LEGISLATIVE COUNCIL

Tuesday 31 May 2005

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

PAPERS TABLED

The following papers were laid on the table

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

Regulations under the following Acts—
- Associations Incorporation Act 1985—Fees
- Bills of Sale Act 1986—Fees
- Births, Deaths and Marriages Registration Act 1996—Fees
- Business Names Act 1996—Fees
- Community Titles Act 1996—Fees
- Co-operatives Act 1997—Fees
- Cremation Act 2000—Tagging
- Criminal Law (Sentencing) Act 1988—Fees
- District Court Act 1991—Fees
- Environment, Resources and Development Court Act 1993—Fees
- Fees Regulation Act 1927—
  - Proclaimed Managers and Justices Fees
  - Public Trustee Administration Fees
- Firearms Act 1977—Fees
- Harbors and Navigation Act 1993—Fees
- Land Tax Act 1936—Fees
- Magistrates Court Act 1991—Fees
- Motor Vehicles Act 1959—
  - Fees
  - Miscellaneous Fees
- Partnership Act 1891—Fees
- Passenger Transport Act 1994—Fees
- Petroleum Products Regulation Act 1995—Fees
- Public Trustee Act 1995—Fees
- Real Property Act 1886—
  - Fees
  - Land Division Fees
- Registration of Deeds Act 1935—Fees
- Road Traffic Act 1961—
  - Fees
  - Miscellaneous Fees
  - Prescribed Circumstances
- Security and Investigation Agents Act 1995—Fees
- Sexual Reassignment Act 1988—Fees
- Sheriff's Act 1978—Fees
- Strata Titles Act 1988—Fees
- Summary Offences Act 1953—Fees
- Supreme Court Act 1935—Fees
- Worker's Liens Act 1893—Fees
- Youth Court Act 1993—Fees

Rules of Court—
- Magistrates Court—Magistrates Court Act 1991—Enforcement Process

Third Party Premiums Committee Determination—March 2005—Statement of Reasons

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Regulations under the following Acts—
- Mines and Works Inspection Act 1920—Fees
- Mining Act 1971—Fees
- Opal Mining Act 1995—Fees
- Petroleum Act 2000—Fees

By the Minister for Urban Development and Planning (Hon. P. Holloway)—

The Architects Board of South Australia—Report, 2004

Regulation under the following Act—
- Development Act 1993—Fees

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

Regulations under the following Acts—
- Adoption Act 1988—Fees
- Authorised Betting Operations Act 2000—Fees
- Botanic Gardens and State Herbarium Act 1978—Fees
- Building Work Contractors Act 1995—Fees.
  - Conveyancers Act 1994—Fees
- Crown Lands Act 1929—Fees
- Dangerous Substances Act 1979—Fees
- Employment Agents Registration Act 1993—Fees
- Environment Protection Act 1993—
  - Beverage Container Fees
  - Fees
- Explosives Act 1936—
  - Fees
  - Fireworks Fees
- Fair Work Act 1994—Fees
- Fees Regulation Act 1927—
  - Fees
  - Water and Sewerage Fees
- Freedom of Information Act 1991—Fees
- Gaming Machines Act 1992—Fees
- Heritage Act 1993—Fees
- Historic Shipwrecks Act 1981—Fees
- Housing Improvement Act 1940—Fees
- Land Agents Act 1994—Fees
- Liquor Licensing Act 1997—Fees
- Lottery and Gaming Act 1936—Fees
- National Parks and Wildlife Act 1972—
  - Fees
  - Hunting Fees
- Native Vegetation Act 1991—Fees
- Occupational Health, Safety and Welfare Act 1986—
  - Fees
  - Prescription of Fee
- Pastoral Land Management and Conservation Act 1989—Fees
- Plumbers, Gas Fitters and Electricians Act 1995—Fees
- Prevention of Cruelty to Animals Act 1985—Fees
- Radiation Protection and Control Act 1982—Fees
- Roads (Opening and Closing) Act—Fees
- Second-hand Vehicle Dealers Act 1995—Fees
- Sewerage Act 1929—Fees
- State Records Act 1997—Fees
- Travel Agents Act 1986—Fees
- Trade Measurement Administration Act 1993—Fees
- Valuation of Land Act 1971—
  - Fees
  - Valuation Roll Fees
- Waterworks Act 1932—Fees

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

Regulations under the following Acts—
- Controlled Substances Act 1984—
  - Pesticides Fees
  - Poisons Fees
- Livestock Act 1997—Fees
- Local Government Act 1999—Fees
- Meat Hygiene Act 1994—Fees
- Private Parking Areas Act 1986—Fees
- Public and Environmental Health Act 1987—Fees
- South Australian Health Commission Act 1976—
  - Fees
  - Private Hospital Fees.

