: I interjected when the Hon. Mr Holloway said 'price takers' and my immediate response to that was 'price gougers'. Some may feel that the insurance company has been gouging the market. Following on from the Hon. Mr Cameron's and the Hon. Mr Gilfillan's questioning, Queensland has gone down the path of having that threshold, I think of $500 000?

The Hon. P. Holloway: Yes.

The Hon. NICK XENOPHON: The Hon. Mr Holloway has indicated yes, and I accept that. What has the impact been in Queensland? I believe the Queensland government is doing the right thing by protecting those mum and dad investors and those consumers, people caught up in business transactions gone wrong. Given that we have a relatively small national market, and the fact is that Queensland has gone it alone, so what has the impact been in Queensland on premiums and prices compared to other states that have gone down this path, or is it too early to say?

The Hon. P. HOLLOWAY: It is the latter. It is too early to say because I think the legislation has only just been in place, and obviously it will take some time for that impact to flow through into prices, and I guess that is why the ACCC report, as the Hon. Terry Cameron was suggesting, will be conducted at some stage. Queensland commenced on 1 March this year so obviously it is too soon. We will try to get the information of when the ACCC is doing its report, because that is probably relevant for the time frame.

The ACCC apparently did a report in January this year, and it is our understanding that it is going to do annual reports, so that will be a good progression to see how the impact of these reforms and market forces in the insurance industry generally work. That will be beneficial to everyone. If we can get that information annually, we will have a much better tracking of what is happening.

The Hon. NICK XENOPHON: A final question on this line. If the ACCC report indicates that Queensland consumers are getting pretty similar premiums to the rest of the nation, will the government reconsider its position on this legislation to provide a threshold down the track?

The Hon. P. HOLLOWAY: That was the point that we made, that we did not believe that the $500 000 threshold would have much impact because it was the large number of small claims that have the biggest impact on premiums, and I also made the point that we are probably in a national market, although Queensland is a larger market than us. Whether the statistics would show up any variations in the Queensland market, I guess time will tell, but obviously any government elected after the next election or beyond would

have the capacity of looking at that information if it was sensitive enough to provide that sort of indication.

The Hon. R.D. LAWSON: I would imagine with the Australian insurance market that Queensland insureds will not get any benefit at all from the fact that they do not require insurance cover, so that there will be one national premium which will apply both to South Australia and everywhere else, and that there will be no variation in the rate as a result of what they have done in Queensland. I have looked at the Queensland parliamentary debate on the subject and also some newspaper clippings about it, and there does not seem to have been much debate or discussion as to the reason why the $500 000 threshold was imposed there. It might sound popular but really its effect is this. The Hon. Mr Xenophon referred to the mums and dads, and in consequence of this legislation the mums and dads will not be able to get 100 per cent of the damages from somebody who was only actually responsible for 1 per cent. That is actually a fair and just result, and it is entirely appropriate that the rather artificial construct that the law has presently operated under should continue.

So although it is true that a remedy that is currently available will no longer be available to people in that situation, I believe that it is a fair result, and that has been the recommendation of a number of reports. True it is, we are not prepared to go to the stage of actually depriving injured plaintiffs, that is those who have suffered personal injury, of these rights, because we can see in certain circumstances injustice will inure, and it is likely that those people will actually been thrown on the public purse, and I imagine that is one of the reasons that it is attractive to governments. The honourable member says, 'Is this the first step? Is this the thin end of the wedge?' I do not believe it is. Based on all the reports, all the discussions so far, I have not seen anybody suggesting, and we certainly on this side of the committee would not be supporting, proportionate liability for personal injuries claims.

The Hon. IAN GILFILLAN: I wonder whether the government would reflect on this particular aspect looking at it from a cynical view that it is being encouraged because insurance companies see it to their advantage.

The Hon. Nick Xenophon: We are not cynical.

The Hon. IAN GILFILLAN: No, I am just being a mouthpiece for those who may be. If there are several defendants, some of whom are not covered by insurance, what is the scope, by way of the pressure from the very efficient representation by the insurance companies covering the insured defendant, that there may be an off-loading of what may well be argued as a fair proportion of responsibility?

I accept that that may well be a cynical view, but, on the other hand, an insurance company is obliged to look after its own interests as well as the interests of its own clients. In relation the ground which the Democrats and the Hon. Nick Xenophon share—and without using the Hon. Nick Xenophon's cute phrase about mums and dads—I think it applies to many people who are not necessarily particularly strongly empowered in the face-to-face conflict of trying to get your just desserts. Would the government give some assurance to the committee that the system is not open to this distortion because of the powerful insurance companies off-loading by way of a joint representation on to maybe joint defendants who are not insured?

The Hon. P. HOLLOWAY: The important point is that, under clause 11 (which inserts new section 8), it is important to understand that it is the courts that will determine the extent of liability in these cases. It is the courts that are determining what is liable, not insurance companies. I am not sure that I fully understood the point the Hon. Ian Gilfillan was making. I think he was talking about the insurance companies shifting the liability. It is the courts that determine the actual extent of liability in individual cases. However, I use the example of car accidents and third party property insurance, or other forms of insurance covering accidents. If, for example, 60 per cent of the population has insurance and 40 per cent do not, then what is happening at the moment is that the insurance premiums for the 60 per cent are significantly higher to cover the cost.

The 60 per cent might be paying pretty well close to 100 per cent of claims. I do not have any figures, but one would assume that certainly they would be paying a far higher proportion of costs than the proportion of people who would claim. As the Hon. Robert Lawson says, that is unfair and it means that there are victims. In this case, the victims are the people who do the responsible thing and insure and who then have to pay higher premiums to carry those who do not. That is an issue for another day. It is not just motor vehicles; I am sure it would apply in a number of other examples such as property damage. Again, the fundamental point is that this bill is about fairness. It is not a matter of insurance companies paying.

We have to remember the other side of the coin; that is, it is ordinary people who pay premiums for insurance. I pose the question: should they pay more than their fair share should be because that is the way in which the system works? I would suggest not.

The Hon. NICK XENOPHON: I hope I am reflecting the views of the Hon. Ian Gilfillan, because I think there is a philosophical divide between the government and the opposition and the view of the Hon. Ian Gilfillan and me. For me, the issue of fairness is from a different perspective. As a result of this legislation, and through no fault of their own, someone who has been involved in an incident or who suffers significant property damage in a motor vehicle accident will be left in the lurch for their damages. I understand the point that the Leader of the Government and the deputy leader of the opposition are making, but to me it would be more unfair for those who have suffered loss to miss out—namely, those who are economically more vulnerable and more disadvantaged—and it would be fairer for the burden to be kept as it is under the current system.

I do not know whether the Hon. Ian Gilfillan would share this concern, but, for instance, in motor vehicle property damage claims, we will see more and more people suffering significant hardship because some will not be insured. As a consequence of that, we will need to look (as the Leader of the Government has mentioned) to compulsory third party property insurance. I think that, for all its flaws, at least the current system gives some protection to those who are more economically vulnerable.

The Hon. P. HOLLOWAY: It is important to make the point that it is not just a matter of insurance. A person may have assets but no insurance and they might lose their assets. As an example, I refer to a chain collision where the car in the middle is shunted into the car in front by the car behind it. If the person at the end of that chain collision has no assets but the person in the middle does have assets, that person could end up paying the entire cost even though their contribution to the accident might have been proportionately less than the

person in the other car. Fairness in these things is not an easy concept.

The Hon. Nick Xenophon: It is in the eye of the beholder.

The Hon. P. HOLLOWAY: It is. The other point that needs to be made in relation to insurance is that, if we have a system where there is no incentive for people to have insurance because, as in the cases we have described, they get away with it, is that a good system? In the end, I would have thought that that was a rather corrosive system. Ultimately, a system under which people tend to drop their responsibilities and let them fall on fewer people is corrosive.

The Hon. IAN GILFILLAN: I am far from persuaded that, on balance, this is really an advantage and for the wellbeing of the community at large, because I am not convinced that the sums guarantee that there will be a significant reduction in premiums. If the calculation were done, what is the guarantee that the insurance companies would make sure that that 100 per cent alleged gain in their expenditure would be transferred? Arguably, that is the value that is to come from this legislation but, at the same time, I believe that my responsibility is to be as conscious of the comfort that the innocent victim enjoys—or, in this case, I think, it has diminished through the legislation. In recognition of what has quite clearly been a heavy penalty on insurance companies in, say, public liability, the Democrats have supported a cap. We have had to wrestle with that, but we believe that that is an area that we have certainly been justified in looking at.

So, we are not convinced. I think the compulsory third party property measure for motor vehicles may go a long way to solving this issue in what I would suspect is the large majority of cases in which that would occur. However, I think there is the risk of innocent victims being given only quite a small proportion of what is their fair compensation. The defendants who are not insured are most likely to be the most indigent; they may even be very difficult to find and have no assets, so the victims will not be able to claim from them. They are left with a great gap, if one looks at the justice of this, in a situation where we expect victims to have reasonable compensation. I think there is as much a downside in this as the partly illusory upside of reduced premiums. With respect to my confidence in insurance companies being genuine beneficiaries of the community rather than beneficiaries to their shareholders, I think I have a fairly accurate interpretation of where their priority would lie.

The Hon. P. HOLLOWAY: I would like to make one comment. It is not just insurance companies. Again I go back to the example I gave of the chain collision involving a second car being shunted in a three-car chain collision: the car in the middle being shunted from the car behind and hitting the car in the front, so that person has some liability (it might be 5 per cent). That person may not be insured but may have assets and could end up paying 100 per cent of the liability for the car in front. That person is, in a sense, as much a victim: for a 5 per cent contribution they have to pay 100 per cent of the damage. In that sense they are as much a victim, or perhaps even more of a victim, than the person in the car in the front.

I make the point that there are some grey areas here. It is not just about insurance, and these concepts are not always that simple. It is probably the downstream effect—and we have talked about the downstream effect flowing in through premiums, and we have had the estimate that these changes, with others, could be worth 10 per cent to 20 per cent in reduced premiums that would benefit everyone. But they are also victims. In the case I made there are individuals who might end up having to lose a significant amount of their assets even though they might have a very small measure of liability. That, essentially, is not fair.

The Hon. R.D. LAWSON: I certainly agree with the minister in that respect. The Hon. Ian Gilfillan talks of innocent victims and justice. If the Hon. Ian Gilfillan happens to be riding his bike along King William Street and a drunken driver travelling at 100 km/h is also driving along there but, as a result of a little swerve that the Hon. Ian Gilfillan makes on his motorcycle, this drunken driver diverts his vehicle and collides with a crane, which collapses on a building and causes $1 million worth of damage and is able to satisfy the court that it was the Hon. Ian Gilfillan's swerve that contributed to the extent of 0.5 of a per cent, the Hon. Ian Gilfillan is personally liable for all the damages that ensued from that collision. Where is the justice in that? He is, indeed, the victim, and these measures will ensure that he will not be bankrupted by reason of that; he may have to make some contribution, but he will not be bankrupted. That is a fair result.

This is not a system that is designed solely to benefit insurance companies. If we in the opposition (and I am sure this is the position of this government and governments all around this country) thought that it was just doing the insurance companies a favour, we would not have been in it. This is the occasion to remedy what is an injustice.

The ACTING CHAIRMAN (Hon. R.K. Sneath): Does the Hon. Mr Gilfillan plead guilty or not guilty?

The Hon. IAN GILFILLAN: Mr Acting Chair, it would be a pushbike. I claim that the evidence was inaccurate on one major point: I was progressing along the highway on a pushbike, not a motorbike. The cause and effect factor, I think, can be stretched extraordinarily widely, and the argument that a butterfly's wing beat in the Amazon causes a typhoon is the logic of it. If the Hon. Rob Lawson is accurate and the government and the opposition have recognised this injustice for years, why have they not acted before, purely on the basis of protecting the victim?

The motive for this, the energy for this, has come from insurance companies screaming blue murder; there is no doubt about that. Otherwise, people of great conscience and who care about people who would have suffered, as I could have done if I had weaved on my pushbike, would have been protected by Liberal and Labor legislation decades ago. But it did not happen. It is the insurance companies that have suddenly been bitten on the bum and they are squealing, and this is the legislation. It is no good pretending that it is coming up now as a latter-day conversion to caring about the little people.

Our position, I think, really reflects what I said in the second reading. Both the Law Society and the Law Council of Australia, in their wisdom, have made the point that it should apply only for plaintiffs with claims in excess of $500 000. I believe that that principle would safeguard the points that both the Hon. Nick Xenophon and I have argued for. He calls them the mums and dads, while I call them just ordinary people without enormous means at their disposal. I believe that the suggestion put forward by the Law Society and the method adopted by Queensland would result in legislation that we could support but, without that, I am inclined to make the point at this stage that the Democrats would join possibly with the Hon. Nick Xenophon and oppose the third reading.