AIR WARFARE DESTROYERS

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a copy of a ministerial statement on the air warfare destroyer contract made earlier today in another place by the Premier.

QUESTION TIME

TRADE, OVERSEAS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation prior to asking the Leader of the Government a question about overseas trade offices.

Leave granted.

The Hon. R.I. LUCAS: The budget papers this year refer to concerns about the recent export performance in South Australia compared to national export figures. For example, the budget papers refer to the fact that in value terms overseas goods exports from South Australia increased by 3.4 per cent during the 2004 calendar year. This was lower than the national increase of 9.3 per cent over the same period. It represented a recovery from the 2003 calendar year when there was an 18 per cent fall in the value of South Australian overseas goods exports. Treasury is saying that in the first full year of a Labor government there was an 18 per cent fall in the value of South Australian overseas goods exports. The following year there was a small increase of 3 per cent, compared with a national increase in that year of 9 per cent—almost three times greater.

The minister will be aware that one of the first decisions he and his government took was to close down the trade office in the United States of America. The minister will also be aware of the claimed benefits of the US-Australia free trade agreement. My question to the minister is: given his government's decision to close down that trade office, can he outline to the council specifically what the state government, in particular his own Department of Trade and Economic Development, is doing to work with small, medium and large enterprises in South Australia to take advantage of the benefits of the US-Australia free trade agreement?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The government is developing a program to help those businesses that may benefit from the US free trade agreement and indeed from other free trade agreements such as those we have with Singapore and Thailand, where there are opportunities to benefit. Recently I had the opportunity, as I am sure you did, Mr President, of speaking to Mr Michael Thawley, the outgoing ambassador from the United States. The discussions that I and other officers of the Department of Trade and Economic Development had with him were particularly useful in that regard. I think he made the point of the benefits of the defence industry and the possibilities of the defence industry and what was needed to be done for us to benefit from those contracts.

The Department of Trade and Economic Development is preparing plans that we can discuss with those companies that might be able to have greater access to the US as a result of the free trade agreement. Some of those companies will be well aware of the impacts of the free trade agreement, for example, on tinned tuna. Since we have the only tuna canning factory in the country at Port Lincoln, it is pretty obvious that company will gain, and I am sure we do not need to tell the company the benefits in relation to that.

However, one of the more complex areas will be that of procurement, and the state will be doing some work in that area to gain benefits from the US free trade agreement. I think it is clear that it is going to take some significant time before those benefits become available, and it is really a matter of mentoring those companies and providing information to the many small companies we have here about how they might gain access to that procurement, and that work is now being undertaken within the Department of Trade and Economic Development. It is, first, a matter of identifying opportunities and then communicating with companies within South Australia as to how they might go about getting access to that particular work.

The Hon. R.I. LUCAS: I have a supplementary question. Given that the government is now in its fourth year of office, other than closing the US trade office, what specifically has the government done in the US market to assist South Australian businesses in terms of accessing export markets?

The Hon. P. HOLLOWAY: The government has done a number of things. We have had particular success recently in the ICT area, with some of our creative industries—companies such as Ratbag and Rising Sun Pictures have grown rapidly in relation to that. The success of those companies has been assisted in many cases over the years—

The Hon. J.S.L. Dawkins: They have done that off their own bat.

The Hon. P. HOLLOWAY: Yes, in some cases; but in many other cases that has been assisted by the efforts of the department. Every year the Department of Trade and Economic Development holds workshops for local companies where we bring companies over from the US or bring back entrepreneurs who have come from Australia and who have worked in the US. Each year we bring them back to mentor local companies that may be interested in taking advantage of the US market. I have attended a couple of those workshops and they are extremely successful, and there is a great potential to move into that market.

As I indicated in answer to the earlier question, there are opportunities in relation to procurement which may arise. Of course, it will take some time for those sorts of issues to settle down—those markets are not necessarily prepared to open themselves up, in spite of what may be signed in an agreement. Obviously, there are all sorts of other things that can be done in relation to having access to those markets, and that is how we will gain success: it is a matter of gaining knowledge in these new areas that will be opened up by the US market.

The Hon. A.J. Redford: We have almost got a minister permanently in the States as it is.

The Hon. P. HOLLOWAY: We have a minister permanently in the US as it is, do we? I am not sure what the honourable member is talking about, although we do have a former premier of this state who is the Consul-General. We often get criticised for not giving credit to our opponents where it is due, so let me give credit to John Olsen, the former premier, who is the Consul-General in Los Angeles. Earlier this year he hosted the 'G'dday LA' event, which showcased a number of Australian goods in that market—the Deputy Premier was present on that occasion along with some other state leaders.