Clause passed.

Clause 2.

The Hon. NICK XENOPHON: When is it expected that the bill will come into force? Does the government have a specific date in mind?

The Hon. P. HOLLOWAY: I can advise that the government has not yet chosen a date, but it will be sooner rather than later. That is the advice I have. We would like to do it as soon as we can.

Clause passed.

Clauses 3 and 4 passed.

Clause 5.

The Hon. R.D. LAWSON: I refer specifically to the definition of apportionable claim in this bill which defines those claims affected and which, in effect, excludes claims for personal injury. I remind the committee that, at the very opening of the minister's second reading explanation in support of this bill, this explicit claim is stated:

> . . . applies to claims for economic loss and property damage arising from negligent or innocent wrongdoing. It does not affect personal injuries claims.

I certainly appreciate that the definition adopted in the South Australian bill will have that effect, although the definition adopted in South Australia is somewhat different from that adopted in other jurisdictions. I am really asking the minister for an assurance on this. Our definition of apportionable liability is:

> . . . the liability is a liability for harm (but not derivative harm) consisting of. . . economic loss (but not economic loss consequent on personal injury)

Other jurisdictions—New South Wales and Western Australia, for example—have a more explicit exclusion of claims for personal injury. For example, the definition of apportionable claim in Western Australia (and I think it is similar in New South Wales) includes the words specifically, 'but not including any claim arising out of personal injury'. I seek the assurance of the minister that this definition that we have adopted will have the same effect. It is a shorter definition. I think it is certainly implicit in the definition that any claim at all for personal injury is not included but, by tying it, as our definition does, to non economic loss consequent on personal injury, have we in effect adopted a different scope of apportionable liability than other states?

The Hon. P. HOLLOWAY: The honourable member asks whether the scope was the same. I am advised that the definition excludes claims against joint wrongdoers, and that was a policy decision, but the effect for personal injury, I am advised, is the same.

The Hon. R.D. LAWSON: I thank the minister for that assurance. I am supportive of the approach of parliamentary counsel in this state of economy of language and not using more words than are absolutely necessary in any legislation. I just want to ensure that that economy of language has not in any way diminished the total exclusion of claims from personal injury. I am glad to have on the record the minister's assurance that it has not.

The Hon. P. HOLLOWAY: I can give that assurance.

Clause passed.

Clauses 6 to 10 passed.

Clause 11.

The Hon. P. HOLLOWAY: I move:

(New section 10), page 9, line 4—
After 'must' insert:
, as soon as practicable,

This amendment is moved at the suggestion of the Law Society of South Australia. The society wrote to the government on 11 April 2005 making some comments on this bill, and one comment was that, although the requirement to tell the plaintiff about other potential defendants is useful, it would be strengthened if there was some time limit. The society feared that defendants might deliberately withhold information to the plaintiff's detriment. The society suggested a requirement to provide the information as soon as possible after a defendant becomes aware of the existence of another potential party. At present the clause contains no such stipulation. Other jurisdictions have used expressions such as, 'as soon as practicable', and that is what this amendment proposes. This will make clear that defendants who use delaying tactics are at risk of costs orders.

The society also suggested that a cost sanction was not enough and that proportionate liability should not apply in cases of non-disclosure. The government does not propose to go so far as this. That question was considered by ministers nationally when developing the national model and the conclusion was reached that there should be a cost sanction only. That is the approach that other jurisdictions have taken and we believe that will be adequate—after all, the plaintiff can also conduct his or her own inquiries to try to find liable parties. The information will often be available to all parties. The society also made comments on some matters of drafting but the government is satisfied that no amendment is warranted on those matters.

The Hon. R.D. LAWSON: I indicate that the opposition will support this amendment, and we agree with the comments made by the Law Society and the reasons provided by the government. However, in that same letter the Law Society also provided the following comment:

> As we understood the intent of the definition of 'apportionable liability' we considered that all of the elements outlined in Section 3, paragraphs (a), (b) and (c) would apply. (In paragraph (a) one of the two types of harm would apply.) The way the section reads at present might not lead to that interpretation.

The Law Society went on to say:

> If you agree with our understanding, we recommend that the clause should be amended as set out below to remove any ambiguity . . .

and the Law Society suggested a minor amendment to that provision.

As the government has accepted one of the Law Society's suggestions but not the other, I ask the minister to put on the record the government's reasons for that rejection. I note that he did tell the committee earlier that the government was simply satisfied that no amendment was warranted in those matters, but would he elaborate?

The Hon. P. HOLLOWAY: For the benefit of the committee, we are here considering subclause (8) of clause 5, which amends subsection (2). The question that I think was posed by the Law Society was, 'Could (a), (b) and (c) be read individually, or do they apply cumulatively?' In other words, do (a), (b) and (c) all have to apply? The government believes (and our drafting advice is) that it is quite clear that (a) and (b) and (c) have to apply and that it could not be read in any other way. It says:

> A liability is an apportionable liability if the following conditions are satisfied:

and it then lists (a) and (b) and (c). So, all those conditions have to be satisfied if a liability is an apportionable liability. The government's advice is that there is no ambiguity there.

Amendment carried; clause as amended passed.

Clause 12 passed.

Title passed.

Bill reported with an amendment; committee's report adopted.

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

That the bill be now read a third time.

The Hon. IAN GILFILLAN: The Democrats oppose the third reading. I made plain in committee that, without there being a threshold, we are unable to accept the legislation. It is unfortunate that there is not a threshold and, were there to be one similar to what has been accepted in Queensland and recommended by the Law Society and the Law Council of Australia, we would be in a different position. It is our intention to oppose the third reading and to divide on it.

The Hon. NICK XENOPHON: I, too, share the concerns of the Hon. Ian Gilfillan. I cannot support this bill. I am concerned that this is just another step in the erosion of the rights of plaintiffs. I am concerned that it is the thin end of the wedge and, whilst it does not apply to personal injuries claims now, the rationale behind this bill could be used to apply to personal injuries claims in future and I simply cannot support the bill.

The council divided on the third reading:

AYES (12)

Cameron, T. G.	Dawkins, J. S. L.
Gago, G. E.	Holloway, P. (teller)
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.

NOES (4)

Evans, A. L.	Gilfillan, I. (teller)
Kanck, S. M.	Xenophon, N.

PAIR

Zollo, C.	Reynolds, K.

Majority of 8 for the ayes.

Bill thus read a third time and passed.

STATUTES AMENDMENT (SENTENCING OF SEX OFFENDERS) BILL

Adjourned debate on second reading.

(Continued from 24 May. Page 1876.)

The Hon. R.D. LAWSON: I rise on behalf of the Liberal opposition to speak on this bill, which we support. Notwithstanding that support, we have reservations about some aspects of the bill, which amends the Criminal Law (Sentencing) Act in five major respects. First, it inserts into the sentencing act a new declaration that the primary purpose of the criminal law in relation to offences involving sexual exploitation of children is deterrence. Secondly, the bill reduces the threshold to allow a court to make a declaration that a defendant who commits serious sex offences against children is a serious repeat offender. Such a defendant will become liable to a tougher sentencing regime. Thirdly, the bill introduces new measures relating to offenders who are unable to control their sexual instincts. Those who are not only unable but also unwilling to control their sexual instincts will now be covered by the provisions that allow their indefinite detention in prison. Fourthly, the bill reverses the effect of the judicial policy adopted by the Court of Criminal Appeal in the case of R v Kench. Fifthly, the bill widens the net to catch those who offend against children by raising the age of victims from 12 to 14 years. In other words, previously, only those who offended against children under the age of 12 years could be caught; now it will be those under the age of 14—a wider class.

It should be recorded—although, with regret but not surprise—that these measures are typical of the Rann government's approach to the criminal justice system. It is very reactive to adverse headlines or what it perceives to be an adverse mood in the community. This government is never proactive in relation to law and order: it is solely reactive.

The Hon. Caroline Schaefer: It knocked down all those bikie fortresses.

The Hon. R.D. LAWSON: As the Hon. Caroline Schaefer reminds the chamber, Mr Rann has been threatening to demolish the bikie fortresses and drive them out of business. Yesterday, he was vehement in his defence of his government's poor record on this issue. Not once have we seen a bikie fortress demolished. All it set out to achieve was to overcome a problem for the Attorney-General in his own seat, when a motorcycle group sought to establish itself in Brompton. The government effectively prevented it but, beyond that, nothing has been done. I guarantee that, before the election on 18 March next year, Mike Rann, accompanied by television cameras, will be atop some D9 bulldozer running into a wall of railway sleepers, pretending to the South Australian community that he has achieved something. The bikies will have vacated the premises months before.

The Hon. Caroline Schaefer: Probably sold to the government!

The Hon. R.D. LAWSON: That's right—probably sold to the government at an overinflated price. The drug-making equipment said to be there will have been moved 15 times before the government reaches it. Those responsible for any criminal activity, or who might have been responsible, will have vacated the premises months before and dissipated into the suburbs, and their nefarious activities will continue. It is all spin.

This government is said to be all about protecting children. However, even now it has failed to implement the recommendations of the Layton report it commissioned. This response is typical of its tardiness in matters of child protection. The bill amends section 7 of the sentencing act by adding a primary policy to the existing list of matters the court is required to take into account. The sentencing act already contains two primary policies. The new primary policy, introduced by this bill, is:

> A primary policy of the criminal law is to protect children from sexual predators by ensuring that, in any sentence for an offence involving sexual exploitation of a child, paramount consideration is given to the need for deterrence.

I repeat: 'paramount consideration is given to the need for deterrence' in these offences. The sentencing act already has two primary purposes. First, existing section 10 (2) provides:

> A primary policy of the criminal law is to protect the security of the lawful occupants of the home from intruders.

Another primary policy existing in the current law is section 10(3) relating to arson, as follows:

> (a) to bring home to the offender the extreme gravity of the offence;
> (b) to exact reparation from the offender to the maximum extent possible under the criminal justice system, for harm done to the community.

We now have all these primary purposes of the sentencing regime. We are cynical about the motive for inserting this sort of window dressing. For a start, the adjective 'primary', the existing 'primary purposes of the law'. 'Primary' does not have any special legal meaning in the context of these provisions, but its ordinary dictionary meaning is 'of the first importance, the principal or the chief, that which is in first order, rank or importance'. So here we have a plethora of primary purposes. Surely it is a contradiction in terms to have more than one primary or chief purpose, and adding chief purposes whenever the mood takes the government will water down the effect of provisions of this kind.

The government is just simply seeking to put political rhetoric into the sentencing legislation. We would have been inclined to insert into a provision of this kind words to the effect that the primary purpose of the sentencing regime is for the protection of children, which is as important, in our view, as the need for deterrence. However, notwithstanding the fact that provisions of this kind are only window dressing and they are unlikely to change the way in which any particular judge sentences any particular offender for any particular offence, we do not propose seeking to amend this legislation to change this window dressing.

I think my colleague in another place asked the Attorney during her second reading contribution to refer to any dicta of any sentencing or appeal judges as to the meaning and effects of the earlier inclusions of 'primary purposes'. She got what I would describe as a rather perfunctory response, actually not only to this question but also to a number of other pieces of information which the member sought and which were of obvious relevance to the bill. In his response, the Attorney-General was surly in the extreme. In fact the surliness of his responses betrayed his obvious irritation at having to answer questions on matters which he should be familiar with but which quite obviously he is not on top of. Like a sulking schoolboy he gave shallow, terse, supercilious answers, most of them monosyllabic without any explanation or elaboration. His responses, given in the way in which they were, was clearly a refuge for his own ignorance on these issues, and I would hope that the minister here would respond, as he usually does, in a rather more fulsome way to questions which might be posed.

This bill, secondly, will amend section 20B of the sentencing act by providing that 'An offender who commits a serious offence', which is defined, 'against a person under the age of 14 years, on two separate occasions and is convicted of those offences, may be declared a serious repeat offender', and the result of such a declaration is that the court will not be bound to impose a penalty that is proportionate to the offence, and the non-parole period will have to be set at a period which is not less than 80 per cent of the head sentence.