As I said, we have had particular success in the US market in the ICT sector and we have special programs to promote that particular area. There are also, obviously, tourism efforts and biotech efforts which go through my colleagues the Minister for Transport and the Minister for Science and Information Economy. They make efforts in that market. However, I believe that the big opportunities will open up in the state procurement market, and that is where work needs to be done to ensure that we can make those companies aware of the opportunities.

MULLOWAY FISH FARMS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Agriculture, Food and Fisheries, a question about mulloway escapes.

Leave granted.

The Hon. CAROLINE SCHAEFER: Some time ago, I received a copy of an email which had been sent to the minister regarding the alleged escape of a large number of mulloway in or around Arno Bay, where we know there are fish farms, including mulloway farms. I checked with local recreational fishers to see whether there were any more reports of these large escapes and, indeed, local fishers assured me that a large number of mulloway are showing all the signs of being escapees from a fish farm. Given that those which have been farmed swim around boats expecting to be fed, it is not hard to work out where they came from.

The local recreational fishers are so concerned that they have suggested that the minister lift the bag, boat and size limit in the same way as was eventually successfully done with escaped kingfish. It took the government some time to take up that advice, but, when the government did so, it was quite successful. Locals are suggesting that the same response should be implemented for these escaped mulloway. My questions are:

1. Has the minister responded to the person who initially reported these escapes?
2. Has there been an inquiry into any such escapes, and has the matter been reported, as is required by the act?
3. Will the minister consider lifting on a temporary basis the bag, boat and size limit for these escaped mulloway?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I will refer the honourable member's questions to the Minister for Agriculture, Food and Fisheries in the other place and bring back a reply.

SEX OFFENDER TREATMENT PROGRAM

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the acting minister for correctional services, a question about the sex offender treatment program.

Leave granted.

The Hon. A.J. REDFORD: In February 2004, the government announced a $6 million, four-year prison-based sex offender program to rehabilitate sex offenders. It announced a major recruitment program targeting psychologists and social workers. In response to a question from the Hon. Sandra Kanck, the minister said that he would respond at some later date as to when the program would commence.

On 1 May 2004, the Rann government issued a press release announcing that 'new programs to treat violent and sexual offenders in the South Australian correctional system will soon be fully implemented'—and I emphasise 'soon be fully implemented'. The Rann government said that a memorandum of understanding with Canadian counterparts had been signed. It was said that the 'Canadian programs will be provided to the South Australian government free of charge.' He pointed out that a Canadian psychologist was in South Australia doing some training.

On 19 July last year, the minister reported that things were going well, that the system was only one psychologist short and that the team had been set up. In December last year, the minister reported that two experts had arrived from Canada to provide intensive training to Correctional Services staff. On 6 December last year, he also reported in another place that 'there has not been a delay in the introduction of this program'.

I have now been told that the sex offender treatment program is not going well because of high staff turnover, that they have been 'stuffed around' by hostile people in the department and that they have been deprived of funds. I also know that a number of correctional services officers have visited Canada during this period. Another source tells me that the program is beset with problems associated with the continuing boxed pay negotiations for correctional services officers who have placed a ban on escorting prisoners to psychologists. I understand that that is now being conducted by management.

Another independent source tells me that only one program is under way, that only 12 people have begun treatment and that already $2 million has been spent on the program. That amounts to $167 000 per prisoner. The prison system has over 1 500 prisoners and has approximately 3 000 persons a year go through the system, and only 12 people have started this program. In the light of that my questions are:

1. What did the government mean when it said on 1 May 2004 that the program 'will soon be fully implemented'?
2. Can the minister confirm that, despite the passage of 15 months and the expenditure of $2 million, only 12 prisoners have undertaken the program?
3. What does the government mean when it says at page 4.121 of the budget papers that it has 'implemented rehabilitation programs for sexual offenders'?
4. Does 12 prisoners mean that it has been implemented?
5. When does the government propose to advance the Correctional Services (Parole) Amendment Bill (which is languishing in another place) so that sex offenders do not get automatic release on parole?
6. Is it the current situation that sex offenders are currently being let out of gaol automatically without having any treatment?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): In relation to that bill in the other place, I think the honourable member would well understand the reasons for that, given that he is responsible for some unacceptable amendments in relation to that and, if he would like to enter into some negotiations on that bill, we can deal with it. I note that last week the shadow minister announced the opposition's new zero tolerance policy as far as drugs in prison are concerned. It appears now that he is going to have a zero tolerance policy on sex in prisons. I will refer those questions to the acting minister in another place and bring back a response.