Of course, the house will be aware that the principles which the sentencing tribunals follow dictate, in accordance with high authority, the principle that sentences should be proportionate to the offence. Here, courts are not circumscribed by that requirement to be proportionate and, in fact, a disproportionately severe penalty can be provided to somebody who is a serious repeat offender. Section 20B already provides that these sanctions, namely disproportionate sentence and 80 per cent non-parole period, do apply to a person who is convicted of committing these offences on three separate occasions, but the new provision will reduce that to two. It is worth mentioning the fact that this section 20B was only enacted in its current form in 2003 in the Criminal Law (Sentencing) (Serious Repeat Offenders) Amendment Act of that year. So the government, with much fanfare, having altered the law in 2003, has decided that that was not sufficiently politically popular, and it has decided to try to make itself look tougher by reducing from three to two the number of occasions upon which offences must be committed for a declaration.

Serious sexual offences are defined in the legislation. We certainly have no quarrel with including in the list of serious sexual offences not only rape, as one would expect, but also acts of gross indecency, procuring a child to commit an indecent act, using children in sexual services, or prostitution as it should be more appropriately called, and the persistent sexual abuse of a child.

Thirdly, the bill will introduce new provisions into the Sentencing Act for offenders who are incapable of controlling their sexual instincts. The act already has provisions dealing with this matter, and they are contained in section 23. An offender who is determined by the court to be incapable of controlling his sexual instincts can be detained indefinitely, or he can be released on conditions which are imposed by the court. That already appears in section 24 of the existing legislation. Provisions of this kind have been in our law for many years, but they are not commonly used. A number of current prisoners are being held under those provisions.

My colleague the member for Bragg asked the Attorney-General to provide details of the prisoners being held. He gave the numbers being held: it is a relatively small number. He did not, in his rather dismissive fashion, provide details of those cases, and I ask the minister to provide further detail for the benefit of the committee stage so that there is a better understanding of the type of offenders we are considering.

This bill will extend the scope of these provisions to persons who are unwilling to control their sexual instincts. Two cases provide justification for inserting new provisions to include those who are unwilling to control their sexual instincts. The first was the case of R v Kiltie (1986), a case in which a psychiatrist who was required to express an opinion upon that particular offender said that he was capable of controlling his sexual instincts but he was unwilling to do so. The second was the case of R v England (more recently decided in 2003) where the defendant refused to be interviewed by the psychiatrists. One of the two psychiatrists said that he was unable to reach any opinion about the offender's capacity, although that psychiatrist later changed his opinion about that. The cases illustrate the fact that the present law is insufficient to cover all circumstances, and we support the amendment so that the provisions will apply not only to those who are incapable but also to those who are unwilling.

The bill will allow the Attorney-General to apply in respect of a person who is currently serving a sentence, rather than, as at present, where the situation usually is that application is made at the time when the original sentence was imposed. The High Court in the case of Fardon (which was referred to in the second reading explanation and which is a Queensland case) determined that there was no constitutional inhibition about sentencing someone where the appropriate legislative provisions are in order after they have been sentenced. Fourthly, this bill seeks to reverse the effect of the decision of the Court of Criminal Appeal in R v Kench, a decision which was handed down on 15 March this year.

In order to understand what is being proposed in this respect, it is necessary to go back to the decision of the Court of Criminal Appeal in a case called R v D, which was decided in 1997. That case examined section 74 of the Criminal Law

Consolidation Act as amended in 1994. That section created a new offence: the persistent sexual abuse of a child. In summary, the section provided:

> Persistent sexual abuse of a child consists of a course of conduct involving the commission of a sexual offence against a child under 16 on at least three separate occasions over at least three days.

The range of possible penalties for persistent sexual abuse of a child was very wide because section 74(7) provides:

> A person convicted of persistent sexual abuse of a child is liable to a term of imprisonment proportionate to the seriousness of the offender's conduct which may in the most serious of cases be imprisonment for life.

Before the creation of that new special offence of persistent offending, the maximum penalty for the usual offence of unlawful sexual intercourse was seven years or life imprisonment if the child was under 12. The maximum penalty for the offence of indecent assault was eight years. Here we had a new offence introduced in 1994 which had a maximum life imprisonment sentence.

In the case of R v D (1997), the Court of Criminal Appeal considered the principles to be applied when a court sentences persons convicted under section 74(7). It was entirely appropriate that the court should do that because of the very wide range that was available. The offences in the case of R v D were committed in 1994, which was just before the commencement of these new provisions. His victim was his 14-year old stepdaughter, and the offences had an absolutely devastating effect upon the girl.

The Crown argued that the penalties under section 74 should be higher than the old standard. The court at that time did not accept that argument. It held that section 74 was only procedural and the reason why the new section was included was to overcome the difficulties that had previously occurred when charges were laid involving multiple sexual offences against a child, and the very real difficulty of identifying precisely the date and places on which each offence occurred. So, the court held in R v D that this was a procedural section. But it did agree that the general level for penalties in these offences should rise.

It examined the sentences in a number of comparable cases and laid down new guidelines. In the particular case, the court held that the trial judge, in sentencing D to prison for six years with a 4½ year non parole period, had sentenced at too high a level. The court considered that, because the offending was of a short duration over some couple of months and the defendant had made voluntary admissions and was remorseful, these were all mitigating factors. The sentence was reduced from six years to five years and the non parole period from 4½ years to 3½ years.

Chief Justice Doyle said that the higher penalty should be imposed in future, in particular, for courses of conduct including unlawful sexual intercourse with a child committed by a person in a position of trust and authority. The Chief Justice said:

> It is not necessary for the court to give a warning before increasing the range of penalties for a particular type of offending. . . Nevertheless. . . warnings do have a part to play in the sentencing process. I consider it appropriate that the heavier penalty should be imposed in cases in which a conviction is recorded hereafter or a plea of guilty is entered hereafter. Although the heavier range of penalties could be applied in the present case I consider that as a matter of fairness the present case should be dealt with by reference to the standard reflected in the previously decided cases to which I have already referred.

The Chief Justice concluded that the starting head sentence for such a case should be about 12 years where the victim was under 12 and about 10 years where the child was over 12. Justice Bleby said:

> I would. . . wish to join in the warning suggested by the Chief Justice that heavier penalties should be imposed for offences of this nature in respect of future convictions or pleas of guilty. Without that warning, however, it might be unfair on the present appellant to adopt that approach, and I would therefore stand by the proposed reduction in this case.

In summary, in the case of R v D in 1997 the court was warning that longer sentences would be warranted, and the court also considered that it would be unfair to those offenders who are convicted to have the longer sentences imposed.

We then come to the case of Kench which, as I said, was decided only in March this year. In Kench, the offender was a 48-year old schoolmaster. He was convicted of five counts of unlawful sexual intercourse and other offences against a 13-year old scout. Judge Clayton in the District Court sentenced him to 10 years with a non parole period of six years, and that was in accordance with the new scale that had been laid down in the case of R v D. When Kench's appeal came on for hearing by the Court of Criminal Appeal, the court agreed with his counsel that the scale laid down in R v D applies only to offences committed after the commencement of that decision. In Kench, Chief Justice Doyle said:

> To apply the [higher] standard foreshadowed in D to offences that occurred before that decision amounts to a retrospective change in the approach to sentencing. It also produces the result that an offender sentenced today for offences committed before 1997 is treated more harshly than an offender whose like offences were committed before 1997, but who was sentenced before the decision in D. It is open to the Court to apply a newly formulated sentencing standard to offences committed before the change occurred, but there should be good grounds to ignore the considerations just referred to by me before one does so. To the extent that the need to deter offenders was a fact influencing the decision in D, that element of deterrence is achieved by applying the highest standard of sentencing to persons who offended after that decision. Accordingly, I proceed on the basis that the [higher] standard indicated by the decision in D is not applicable to the present case.

The court reduced Kench's sentence of imprisonment to eight years and the non parole period to five years. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 1 to 2.17 p.m.]

QUESTION TIME

CRIME STATISTICS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question about crime statistics.

Leave granted.

The Hon. R.D. LAWSON: In a media release issued yesterday by the Treasurer (the Minister for Police) and the Attorney-General (the Minister for Justice) under the heading 'Making South Australians Safer', the following reference is made:

> According to recent statistics released by the Office of Crime Statistics showing that crime had fallen dramatically in a whole range of areas. . .

My questions are:

1. When were these crime statistics released?
2. To whom were they released?

3. If they were released only to *The Advertiser* on an exclusive basis last week, as was suggested by that publication, what justification does the government have for withholding from public release statistics issued by the Office of Crime Statistics?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am not aware of the source of these statistics. I will refer the question to the Attorney-General and bring back a reply.

ZIRCON MINING

The Hon. CAROLINE SCHAEFER: My questions, which are directed to the Minister for Mineral Resources Development with regard to zircon mining in the Mallee, are as follows:

1. Is it correct that an exemption from normal water use requirements and regulations—that is, the requirement to have a water use allocation—has been granted to Australian Zircon, the company which will be mining in that area?

2. Is it normal practice to grant such exemptions to mining companies?

3. Has a study been made as to the effects such use will have on irrigators or potential irrigators in that Mallee area?

4. Has either an economic or a community impact statement been done regarding any of those matters?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): Responsibility for those water licences lies with the minister responsible for water resources, although I am aware that, because this mine is located in the River Murray valley, the Minister for the River Murray is also involved in that process. I will take advice from both those ministers and bring back the details of those matters.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. My understanding is that the area in question is also under a water development moratorium at this time. As Minister for Mineral Resources Development, can you tell me whether it is usual for mining companies to be exempted from water use moratoriums?

The Hon. P. HOLLOWAY: The sand mining project in the Murray Mallee is an unusual project in the sense that we have not had mining of that type in this state before. I hope we have a lot more in the future, with the discoveries that Iluka has made in the area north-east of Ceduna, and there is also the prospect of other sand resources in the Murray and Eucla basins. However, this sort of shallow level mining is unusual in the state and, as I have indicated on other occasions, there are unusual features to it.

So, in answer to the question of whether it is unusual, this particular aspect of it is unusual but, obviously, water resources for mine use is a key issue for a whole lot of mines—particularly the mine expansion at Olympic Dam. Water resources and availability is a crucial area, and it is one of the big risks we face with any future mining developments anywhere in the Gawler Craton because of the water shortages in that area. Of course, different water restrictions apply in different areas depending on the basin in which those resources might be—and we all know that within the Murray Basin, not far from that particular operation, there are a number of agricultural operations such as potato farming and the like that do use water.

However, I am not that familiar with those conditions; they are really the responsibility of my colleague, the minister responsible for water resources. Again, I can only say that in relation to this mine there are unusual aspects for South Australia in the sense that this is the first time this type of mine has operated in the state. More broadly, in relation to water availability to projects, mining projects in this state are generally significant generators of economic wealth and they are also large employers. Therefore, they are considered from that perspective as significant economic developments for the state. Clearly, that project in the Murray Mallee will be one. Apart from making those general comments, it is better that the minister responsible for water resources answers that question because he will be much more familiar with the operation of that act than am I.

The Hon. CAROLINE SCHAEFER: By way of further supplementary question, will the minister inform me whether an exemption for a development such as mineral sands mining in the Mallee is usually granted from the normal community and environmental impact studies required for such a development, and will the minister tell me what department is responsible for producing those reports if they are to be produced?

The Hon. P. HOLLOWAY: In the approval process for issuing mining licences, all these issues are considered as part of that process and the Department of Water, Land and Biodiversity Conservation is the agency responsible for providing advice in relation to those matters. I am certainly aware, in relation to that project, that consideration has been given by that department to the implications of it, but I am not closely familiar with the details of that because it is not in my department.

The Hon. Caroline Schaefer: You are the one who grants the licence.

The Hon. P. HOLLOWAY: The honourable member has been talking about water exemptions. I presume she is talking about water under the Water Resources Act. The primary industries department is not the expert in government on water matters. It is a matter for the Department of Water, Land and Biodiversity Conservation.

The Hon. CAROLINE SCHAEFER: By way of further supplementary, at what stage will the minister responsible for either granting or not granting a mining licence in that region be given the information required by the Department of Water, Land and Biodiversity Conservation, and how much influence will that have on whether or not such a licence is granted?

The Hon. P. HOLLOWAY: If the honourable member is referring to exemptions in relation to the use of water—

The Hon. Caroline Schaefer: They can't mine if they don't have water.

The Hon. P. HOLLOWAY: That is correct, and obviously those licences have to be given by the relevant department. That is not an issue with the mining lease as such.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I assume they can. One assumes that that is the case. It depends on the source of the water. Clearly it is a matter of whether they are using underground water, in which case they would need an extraction licence. I am not the expert in this area as it is not my department that gives those licences but rather DWLBC. I am aware that there have been discussions and some clearance given, but the details of that come under the responsibility of my colleague and I will get that advice from him.

The Hon. CAROLINE SCHAEFER: Which comes first: the licence to use water or the licence to mine, and do you or do you not have to have both before you can start mining mineral sands in the Mallee?

The Hon. P. HOLLOWAY: You obviously need water for the processing situation in relation to the Mallee. I would have thought that the mining licence would come first, but usually in these approval processes the particular mining company will seek that as part of one process. As I said to the honourable member the other day in answer to another question, at this stage we are waiting for the financial close on this project, which I believe is imminent.

The Hon. Caroline Schaefer: That is my point. You cannot have a financial close—

The Hon. P. HOLLOWAY: I just told the honourable member that I understand that those discussions have been had and that whatever approvals are necessary have been given. The details of those approvals are with the minister responsible for water resources. He is the appropriate person to address those questions. As I have indicated, I will get that information. Clearly, if there are water restrictions in an area, and a company needs to extract, it will need to sort that out with the Department of Water, Land and Biodiversity Conservation.

The honourable member asked earlier whether it was unusual. Again, I remind her that Australian Zircon will be a first for this state, although it certainly will not be a first in Australia, as there are already many mineral sand mines. It is my understanding that the relevant approvals have been provided; however, I have not looked at them closely, because they are the responsibility of my colleague.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Given that much of the proposed mineral sandmining project would take place close to the River Murray, near Loxton, has the River Murray Water Catchment Management Board been consulted in relation to this issue?

The Hon. P. HOLLOWAY: I am not sure about the catchment board but, as I indicated earlier, the Minister for the River Murray is required to be consulted on this project under the amendments made to the River Murray Act. I understand that has occurred.

PRISONS, DRUGS

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Attorney-General as acting minister for correctional services, a question about drugs in prisons.

Leave granted.

The Hon. A.J. REDFORD: In October last year, I asked questions about the so-called 'zero tolerance' policy on drugs in gaol. I pointed out that the department of human services officers administering the methadone program in our gaols did not seek to reduce methadone dosages in gaol; indeed, in some cases, they increased it. Mr President, it would not surprise you if I told you that, in most circles, methadone is considered to be a drug. The minister said, 'We can only hope that they,' referring to the prisoners, 'are followed up in the community when on release.' The only hope in this whole issue is that the so-called 'zero tolerance' policy is hopeless.

The minister referred the question to the Minister for Health, and that was the last we heard of it. In March 2003, the minister acknowledged that a little over half the prisoners tested for drugs tested positive for some form of drug. Given that these drug-affected prisoners are generally let loose on the community, we have decided to announce that the Liberal government will implement a genuine zero tolerance policy after the next election. Further, a Liberal government will not allow the department of human services to increase methadone dosages over the length of imprisonment.

The PRESIDENT: Order! The Hon. Mr Redford knows that he is going beyond an explanation: he is making some political announcements. That is fine, and they may be very good announcements, but they are not normally accepted as part of an explanation. I understand what he is trying to achieve, but I ask him to confine his explanation to his question.

The Hon. A.J. REDFORD: Thank you, Mr President. As part of that, we will implement a trial DrugBeat program (I am currently on the board), which is an abstinence-based program with a 95 per cent long-term success rate for the cessation of drug use. My questions are:

1. When will the government implement a genuine zero tolerance policy towards drugs, including methadone, in our gaols?

2. Will the government implement Liberal policy and trial a real zero tolerance policy in our gaols, such as the DrugBeat program?

3. Will the government adopt a policy of ensuring that prisoners are drug free, including free from methadone, when they are released from gaol?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I do not concede the suggestion that this government has a tolerance of drugs in prisons. That appears to be the suggestion of the honourable member. In relation to methadone, I am not an expert in that area.

The Hon. A.J. Redford: It's a drug.

The Hon. P. HOLLOWAY: Yes; but it is also used for treating heroin addiction. If the honourable member is saying that we should not be treating heroin addiction, that is a debate for somewhere else and for the appropriate minister, and I will not enter into it now. I will refer the question on to the minister, but again I do not concede that this government does have a policy that is tolerant of drugs in prisons.

The Hon. NICK XENOPHON: What percentage of, and how regularly are, prisoners drug tested and, if a prisoner returns a positive drug test, what is the protocol for a further test and for offering treatment to that prisoner?

The Hon. P. HOLLOWAY: I will refer that question to the acting minister for correctional services and bring back a response.

MARINE RESCUE ORGANISATIONS

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question regarding volunteer marine rescue organisations.

Leave granted.

The Hon. R.K. SNEATH: I understand that the govern--ment has recently approved funding for South Australian volunteer marine rescue organisations. My question is: can the minister advise the council of details of how much funding has been approved by the government and how this money will be distributed?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his question because our volunteer marine rescuers do a fabulous job

keeping our coastline safe and secure. The government has recently approved funding of more than $260 000 for four important projects for South Australia's volunteer marine organisations. All four projects will provide major benefits for the state's volunteer marine rescuers. The four projects include $110 000 for the Royal Volunteer Coast Patrol to establish a marine rescue coordination centre at Port Victoria. The centre will accommodate a training room, a communications room and toilets. This will improve facilities for police to coordinate major incidents.

A sum of $60 000 will be provided to the State Emergency Service to extend the use of the government's radio network by volunteer marine rescue associations. It is expected that the expanded use of GRN equipment will overcome the limitations of the VHF marine network, including enhancing reliability when more than 20 nautical miles offshore. Further, $85 000 will be provided for the establishment of a new radio base for the South Australian Sea Rescue Squadron at Edithburgh. The District Court of Yorke Peninsula has already approved plans to build the new radio base next to the Edithburgh boat ramp with a long-term lease for the land being provided at no cost. The government funding package also includes $7 233 for the Australian Volunteer Coast Guard to fit out part of its Port Vincent fleet headquarters as a radio room.

Our volunteer marine rescue organisations do play a vital safety and security role along South Australia's coastline, especially for the state's regional coastal communities. The four projects being funded by the government will enhance their ability to patrol South Australia's waters and provide emergency responses when necessary.

FOOD LABELLING

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Emergency Services, representing the Minister for Health, a question about country of origin labelling of food under the Food Standard Australia New Zealand Food Standards Code.

Leave granted.

The Hon. IAN GILFILLAN: Under the transitional provisions in the Food Standards Code mandatory country of origin labelling, it is required for all packaged foods and certain unpackaged foods, including uncooked fish, vegetables, nuts and fresh fruit, to carry the country of origin labelling. The council is currently considering amendments to this code which would release retailers in South Australia from having to identify country of origin of these products. It is quite clear that consumers like to buy Australian food. They like to know they are buying Australian food. Many consumers would not know that we are currently having fresh cherries imported from the USA, fresh oranges come in from the USA, dried apricots in loose form come from Turkey, and all consumers show an interest in identifying the country of origin of the food that they buy in South Australian stores.

Ms Clare Hughes, on behalf of the Australian Consumers Association, issued a statement on 5 May this year in relation to this matter and stated:

> Instead of improving information for consumers, FSANZ is watering down regulations in an attempt to develop a standard that will be acceptable to New Zealand. Australian consumers shouldn't have to suffer because New Zealand doesn't have effective laws in this area.
>
> The proposed changes will mean that retailers won't have to actively indicate whether fresh produce such as fruit and vegetables and seafood is imported. Consumers will only be told where the food comes from if they ask.

Consumers in South Australia not only want to retain the country of origin on the products that we have identified but they want it extended to the treated imported food which is unpackaged—smoked fish, maybe partly cooked nuts and vegetables. From the comments that we have received, it is a widespread feeling that they want more rather than less information on the labelling of the food that is offered for sale in South Australia. My questions are:

1. Will the minister guarantee that there will be no reduction in the identification of country of origin on any food in South Australia?

2. Will the minister vehemently oppose any code which threatens that?

3. Will the minister actively move to increase the identification of country of origin for current imported foods which are not required to disclose their country of origin?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I will refer the honourable member's questions in relation to country of origin and the labelling of food to the Minister for Health in another place and bring back a reply.

DENTAL SERVICES

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the minister representing the Minister for Health a question about dentists.

Leave granted.

The Hon. A.L. EVANS: It was reported earlier this year that the waiting time for public dental treatment has fallen from 49 months in 2002 to 27 months. However, it should be noted that the waiting time varies between regions. For instance, people living in the Riverland have to wait, on average, 45 months for public dental treatment. I also understand that dental student numbers at Adelaide University will increase from 384 in 2004 to 564 in 2009 to increase the number of professionals in the dental sector. Currently, there are 1 600 people per dentist in Adelaide compared to 3 500 people per dentist outside Adelaide. Given the current lack of equity between metropolitan and regional South Australia in relation to accessing emergency dental treatment, my questions are:

1. Would the minister advise of incentives in place to attract more dentists to South Australia?

2. Would the minister advise of the incentives in place to attract dentists to take up positions in regional South Australia?

3. Is the minister aware of workplace issues currently being raised by dentists contributing to workplace dissatisfaction or stress?

4. If yes, would the minister advise of actions currently being undertaken by the government to address these issues?

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

TRANSPORT PLAN

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about the draft transport plan and the road maintenance backlog.

Leave granted.

The Hon. D.W. RIDGWAY: It appears that the draft transport plan is still a document that this government is using as it has not been withdrawn from the Transport SA web site. I have been interested to follow the progress of one of the points that has been made in this plan on page 42. The document states:

> The current maintenance backlog of state government roads is about $160 million. Local governments face a similar road maintenance backlog. Continuing traffic growth will place further pressure on the roads. More vehicles will increase wear and tear, exacerbating the already poor condition of many roads. It is financially impractical to construct additional roads to accommodate all potential traffic growth. Moreover, there is considerable community opposition to construction of new roads and widening of existing roads.

On page 43 that fact is again stated, as follows:

> State and local governments have a combined maintenance backlog of over $300 million. Both face major challenges bringing the current network to a reasonable condition. Keeping current roads in good condition should be given priority over building new roads.

This document was created some three years ago, and we have had the impact of inflation and the exponential growth with respect to maintenance—if a pothole was in a road three years ago, as cars have thundered through it or trucks have gone over it I am sure that it has become much bigger. So, not only do we have an inflationary component but I am sure we also have a bigger component of maintenance. I suspect that, instead of being $160 million the figure is more like $200 million—and, in fact, the state government and local government probably face something like $400 million of road maintenance backlog. In the light of that my questions are: given that the road maintenance backlog is now estimated to be possibly $200 million, what funding does the state government have in place to address this? Does Transport SA have a list of projects that it has compiled to—

The Hon. T.G. Cameron: 48 red light cameras.

The Hon. D.W. RIDGWAY: I think they are a more recent addition to the traffic plan than this, Mr Cameron. Does Transport SA have a list of projects that allowed it to arrive at the $160 million (or, in fact, now probably $200 million), and does Transport SA have a list of projects that it has completed in the past three years since this plan was developed to try to address this $200 million to perhaps $400 million backlog of maintenance?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Indeed, we do have a backlog in roads in this state, and the principal reason for that has been that, over 20 or 30 years, federal governments of all persuasions have short-changed this state in relation to road funds. Until recently, this state was receiving something like 6 per cent of the share of national road funds, in spite of the fact that we have 14 per cent of Australia's land mass and about 8 per cent of the population. This state has been short-changed for many years, and I hope that the honourable member would support this government in ensuring that this—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The Liberals opposite might be quite happy that their federal colleagues short-changed their state. If the honourable member thinks it is fair enough for South Australia to receive just 3 per cent of road funds—

Members interjecting:

The Hon. P. HOLLOWAY: Obviously, that is the Liberal position. The Liberal position is that it is fine. They are happy for their federal colleagues to give just 3 per cent of road funds to this state. This government is not content with that. It is a disgrace that this state has been short-changed for so long.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: However, in spite of the fact that we are not given fair funding (or anywhere approaching it) by the federal government, this government has recognised the transport—

The Hon. T.G. Cameron: What are you doing about it?

The Hon. P. HOLLOWAY: To start with, we are continuously and vigorously lobbying the federal government.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: How can we be effective when other members in this parliament white ant the government's activities?

Members interjecting:

The PRESIDENT: Order! There is too much audible interjection from Her Majesty's loyal opposition. Members will come to order. It is getting out of hand. It is lowering the dignity of the council and it will not be tolerated.

The Hon. P. HOLLOWAY: Obviously, the chances of our reducing the backlog in roads that has been there for a long time and the chances of our improving our roads will depend, to a significant extent, on receiving our fair share of road money from the commonwealth government. Why should we receive so much less proportionately than other states? The budget will be released very shortly and honourable members will be very pleased, indeed, when they see the high priority that this government is giving to transport. This government is giving a very high priority to transport—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Has the member not seen the announcement for the tunnels on South Road and a number of other major transport projects, as well as the recent announcement that was made by the Minister for Transport for funding to address the backlog in road maintenance? But, nothing should hide the fact that this state has been consistently short-changed by federal governments of all persuasions—not just by the current government but also by previous governments. It has been short-changed for years. We get just 3 per cent of the funding. Why should the taxpayers of this state not get a fair return from the taxes they pay—and they pay far more in federal taxes than in state taxes? Why should the taxpayers of South Australia be denied a fair share of that money for roads?

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: It is not visionary: it is a fact. It is a simple fact, and has been a fact for a long time. It is not just the current federal government; it has been federal governments for a long time. The principal way of addressing it is to ensure that this state gets a fair share. We get only a fraction of the road funding that other states get. If the federal government doubled its share and gave us 6 per cent, we would still be short-changed in terms of our population and we would still get less than half of our share on a land basis. To bring ourselves to the sort of level that other states have had for years, even if the state share was doubled proportionately to make that up, we still would not be getting our fair share. That is a fact. Until that fundamental fact is addressed—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: The point is the honourable member should wait until the budget and he will see that we

are doing it. But, because we are spending money on roads to fill up the shortfall of the federal government, there is not money for a whole lot of other things, and when members opposite have the oppportunity to talk about the budget they will be whingeing that, 'There's not enough money for this, not enough money for that and not enough money for everything else', and that will inevitably continue to be the case for as long as this state continues to be short-changed in this area.

The Hon. T.G. CAMERON: I have a supplementary question. Would the minister outline to the council, in detail, what lobbying efforts this government has undertaken with the federal government and why they have been such a dismal failure?

The Hon. P. HOLLOWAY: I can certainly recall some of the lobbying in the time I was acting minister for transport last year when the federal government announcements were made. Unfortunately, the AusLink program was announced for some time in the future, and I know that my colleague the Minister for Transport has raised this issue with the federal government on a number of occasions and there has been a slight improvement in the amount of money that has come as a result of the lobbying efforts of this government. However, it is still, I believe, significantly less than the sort of level of funding that this state should get.

The Hon. R.K. SNEATH: I ask the minister whether it is true that the last Liberal minister for transport was transferring money from potholes to pottery?

The Hon. P. HOLLOWAY: Mr President, it is my understanding that something along those lines was the case.

MURRAY RIVER SALINITY MINISTERIAL PLAN AMENDMENT REPORT

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 River Murray Salinity Ministerial Plan Amendment Report.

Leave granted.

The Hon. J.S.L. DAWKINS: The River Murray Salinity Ministerial Plan Amendment Report covers the areas within the eight councils that make up the Murray and Mallee Local Government Association. These councils are: the Berri Barmera Council, Coorong District Council, District Council of Karoonda East Murray, District Council of Loxton Waikerie, Mid Murray Council, Renmark Paringa Council, Rural City of Murray Bridge and the Southern Mallee District Council. In addition, the PAR also covers the Alexandrina Council area. I understand that each of these councils has been asked by Planning SA to contribute financially to the development of the PAR. My questions to the minister are:

1. Given that the PAR will be a ministerial report, why were local government bodies asked to contribute financially, and how much is each contributing?

2. Will the minister confirm that financial contributions have also been sought from the River Murray Water Catchment Management Board and the Department of Water, Land and Biodiversity Conservation?

3. Will the minister also indicate the level of funding allocated to the PAR by his own department, Planning SA?

4. Will the minister advise the council of the time frame for the draft PAR and the consultation process which will follow?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): In relation to the first question, planning amendment reports are very expensive exercises—particularly if they are extensive. It is my understanding (and I am fairly new to this area) that it is not unusual that contributions would be sought in relation to such matters that are, after all, significantly for the benefit of local governments in the region. As far as the other details of that plan are concerned, I will get advice from Planning SA and bring back an answer.

CHALLENGER GOLD MINE

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question regarding the Challenger gold mine.

Leave granted.

The Hon. G.E. GAGO: Challenger gold mine in the state's north-west was opened in 2002 as the state's first new mine in many years. Earlier this year it began underground production. Is the minister able to provide more information to the council on the progress of this mine?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I am very happy to be able to give the council further information on the progress of this mine. Dominion Mining Limited recently announced that it had made a strong start to underground production at its 100 per cent-owned Challenger gold mine, with milling of its first high grade underground ore achieving initial expectations and tonnages in line with previous modelling. Full scale underground production is now underway at Challenger and ore is currently being extracted from between the 1055 and 1040 levels using up-hole stoping methods. Grades achieved during development of these sub-levels were also excellent, with mill reconciliation of this development ore indicating an average grade of 11.2 grams per tonne of gold. This represents a very positive start to underground production at Challenger, with the mined head grades so far exceeding expectations.

Underground production for the period January to June 2005 is forecast to be 34 000 ounces at an estimated cash operating cost of $A400 per ounce. The start up of underground production will further reinforce Dominion's strong financial position. The company currently has $13 million in cash on hand and a fully drawn debt facility of $7.25 million, positioning it to continue its extensive exploration programs both at Challenger and at the South-West Yilgarn project in Western Australia.

Recent advanced diamond drilling of the next two stoping panels at Challenger, carried out to assist with stope design, has confirmed the high-grade nature of the deposits. Planning is currently at an advanced stage for a deep underground drilling program to commence from the surface at Challenger early in the June 2005 quarter. This drilling is designed to increase the current underground reserve of 0.5 million tonnes at 10.4 grams per tonne of gold (which is 171 000 contained ounces) and extends the current mine life well beyond 2007.

The program will include deep drilling to delineate depth extensions of the M1 shoot below its current down-plunge length of 1,100 metres. A wildcat drill hole last year returned 4 metres at 22.03 grams per tonne of gold some 140 metres below the previous deepest hole, indicating the potential for significant depth extensions to the mineralisation. An inferred resource of 136 800 ounces has been delineated below the existing mine plan, and the drilling will aim to upgrade this

resource to reserve status. In addition, the drilling will target depth extensions to the M2 and M3 shoots with a view to achieving a substantial increase in the overall Challenger resource/reserve inventory.

I also inform the council that Dominion has been awarded Plan for Accelerated Exploration (PACE) funding for some very deep targets in the Challenger area and I wish the company all the best with that drilling, which has the potential to significantly increase the resource estimates of the mine. If those resources were to exceed the million ounce level, that is the level that would make the rest of the mining industry throughout the world sit up and take notice of the potential for gold discoveries within this region.

The Hon. T.G. CAMERON: Can the minister advise the council which of these companies might be publicly listed and available to interested members of the South Australian public?

The Hon. P. HOLLOWAY: The Challenger gold mine is 100 per cent owned by Dominion, but there is a significant exploration effort within a number of regions and information is publicly available on the PIRSA web site on exploration through the gold arc portion of the Gawler Craton.

ANANGU PITJANTJATJARA LANDS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, a question about transfer of funds for night patrols.

Leave granted.

The Hon. KATE REYNOLDS: Members will remember that the government has said for many months now in this place and in the other place, including when the other place was in Mount Gambier, that it is funding the development of night patrols on the Anangu Pitjantjatjara Yankunytjatjara lands. When I was on the lands two weeks ago, I spent about half an hour sitting outside one of the buildings chatting with three of the young men involved in the night patrol at the remote community of Amata. When I asked what equipment they had, they proudly showed me a yellow T-shirt printed with the words 'Amata night patrol' and said they had also been given torches. That was the extent of the equipment with which they had been provided.

Earlier this week I spoke with a constituent who told me that she was aware that not one cent of funding for equipment for night patrols had been released to the coordinator of that program within the South Australian police service. In fact it was her understanding that invoices for equipment purchased by SAPOL and intended for use by night patrols were now well and truly overdue. My questions are:

1. Why has funding for purchase of equipment for night patrols not been released to the relevant SAPOL unit by the Department of the Premier and Cabinet? When will this funding be released?

2. Does the Premier consider a T-shirt and a torch to be adequately equipping the men and women conducting night patrols on the AP lands?

3. Will all those communities who wish to be part of the night patrol program be properly supported to establish night patrols to reduce crime and social disruption?

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

The Hon. A.J. REDFORD: By way of supplementary question, is this yet another reason why the government does not want media access to the Pitjantjatjara lands?

The Hon. KATE REYNOLDS: By way of supplementary question, will the Minister for Industry and Trade refer the question to the Premier because this funding is from the Aboriginal Lands Task Force, which sits inside the Department of the Premier and Cabinet?

The Hon. P. HOLLOWAY: I will refer the question to the appropriate minister with responsibility for police in the AP lands.

LAW AND ORDER

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Correctional Services questions regarding gaol sentences.

Leave granted.

The Hon. T.G. CAMERON: The Parole Board chief, Frances Nelson, was recently reported in *The Advertiser* as stating that longer gaol sentences will not make the public safer unless the state government spends more on rehabilitating criminals. It might be in the budget this afternoon, so I had better be a bit careful. Ms Nelson said the government was making much of public safety, but at the same time had been cutting budgets for inmate rehabilitation programs. Once again, it has probably been corrected in today's budget.

Mrs Nelson also claimed that the justice system was struggling to cope with growing mental health issues and a frightening drug problem in gaols. She said, 'The government will not give us the resources to effect a behavioural change.' These days 'The government will not give us the resources' is a bit of a catchcry, isn't it? She went on to say:

> We have a desperate shortage of psychiatrists in the prison system. If we don't change behaviour, the reality is they are highly likely to reoffend.

One would have thought that this government would not want to unleash prisoners back on to the streets if they are likely to reoffend. Mrs Nelson said that public prison rehabilitation programs have been cut each year and that the public were being deceived when the government talked about longer sentences. She also said:

> You don't protect the public unless you do something with criminals while you've got them locked up. There are acute mental health issues in gaols. The vast majority of prisoners need psychological treatment, and we have insufficient resources to deal with a growing and frightening drug problem.

I note that Mrs Nelson raised this matter previously and was attacked by both the Premier and the Treasurer, who called her a 'sook'. My questions are:

1. Does the minister agree with the comment of the chief of the Parole Board that the public will not be made safe unless the government spends more on rehabilitating criminals? If not, why not?

2. How much has the government spent on rehabilitation programs each year since it was elected in 2002?

3. What is the percentage of prisoners in our gaols estimated to have drug problems, and what assistance is currently available to those who do?

The Hon. A.J. Redford: I can tell you that—none.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): It is interesting that the Hon. Angus Redford says that, but, of course, he is proposing a zero tolerance policy on behalf of the Liberal Party. We all look forward to that and

to knowing how much money he will spend on prisons in the next few years. How many millions is it, or will it be cost-free, as you will wave a magic wand and drugs will suddenly disappear from prisons?

The Hon. D.W. Ridgway: That's how you're going to fix the backlog on the roads—wave a wand.

The Hon. P. HOLLOWAY: No; we just want our fair share from the federal government. That is all we are asking for. We are doing more than our fair share, and all we want is fair treatment from the commonwealth.

The Hon. D.W. Ridgway: What does this have to do with Mr Cameron's question?

The Hon. P. HOLLOWAY: I am answering the honourable member's interjection. If he keeps interjecting and leading with his chin, I am happy to fire back. However, in relation to Ms Nelson's comments, her position is well known. As I have said on other occasions, she has a particularly difficult job to do in the system, and she has been doing it for some years.

The Hon. A.J. Redford: You haven't got the guts to apologise to her.

The Hon. P. HOLLOWAY: I did apologise to her on one matter but not on another, because I believed I was right. If I need to apologise I will; if I do not, I will not. I respect the job that the chair of the Parole Board does, and it is a particularly difficult job. Plenty of other people in the community, and in this chamber, are saying that the govern--ment should spend more and more money on a whole lot of areas, and I appreciate the Hon. Terry Cameron's comment in his question, namely, that it seems to have become a catchcry that all these things are the government's responsibility. They were serious questions, and I will refer them to the acting minister for correctional services and bring back a reply.

The Hon. T.G. CAMERON: I have a supplementary question. What did the matter concern for which the minister apologised to the Parole Board chief?

The Hon. P. HOLLOWAY: I suggest the honourable member look it up in *Hansard*. It was so long ago I have forgotten.

POPE JOHN PAUL II

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade—

Members interjecting:

The PRESIDENT: Order! I cannot hear the Hon. Mr Stefani who is trying to put his question.

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

Leave granted.

The Hon. J.F. STEFANI: On 5 May I raised questions regarding the costs of the memorial service held at the Adelaide Oval on Friday 8 April 2005 for His Holiness the late Pope John Paul II. Members would be aware that the Vicar-General of the Catholic Archdiocese of Adelaide Monsignor David Cappo has been appointed and is serving the Rann Labor government in three political positions which are: Chairman of Labor's Social Inclusion Unit; member of Labor's Economic Development Board; and member of the Executive Committee of the Rann Labor cabinet. My questions are:

1. Will the Premier advise parliament who approached the government from the Catholic Archdiocese of Adelaide for assistance in arranging the memorial service at the Adelaide Oval?

2. Did the Premier have any discussions regarding this matter with Monsignor Cappo?

3. If so, when was the date that the tentative arrangements were first discussed about the memorial service at the Adelaide Oval and who were the persons involved in those discussions?

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

HEALTH AND COMMUNITY SERVICES COMPLAINTS COMMISSION

The Hon. SANDRA KANCK: I seek leave to provide an explanation before asking the Minister for Emergency Services, representing the Minister for Health, a question regarding the new Health and Community Services Complaints Commission.

Leave granted.

The Hon. SANDRA KANCK: Members will remember that just a few months ago parliament passed the bill that allowed the setting up of the Health and Community Services Complaints Commission, and the government was very keen to have it happen and the Democrats were also very keen to support it at the time. However, it does not appear that it is going to be quite as effective as it might be, due to a lack of funds.

Last night was the AGM of the Consumers Associa--tion of South Australia, and the guest speaker was Leena Sudano, who is the new Health and Community Services Complaints Commissioner. Following her talk, during questions that she was asked about resourcing, she revealed that the government has committed only $500 000 of funds to set up the commission, and the commissioner is at the moment attempting to gain access to the funds that were previously allocated to the health complaints section of the Ombudsman's office, and if she can do that it will bring it up to $700 000. This is, as she told the group, the minimum level of funding to set up the office, but, by comparison, the ACT, which has a smaller population, has a budget of $1 million.

The Hon. Nick Xenophon interjecting:

The Hon. SANDRA KANCK: It certainly appears that it may be nobbled, yes. The upshot is that, with the money that has been made available, the commission itself is being set up, but the advisory council that was anticipated to be set up will not be established for some time, and perhaps we are talking a year or more down the track. So my questions are:

1. Why has the government allocated the amount that it has, given that during debate on the bill we were assured that the office would be adequately resourced?

2. Does the minister consider that having the establishment of the advisory council put off for perhaps a year is an impediment to the operation of the new commission?

3. Will the minister consider providing more money to allow that to occur?

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

The Hon. NICK XENOPHON: I have a supplementary question. When is it expected that the office will be up and running and fully functional to take complaints?

The Hon. CARMEL ZOLLO: I will refer that further question to the minister in the other place and bring back a response.

TOBACCO PRODUCTS

The Hon. NICK XENOPHON: My questions are to the Minister for Emergency Services, representing the Minister for Health:

1. When was the ministerial reference group on tobacco first convened? Was it in 2002?

2. When was the reference group's draft report delivered to the minister? Was it some time in May 2004?

3. What differences were there in the recommendations made in the draft report compared to the government's Tobacco Products Regulation (Further Restrictions) Amendment Act 2004?

4. Why has the minister delayed the release of the report and the recommendations contained in it? What steps did she take in respect of the recommendations since receiving the report?

5. Which of the recommendations will the minister implement and when?

6. What representations have been made by the tobacco lobby and the tobacco industry and, in particular, tobacco retailers about the recommendations made by the reference group; and what communications has the minister or her office had with the tobacco industry, including retailers?

7. When will the minister implement the will of the parliament in the tobacco products legislation passed last year to have an extensive subsidised nicotine patch subsidy for smokers in this state?

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

METROPOLITAN FIRE SERVICE

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about disability action plans in her portfolio.

Leave granted.

The Hon. J.M.A. LENSINK: The fourth progress report on the implementation of disability action plans was tabled this week in parliament and its foreword, written by the Minister for Disability, states that promoting independence is about demonstrating that government is serious about addressing disability discrimination at all levels of the public sector. The public sector should be the exempt player in this area and a model of what could and should be done by organisations to ensure they are inclusive and free of discriminatory practices. Under outcome 1 in relation to SAFECOM it states that SAMFS is in the process of developing an access plan following an audit of all buildings and that the SAFECOM procurement management office is factoring disability access into new capital works planning and facility constructions. A budget bid will form part of the next round of funding requests for DCS. My questions are:

1. Will the minister advise of the progress of the implementation of disability action plans in her portfolio and, in particular, when will the access plan of SAMFS be completed?

2. Will the minister outline some details of the procurement management office's submission?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I do not have that information which the honourable member has requested with me. I will undertake to get a response and bring back a reply.

BUDGET PAPERS

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table the following papers: Budget Overview Building South Australia 2005-06; Budget Paper No. 1 Budget Speech 2005-06; Budget Paper No. 2 Budget Statement 2005-06; Budget Paper No. 3 Portfolio Statement Volume 1 2005-06; Budget Paper No. 4 Portfolio Statement Volume 2 2005-06; Budget Paper No. 4 Portfolio Statement Volume 3 2005-06; Budget paper No. 5 Capital Investment Statement 2005-06; Budget Paper No. 6 Regional Statement 2005-06.

MOTOR VEHICLES (DOUBLE DEMERIT POINTS) 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 rise today to put before the council a bill that seeks to address the senseless loss of life that occurs on our roads on long weekends and holidays. The Easter and May 2005 long weekends will be remembered for the loss of 15 South Australian lives, individuals left with long-term injuries and disabilities because of avoidable crashes, and the ongoing grief for those lives cut short or changed forever. It is clear that the government's message on road safety is, sadly, not registering with some drivers in the community. Stronger measures are needed to get the message across to drivers who pay little attention to their behaviour on the roads and as a consequence endanger themselves, their passengers and other road users.

The bill I put before the council will amend the Motor Vehicles Act 1959 to enable double demerit points to be applied to a range of current offences, namely, speeding, running a red light, seat belt and restraint use offences, drink driving and combined red light and speeding offences committed during long weekends, the Christmas/new year period and up to eight other prescribed periods of 48 hours as decided by the Minister for Police.

The intention of a double demerit point scheme is to enhance the deterrent effect of penalties during specific times when more people are using the roads and travelling long distances. The rationale underpinning this measure is that drivers will be more conscious of, evaluate and then modify their driving behaviour when faced with an increased threat of demerit penalties.

Double demerit point schemes operate in New South Wales, the Australian Capital Territory and Western Australia. The evaluation of the New South Wales scheme has

indicated strong community support for the initiative. In addition, the evaluation found strong levels of community awareness and support for the measure. There were also positive changes in self-reported behaviours by motorists who had a tendency to drive above the speed limit and, most importantly, significant reductions in fatalities and traffic infringements during the periods in which the measure applied.

Subsequent community surveys have shown that even larger percentages of drivers in high risk speeding target groups reported that they slowed down, including 38 per cent of drivers who usually travelled at a speed where they believed they could be booked, and 52 per cent of drivers aged 17 to 24 years. Recent research from New South Wales indicates continued significant reductions in fatalities during periods of double demerit points. Over the 28 holiday periods (152 days), up to and including the Anzac Day public holiday period in 2002, in which double demerit points have applied, there have been 20 per cent fewer fatalities than for the same holiday periods immediately prior to the introduction of double demerit points.

Preliminary results of the Western Australian scheme are consistent with those of New South Wales, with data showing that two-thirds of drivers claim to have reduced their speeding behaviour, one-third claimed to have decreased their alcohol consumption when driving and one-quarter increased their use of restraints or checking of passengers during the double demerit points periods.

Five categories of offences have been chosen because these behaviours can mean the difference between life, death and serious ongoing injuries for drivers, their passengers and other road users. It is particularly sad to note that, of the 49 drivers and passengers killed to 18 May this year, 20 per cent were not wearing seat belts. The bill also ensures that the public receive adequate warning of double demerit point periods by requiring the Commissioner of Police to give at least two days' notice of any such period by advertising in a newspaper which circulates throughout the state and a web site. However, to ensure every road user is aware of when double demerit points will apply, the government will undertake intensive public education campaigns to advise motorists of double demerit point periods.

It is intended that the first double demerit point period will be the forthcoming June long weekend, commencing at 12.01 a.m. on Friday 10 June and finishing at 12 midnight on Monday 13 June. The introduction of double demerit points will be complemented by the recent announcement that $1.54 million will be spent over four years for police to conduct rural road saturation to target speeding to make regional areas safer.

The bill includes a sunset provision which provides for the expiry of the double demerit points scheme after 18 months. The provision requires the Minister for Police to have the operation of the scheme reviewed before that date and the report of the review to be tabled before the parliament.

In closing, we must remember that motorists who ignore the rules of the road place themselves and others at risk. This bill is about changing those perceptions and attitudes and getting these individuals to be more conscious of, evaluate and then modify their driving behaviour. If people do the right thing and drive in a safe, responsible manner, then they will not be affected by double demerit points. I commend the bill to members and seek leave to have the explanation of clauses incorporated in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Motor Vehicles Act 1959*

4—Amendment of section 98B—Demerit points for offences in this State

This clause amends section 98B of the *Motor Vehicles Act 1959* to provide that a person who is convicted of or expiates a offence prescribed by regulation that was committed or allegedly committed during a prescribed period will incur double the number of demerit points that the person would otherwise incur in respect of that offence. A ***prescribed period*** is defined as—

- a period starting at 12.01 a.m. on the day before a long weekend and ending at midnight on the last day of the long weekend; or
- a period starting at 12.01 a.m. on the Friday before 25 December in any year and ending at midnight on the first Friday of the following year; or
- a 48 hour period determined by the Minister (of which there can be no more than 8 in any calendar year).

The Commissioner of Police must, at least 2 days before the start of a prescribed period, publish a notice in a newspaper circulating generally in the State and at a web site determined by the Commissioner stating the times at which the prescribed period will commence and end and containing advice on the incurring of demerit points during the prescribed period.

Proposed subclause (3h) provides for the amendments to expire 18 months after their commencement. Under proposed subclause (3i), the Minister for Police is required to have the operation of the amendments reviewed before that date and to have the review report laid before both Houses of the Parliament.

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

That standing orders be so far suspended as to enable the bill to pass through the remaining stages without delay.

The Hon. CAROLINE SCHAEFER: As I understand it, without giving me any warning as the shadow minister who has carriage of this bill for the opposition, the minister has just moved that we proceed with this debate. I vigorously oppose such a motion, given that we have an understanding within this place. Indeed, one of the reasons for having an upper house is so that some time may elapse between debate on a bill in another place and the debate here on the same bill so that those who have an interest in such legislation have the opportunity to peruse it between the two houses.

I understand that this debate was concluded at a late hour last night in another place. I certainly have not had the time or the opportunity to peruse that debate and, as I understand it, there is no need for proceeding and jamming through what is quite important legislation. We are sitting next week and, on behalf of this part of the opposition, I am opposed to the motion.

The Hon. SANDRA KANCK: I indicate that the Democrats also oppose the motion. I cannot see the need to rush it. I understand from a briefing that I had over the lunch break that the government wants this through so that it can have it in place for the Queen's Birthday weekend, which is another two or three weeks away. I do not see that there is any rush for us to deal with it today. We are sitting next week and can deal with it then.

I certainly have had no opportunity to consult with anyone. I have noted that Chris Thomson from the RAA

made statements about 24 hours ago that the RAA has changed its position of support for this legislation and, when a body such as that changes its views, I, for one, will want to speak to the RAA, if not to other organisations, about it. To allow this bill to pass all stages today would prevent that occurring, and I would be allowing it to happen from, I think, an uneducated point of view. So, the Democrats do not support the motion.

The Hon. T.G. CAMERON: I also rise to express my concern and endorse the comments made by the Hon. Sandra Kanck. It is no good the minister throwing a hissy fit and demanding that this bill be rushed through today. I am not even sure whether we have any public holidays between now and dealing with this matter.

An honourable member: Next week.

The Hon. T.G. CAMERON: Next week. So I would love to know why this has to be carried today, particularly as the Hon. Sandra Kanck has outlined to the council—

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

The Hon. T.G. CAMERON: Well, the Hon. John Dawkins' interjection I think is pretty valid, as well. I think the minister is playing a little bit of pathetic petty politics with this issue. He may well want to grandstand in front of the television cameras and point to the Legislative Council and say, 'It is holding up legislation and it will cost lives.' That would be arrant nonsense. There is no good reason at all why this matter has to be dealt with today: it can be dealt with next week, or even longer than that. I agree with the Hon. Sandra Kanck that we need to have a very close look at this proposal.

The punitive path that the government is walking down in relation to dealing with people who breach our traffic laws might be good for a headline and for a bit of chest beating, but one really wonders about the 'fine them, rip their licences off them, double demerit points, etc.' approach. It is often picked up by *The Advertiser* as a great thing to do—well, they are a bit of a disappointment with the way that they are going these days on this issue.

I agree with what all the other speakers have said: there is no need for us to drop everything else and deal with this issue now. Let us have a measured, close look at it and we can deal with it at some point in the future without in any way impacting upon road safety at all.

The Hon. NICK XENOPHON: I would like to indicate that I am supportive of any measures that will reduce the road toll and that will save lives but, given that this legislation is premised on the government having the power to double demerit points for long weekends and other times of the year, I would have thought that we could give this legislation due consideration and priority next week. There is no reason why we cannot do all this then. I hope the government does not take a 'holier than thou' approach on this particular issue, given what I have privately been told by government sources in relation to amendments I have tabled regarding excessive speed, where the government appears only to be interested in licence disqualification at 45 kilometres and above. They have different thresholds in Victoria, but it seems that the government is not particularly interested in that. It may change over the weekend—who knows?

So, given that we need to look at a whole package of measures, and given that this can be dealt with next week, I would be very disappointed if the government used this issue as a bit of unnecessary political opportunism.

The Hon. R.D. LAWSON: I am speaking in support of my colleague, the Hon. Caroline Schaefer, and supporting the comments made by the Hon. Sandra Kanck and others. The council ought to be aware that this bill was only introduced in another place yesterday evening, and was rushed through there after an extensive debate which did not finish until 2 this morning. It is outrageous of the government to expect this council to consider matters before members have had an opportunity to have briefings and before there can be due consultation with those third party interests that might have something sensible to say about measures of this kind.

Both houses of parliament exist for the purposes of ensuring appropriate public debate on measures, and it is a political stunt of the government to seek to ram this bill through both houses of parliament without due consultation. It shows the contempt in which this government holds the bicameral system of parliament, a system designed to give both houses equal opportunity to have a fair debate on matters of public importance.

Some members are suggesting that they might be prepared to debate this bill next week, and perhaps the information will be available next week. I myself would not be giving any undertaking that this bill will be debated next week; that can be decided next week. I strongly support my colleague, the Hon. Caroline Schaefer. We are hotly opposed to this.

The Hon. J.S.L. DAWKINS: I had no intention of speaking, but the point needs to be made. When I first came to this place I can remember the howls of displeasure that came from members of the present government when on a very rare occasion the then government requested that legislation be dealt with in less than the customary seven days. I can remember the howls of displeasure. As an opposition, we have endeavoured to comply when requests have been made about the need for bills to be dealt with in less time than the customary seven days. As whip, I take note of this: the number of occasions we have had in recent times to deal with something that is not even on the *Notice Paper* has been numerous in the past several months.

The Hon. T.G. Cameron: And we have cooperated.

The Hon. J.S.L. DAWKINS: And we have cooperated. When I and my leader heard from a third party that this bill was going to go through our house today, we did not have a very pleasant reaction to that. The courtesies need to be restored. We will do our best to help the process of legislation and, if there is genuine urgency, we are happy to do that. The way in which the Legislative Council is being treated lately in relation to these bills that we are expected to put through when they do not appear on the *Notice Paper* is absurd, and I object to it strongly.

The PRESIDENT: These debates are limited to 15 minutes. There are about three minutes to go if the minister wants to wind up.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am disappointed by the attitude members have taken. It is an important measure and is scarcely new. The House of Assembly last night sat until 2 o'clock in the morning so this bill could be brought down. Everybody knows that there is a long weekend coming up shortly. This bill needs to be proclaimed. We know of the tragic record we have had on long weekends. The suggestion has been made by senior police officers and it has the support of other key members in the community. It is scarcely a measure that requires a great deal of understanding. I urge the council to

support the motion so that we can get the measure in place. As I indicated in the second reading explanation the evidence from the New South Wales scheme is that it has successfully reduced the road toll. We have had a tragic period in the last few long weekends and I urge the council to support the motion so we can proceed with the measure.

The Hon. A.L. EVANS: I am not keen on anything being rushed through the place.

The council divided on the motion:

AYES (4)

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

NOES (12)

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

PAIR(S)

Roberts, T. G.	Stephens, T. J.
Gazzola, J.	Lucas, R. I.

Majority of 8 for the noes.

Motion thus negatived.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

STATUTES AMENDMENT (SENTENCING OF SEX OFFENDERS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1950.)

The Hon. R.D. LAWSON: Before the adjournment, I had quoted a passage from the judgment of Chief Justice Doyle in Kench's case as a result of which the court reduced Kench's sentence to eight years with a five-year non-parole period. Following that decision, *The Advertiser* ran yet another exclusive story from the Premier and it carried the headline that the Premier would have approved of, 'Rann vows no special deal for sex crimes'. The Premier told Radio 5AA:

> What we are asking our courts to do is think about the victims more than they think about the criminals.

Let me repeat that. The Premier of this state said:

> What we are asking our courts to do is to think about the victims more than they think about the criminals.

The clear imputation of what the Premier is saying and the implication is that we have courts and judges in this state who think more about criminals than they do about victims. That is the impression the Premier wishes to create. That is the impression that this Premier who vows to uphold law and order seeks to create, all the time whilst on the one hand vowing to uphold law and order, he is undermining confidence in our criminal justice system. He went on to say in his typical style, 'If it offends a few judges along the way, that's too bad.' Here is the Premier talking tough, suggesting to the punters out there that he is going to kick butt in the judiciary and he does not mind offending them. The judges are not offended by this. They treat this bombast with the contempt it deserves. It is all wind on the part of the Premier.

The Law Society in an appropriate media release issued on 16 March said it quite correctly. I will quote only part of its message, which was:

> In Kench, the offences occurred before 1997. That was the basis on which the appeal court reviewed the sentence.

This is the important part:

> It had nothing to do with judges not getting the message. The government is responsible for the applicable law. The judges should not be attacked for applying it.

Of course, the Premier likes to be attacked by the Law Society, by the lawyers, by the judges, by anybody else, because he thinks it provides him with an opportunity to puff his chest out and suggest in a highly hypocritical and offensive way that he is on the side of the people and that the judges are against victims and the community generally. As I say, nothing could be more corrosive of respect for law and order in this state. Nothing will undermine confidence in the justice system. It will not lead to fewer criminals. It will have absolutely no effect upon the rate of crime in this state, and it is not having any effect. All it is is a political exercise, and a cynical one at that.

The position which we in the Liberal Party adopted as a result of Kench was that it was worth examining the judgment to see whether there was some error of legal principle on which the parliament should intervene. This government never bothered to look at any underlying principles: it was a knee-jerk reaction designed to create a headline and improve the election prospects of the govern--ment. This is a complex issue and any parliament should be reluctant to interfere in the considered exercise by the courts, especially the Court of Criminal Appeal, of their traditional role in fashioning legal policies which they impose on lower courts in the South Australian judicial hierarchy. The sentencing of individual cases is the responsibility of judges to whom we assign that responsibility. We would be on very dangerous ground if politicians start to take over the sentencing of individual offenders. It is our function as a parliament to lay down the principles, and it is the responsibility of the courts to apply them.

The second reading explanation of the bill states that the government's justification for overturning this decision of the Court of Criminal Appeal, a decision of the Chief Justice and two other distinguished judges is:

> The Premier and I have expressed our opinion that this decision should not be allowed to stand as to the general law and as a general precedent.

That is the flimsiest and most arrogant of reasons for rejecting a considered judgment of any court of law. These are the views of a Premier and an Attorney-General who have never been in any court of law. From their public utterances, they have no appreciation of the complexity of this law. No-one who knows anything about these matters would be at all convinced by the arguments advanced in the second reading explanation. They are not cogent. This government is introducing a bill merely to meet the demands of its own rhetoric.

We have considered the bill and we have considered the judgment. We on this side of the council considered it in some detail, and we do believe, after mature consideration—not as a knee-jerk reaction—that the principle which was applied in Kench is unsound and it should not be allowed to stand. The parliament does have an important function on behalf of the community of laying down principles which are to be applied by the courts. We believe that, as a matter of

policy, the court laid undue emphasis on the alleged unfairness of not giving warnings to offenders before tougher penalties are imposed.

Earlier I referred to the passages from the judgments indicating that some reliance, albeit not much, was paid to the principle that there is an unfairness if higher penalties are imposed for offences committed before a warning was given. We believe there may be some localised or minor offences where warnings do play a part in sentencing. In the old days, of course, it was the magistrates sitting in the local town or village who would issue warnings from the bench. In more recent times, frequently in regional areas, the local magistrate would say and have published in the local press statements such as, 'The bench will impose tougher sentences for speeding, failing to stop at a stop sign, and not stopping at a railway crossing', and following that warning penalties would be stiffer.

Similarly, when there is an outbreak of some offence such as shoplifting, for example, or vandalism of public property, etc., these are entirely appropriate, and we think the principle of warnings does have some part to play. However, we do not believe that judicial warnings would have any significant effect on behaviour with respect to this type of offence with which we are dealing, namely, sexual assaults against children.

In making these remarks, and in fairness to the court, I must emphasise that it appears from the language of the Chief Justice that he was not suggesting that warnings play a crucial part in the sentencing system. He was not. But we in the opposition simply cannot accept that warnings have any great relevance in relation to a relatively minor alteration to the penalties that the court pronounced in these cases. The offending was always in the category of very serious offending and no offender could have been in any doubt, whether before or after the warning, that the consequences of this type of offending would be a significant term of imprisonment.

I think it is worth noting—and it is important to note—that the penalties imposed in this case, both before and after the warning, were well under the maximum range laid down by parliament. I think, also on the subject of warnings, that they should not today play a significant part in the general operation of the criminal sentencing regime. The fact that someone is aware of a warning might be of some significance in an individual case, but it seems to me that it is no exculpation. It cannot reduce the seriousness of an offence for some offender, especially with respect to a serious offence such as this, to say, 'Well, I was unaware of the fact that some judge had said that these penalties were going to attract a tougher penalty. I never heard the warning and, therefore, I should not be treated as seriously as someone who heard the warning but chose to ignore it.' I am not suggesting for a moment that the judges are oblivious of this fact. Of course they are not. Warnings do not play a significant part, in my experience—or, indeed, my understanding from reading the cases—in setting sentences.

The modification in this case wrought by this statute is limited to the effect of the decision in Kench's case. We do not believe that this modification will operate unfairly. We do not believe that it amounts to a retrospective amendment of criminal penalties and we will be supporting it in principle. We have some reservations about the use of the rather loose terminology, in particular, the expression 'offences involving paedophilia', which is the language that has been adopted in this bill. I note from an explanation given in another place that that was the language selected by parliamentary counsel. With the greatest respect to parliamentary counsel, I doubt that it is a very felicitous expression, but I cannot think of a more comprehensive definition that can be compressed into the three words used here.

The reason is this. If paedophilia is merely a shorthand description of persistent sexual offending by an adult person in some position of authority or influence over a child who is in a position of relative vulnerability, we would not have any reservations. However, if the inclusion of paedophilia is intended to extend the criminal law, we really would need to have a full debate on the implications of that change. I notice in another place that my colleague the member for Bragg invited the Attorney during the committee stage, or in his reply, to provide the house with an explanation for the choice of terminology. The explanation given was superficial and supercilious, but typical.

The remaining amendments will increase from 12 years to 14 years the age in respect of which certain sex offences attract higher penalties—for example, offences of unlawful sexual intercourse, sexual servitude, etc.—and we support this change. Once again, the Attorney-General was asked in another place to indicate the reasons for the alteration, whether it had arisen as a result of the recommendations of any consultant or committee, and whether or not it applied in other jurisdictions but, once again, the response was abrupt, unhelpful and leaves one with the suspicion that this is something that this government simply plucked out of the air. Certainly, the Attorney did not have any explanation for it, which is regrettable.

However, notwithstanding all of the reservations we have about this bill, we support its second reading. We believe that sexual offences and offences involving sexual exploitation of children are offensive. We believe that the courts should denounce with heavy sentences these obnoxious offences. We support the second reading.

The Hon. A.L. EVANS secured the adjournment of the debate.

PHYSIOTHERAPISTS PRACTICE BILL

Adjourned debate on second reading.

(Continued from 24 May. Page 1880.)

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank members of this council for their comments on the bill. I am pleased to hear there is general support for the bill and hope that we will move through the committee stage quickly. I will not reiterate the general comments that have been made about it. Honourable members will be aware that this bill is based on template legislation that has already been passed by this council and that these health practitioner bills fulfil government obligations under the National Competition Policy. The primary aim of these bills is the protection of the health and safety of the public.

First, I will advise members about the amendments the government will be moving. We filed our amendments on 27 April. The amendments provide for an additional physiotherapist on the board to give them the clear majority and, also, to enable the filling of casual vacancies. In another place, there was debate about the need for a majority of physiotherapists to be on the board. The Minister for Health undertook to resolve this issue between the houses; and she has done so. Members will recall that we moved the same

amendment for the Podiatry Practice Bill. We also moved the amendment on casual vacancies in the Podiatry Practice Bill; and we are providing this clause in all registration bills.

This amendment enables such positions to be filled without the need to hold another election. Elections come with some operating costs for boards, and it has been agreed that, ideally, elections would need to be held only once every three years, which is the maximum term of appointment. The physiotherapy board and the association have agreed with this proposed amendment. I will also move a minor drafting amendment to clause 6. This will remove an unintended ambiguity in the application of this clause and ensure that the requirements for nomination qualification can be properly applied to the appointment of a deputy for a member of the board.

I will address the issues raised in the second reading contribution of the Hon. Michelle Lensink. First, in relation to the definition of physiotherapy, this was provided so it is clear what the practice of physiotherapy is for the purposes of the bill. The definition has been agreed to by the physiotherapy board and describes the essential role of a physiotherapist in the usual course of their practice. It is noted that all professions have a natural role in providing advice to their clients as part of their provision of treatment, as relevant to the service they provide.

Some registered physiotherapists are also educators in the academic sector and their key role is educating students in the practice of physiotherapy. If they are teaching and demonstrating the practices required for that profession, they are practising physiotherapy and must be registered with the board. The board already registers such persons as physiotherapists, and there is no reason under this bill for the board to change its view about registering educators. The govern--ment, therefore, considers the definition as given appropriate for the purposes of the bill. Related to this is clause 37, which requires that, where an educator or any other physiotherapist has not practised physiotherapy for five years, they must first obtain the approval of the board before commencing practice. For example, a lecturer in physiotherapy who has been practising physiotherapy as part of his or her teaching, and is therefore registered with the board, may decide to discontinue this practical aspect of their teaching; that is, their physiotherapist's practice. If after five years they have not practised physiotherapy and wish to resume demonstrating physiotherapy practices to students, they must obtain the board's approval to do so. Depending on the circumstance, the board may grant approval subject to certain conditions.

The most obvious condition is that they demonstrate to the board their capacity to carry out the practices safely. This may require them to demonstrate to another registered and practising physiotherapist that they can practise the techniques safely, and evidence of their competence must be provided to the board by the assessing physiotherapist. Under this bill, therefore, an educator in physiotherapy is not disadvantaged but must meet the same requirements for registration and practice as any other physiotherapist.

As noted, the bill requires, as a condition of registration, that physiotherapists are insured or indemnified in a manner and extent approved by the board. The board's role is to ensure that the insurance cover provides protection for both consumers and practitioners. The board has informed the Department of Health that it will examine policies available from the major insurers and may also consult with the physiotherapy association. The board does not have the resources to individually examine every policy of every practitioner. However, it will require a declaration from practitioners at the time of their registration and annual renewal that their policy does not have any exclusions or limitations.

The onus of obtaining adequate cover must rest with individual practitioners. They may seek advice from the association, and the association may, in fact, broker a price for its members for a particular policy. The physiotherapy association has a clear role in providing support to its members in this area. The board cannot be required to undertake the role of providing insurance advice to practitioners. However, it does have an obligation to ensure that the insurance does provide adequate cover to meet its statutory obligations to both consumers and practitioners. This issue is one of combined responsibility between the practitioner, the association and the board.

Questions have also been raised in this chamber about clause 36, which relates to the power of the Governor to exempt a person from being qualified to practice. This clause has been provided in all registration bills and enables the government to respond to exceptional circumstances by enabling the exemption of persons to provide physiotherapy in a case of urgent need. This clause is for exceptional circumstances only and it is not anticipated that it would be called upon very often, if at all. It is not a backdoor way of avoiding registration. The use of this provision needs to go to cabinet to be applied. The Minister for Health would only seek to use this provision in exceptional circumstances, and would seek the advice of the board.

The overarching principle of the bill is to protect the health and safety of the public and this would be the question that would always have to be adhered to in any use of this clause. This provision must be applied on an individual basis, so that each case is considered separately and on its own merits. This ensures that the provision cannot be used more generally to circumvent the intention of the bill but only where the merits of the individual case and circumstances justify the exemption to the qualification requirements. Any exemption to the qualification requirements may also be subject to specific conditions imposed by the Governor. Should the person act outside of these conditions, they would be guilty of an offence which carries a maximum penalty of $50 000 or six months imprisonment.

I now turn to the final issue raised by the opposition, and that is the exclusion of visiting physiotherapists who travel with sports teams and the like from the requirement to register with the board. While the government, in principle, supports the need for such a provision it is of the view that is unnecessary to put such an amendment into the bill as this is an issue that can be more effectively dealt with in regulation. The government is concerned that the amendment, as proposed in another place, may create problems in its operation—indeed, as drafted it was conceded by the shadow minister for health that it may not adequately respond to all situations.

If we are to include such a clause it needs to adequately cover all situations, as there will be no flexibility in application if it is to be provided for within the bill itself. By providing for this through regulation, it will ensure that all specific circumstances can be catered for and also, should circumstances change or new ones arise, the regulations can be varied expeditiously. Persons who may be reasonably considered for exemption from the registration requirements are registered physiotherapists who are part of a sporting team playing in this state, and visiting lecturers who may be

participating in a short-term education or training program for other physiotherapists. Others, as the opposition has suggested, may be physiotherapists travelling with a dance company, and because there may be other groups that need consideration the provision for exemption will be put in the regulations. The regulations will ensure that these persons are only able to practice in South Australia without committing an offence if they are registered in another state or territory. They will also consider the case of overseas physiotherapists practising in the above, or other, defined circumstances.

This bill is consistent with the mutual recognition agreement. The purpose of this agreement is to enable a physiotherapist who is registered in another state or territory and who wishes to establish a practice in South Australia to be automatically registered in this state. The Physiotherapy Board has informed the Department of Health that, before registering a person, it inquires with their home state to determine if there are any conditions or limitations that apply to that person's registration there and, where appropriate, that their annual practising certificate is current. The purpose of the mutual recognition agreement is therefore different to the purpose of the proposed regulation, and this bill, like the current act, is consistent with this agreement.

The government made a commitment in another place, and also to the board and the Physiotherapy Association, to ensure that exemptions to the requirement for registration would be drafted in the regulations, and I reiterate that commitment now. The government sees this as applying to all registration bills and acts and is consistent in its view that it will be dealt with under the regulations for the respective acts.

We have already had some delays with proceeding to the committee stage. I hope I have adequately addressed the concerns raised by the opposition, and I look forward to proceeding through the committee stage expeditiously. This bill will provide an improved system for ensuring the health and safety of the public and regulating physiotherapy in South Australia. I commend the bill to the council.

Bill read a second time

In committee.

Clause 1.

The Hon. J.M.A. LENSINK: I thank the minister for her replies to the questions I raised, one of which comes under these clauses and relates to education. I accept her explanation in that regard.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

The Hon. CARMEL ZOLLO: I move:

Page 8—
Line 22—Clause 6(1)—delete '8' and substitute '9'
Line 23—Clause 6(1)(a)—delete '4' and substitute '5'
Lines 24 and 25—Clause 6(1)(a)(i)—delete subparagraph (i) and substitute:
(i) four are to be chosen at an election (see section 6A); and

These amendments have been moved following the minister's commitment in the other place to consult with the board and the association on this matter. While the board was previously supportive of the provision as drafted, it reconsidered its position and concluded that it would prefer to have a majority of physiotherapists on the board. These amendments will ensure that there is a majority of physiotherapists on the board, and they will increase the opportunity for a wider representation of physiotherapy expertise on the board and will also increase the likelihood that, where a vote is required, the majority voting power will rest with the physiotherapy profession. The capacity of the presiding member, who must be a physiotherapist to have a casting vote, also supports the principle of the majority voting power resting with the physiotherapy profession. The Physiotherapy Board and the Physiotherapy Association support the proposed amendment.

The Hon. J.M.A. LENSINK: I refer to the subsequent amendments relating to the first two about elections and casual vacancies. Is this the same as amendments to other the professional bills?

The Hon. CARMEL ZOLLO: It is the same.

Amendments carried.

The Hon. CARMEL ZOLLO: I move:

Page 8, lines 32 to 35—Delete subclauses (2) and (3).

This is consequential and removes provisions that will no longer apply when the new clause is inserted. These are consequential to the application of the proposed new clause 6A, election and casual vacancies. The removal of subclauses 6(2) and (3) is needed so the proposed new clause can be properly applied.

Amendment carried.

The Hon. CARMEL ZOLLO: I move:

Page 9, line 3—After ' nomination' insert '(if applicable)'.

The effect of this amendment will be to allow a casual vacancy for an elected position to be filled on the board without the need for the board to call an election. It ensures that elections are conducted under a proportional voting system and enables the Governor to appoint a member where an election fails or where the casual vacancy cannot be filled on the basis of the results of an election. This amendment ensures there is capacity for an elected person to fill a vacancy without adding additional administrative and cost burdens to the board when an election has only recently conducted.

To ensure this can happen, the proposed amendment enables that, where there was an election within 12 months of a position becoming vacant, the Governor may appoint the physiotherapist with the next highest number of votes received at that election to fill the vacancy for the remainder of the term of the appointed person's predecessor. To ensure that the preferences of the electorate are properly recorded, a proportional based voting system will be used. After 12 months it cannot be reasonably said that the views of the electorate are still the same. The Governor instead can appoint a physiotherapist nominated by the minister to that position for the balance of the term. The minister must, when making the nomination, consult with the board and representative bodies to ensure the person is a suitable candidate for the position. The representative bodies will be defined in the regulations, but will include the Physiotherapy Association and the Physiotherapy Board of South Australia.

It is expected that the State Electoral Commission will conduct the election. This will be made a requirement in the regulations. Use of the State Electoral Commission will also ensure greater transparency of the election process. The Physiotherapy Board and Physiotherapy Association support the proposed amendments.

The Hon. SANDRA KANCK: I indicate Democrat support.

Amendment carried; clause as amended passed.

The ACTING CHAIRMAN (Hon. R.K. Sneath): The minister has a new clause 6A.

The Hon. CARMEL ZOLLO: That is what I just spoke on then. Can I just move it now?

The ACTING CHAIRMAN: As long as there are no questions by the Hon. Ms Lensink.

New clause 6A.

The Hon. CARMEL ZOLLO: I move:

After clause 6 insert:

6A—Elections and casual vacancies

(1) An election conducted to choose physiotherapists for appointment to the board must be conducted under the regulations in accordance with principles of proportional representation.

(2) A person who is a physiotherapist at the time the voters roll is prepared for an election in accordance with the regulations is entitled to vote at the election.

(3) If an election of a member fails for any reason, the Governor may appoint a physiotherapist and the person so appointed will be taken to have been appointed after due election under this section.

(4) If a casual vacancy occurs in the office of a member chosen at an election, the following rules govern the appointment of a person to fill the vacancy:

(a) if the vacancy occurs within 12 months after the member's election and at that election a candidate or candidates were excluded, the Governor must appoint the person who was the last excluded candidate at that election;

(b) if that person is no longer qualified for appointment or is unavailable or unwilling to be appointed or if the vacancy occurs later than 12 months after the member's election, the Governor may appoint a physiotherapist nominated by the minister;

(c) before nominating a physiotherapist for appointment the minister must consult the representative bodies;

(d) the person appointed holds office for the balance of the term of that person's predecessor.

New clause inserted.

Clauses 7 to 35 passed.

Clause 36.

The Hon. J.M.A. LENSINK: I have an amendment that was moved in the other place. With the indulgence of the committee, might we halt debate at this stage until I can further consult in relation to this matter? The matter relates to travelling physios, and so forth. I do not quite feel that the government's explanation addressed all my concerns. I would like to be able to consult with the professional bodies prior to proceeding.

The Hon. CARMEL ZOLLO: Would the honourable member like me to repeat the explanation?

The Hon. J.M.A. LENSINK: No; I heard it.

The Hon. CARMEL ZOLLO: I indicate to the honourable member that it is the same as appears in the Podiatry Practice Bill that recently passed in this chamber. It is the same.

The Hon. J.M.A. LENSINK: I understand that the clause may have been identical, but the amendment from the other house is a new one which relates to this issue. I have not filed it yet, but I did want to get some advice before proceeding.

Progress reported; committee to sit again.

ADJOURNMENT

At 4.28 p.m. the council adjourned until Monday 30 May at 2.15 p.m.