The Hon. KATE REYNOLDS: I have a supplementary question. Has the South Australian government any plans to introduce an early intervention program for people who find themselves sexually attracted to children so that an avoidance approach can be developed to reduce the actual number of offenders and offences?

The Hon. P. HOLLOWAY: I would have thought that, if they are in prison, it is probably a bit too late for early intervention, but I will refer that question to those who know much more about this subject than me and bring back a response.

PROMINENT HILL

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

Leave granted.

The Hon. G.E. GAGO: Prominent Hill has the potential to become the next significant mine here in South Australia. My question is: what progress is being made in the development of this mine?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for her question. I am pleased to be able to tell the council that recent drilling at Prominent Hill has confirmed excellent potential for gold-only mineralisation both peripheral to the copper-gold mineralised haematite breccias and also internally within preferred host rocks. A recent hole (PH05D131) drilled 50 metres down dip of an earlier significant gold-only intercept (which showed 57 metres at 7.7 grams per tonne of gold) in the western part of the deposit has intersected two intervals of similar gold-only mineralisation, reporting 31 metres at 11.1 grams per tonne gold (from 469 metres) and 19 metres at 11.7 grams per tonne gold (from 505 metres).

The gold-only mineralisation remains open to the west and at depth. Gold occurs in fine calcite veinlets within haematite altered dolomite host rocks. Free gold is evident. Drilling has also commenced on the eastern end of the main breccia system to delineate the transition from copper-gold to gold-only mineralisation. The initial hole (PH05D114) outlined a variable transition as anticipated. Significant gold-only mineralisation was encountered in the upper part of the hole, including 8 metres at 4.2 grams per tonne gold from 183 metres, 14 metres at 2.2 grams per tonne gold from 255 metres and 55 metres at 2.8 grams tonne per gold from 289 metres. Deeper in the hole, a copper-gold mineralised intercept of 17 metres at 2.6 per cent copper and 2.34 grams per tonne gold was encountered. Mineralisation in this zone remains open to the east and at depth. Over 28 000 metres of infill and extension drilling have been completed to date in line with the pre-feasibility schedule. I recently visited the site and saw first hand the progress that Oxiana is making on this project. I wish to congratulate it on its progress so far and hope that we can see more promising results as it continues with its feasibility study.

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 the APY lands.

Leave granted.

The Hon. KATE REYNOLDS: On 16 March this year, the Department of the Premier and Cabinet posted on its web site, under the heading 'Publications', a report outlining progress it claimed to have been made on the Anangu Pitjantjatjara Yankunytjatjara lands. In relation to youth workers, the report states:

> Youth workers are employed in Indulkana, Mimili, Ernabella (Pukatja), Pipalyatjara and Kalka, with vacancies at Amata and Fregon. Funding has been provided to Nganampa Health Council to employ two men's health workers, one of whom has been appointed and is working closely with the substance misuse and youth programs.

This statement was repeated in the latest report on the same web site dated May 2005. Mr President, you may be interested to know that the March report has been removed from the web site, making it difficult for interested persons to compare what the government said it would do and what progress it has made since. Fortunately—I am sure you will be pleased to hear this, Mr President—the Democrats have a hard copy of both the March and May reports. On 5 May in the House of Assembly the Premier said:

> Let me outline what has been happening on the lands. Some of the programs that are up and running and providing activity for vulnerable young people include properly supported youth workers in each community.

This was despite the fact that the report on his web site said that there were a number of vacancies. I visited the lands the following week. In each of the communities I visited, both Anangu and paid workers expressed shock and disbelief at the Premier's claim. In Kalka, for instance—just one of the communities named in the Premier's report—I was introduced to three young men and told they were—in name at least—the community's youth workers. I asked what qualifications they had and was told: none. I asked what training they had and was told: none. I asked what support they received and was told: none. I asked what facilities they had to work from and was told—and could see for myself: none. I asked what equipment they had and was told—and again could see for myself: none.

The Hon. Sandra Kanck interjecting:

The Hon. KATE REYNOLDS: Yes; the Greek chorus would be helpful here, thank you. This is Reconciliation Week, but I am struggling to reconcile what I saw for myself three weeks ago with what the Premier told the parliament the week before about every community having a 'properly supported youth worker'. It is very hard to reconcile. I am struggling to reconcile the reality of what is actually occurring—or rather not occurring—with what the Premier claims on his web site; and what the Office for the Status of Women said in an electronic newsletter circulated yesterday, titled 'Reconciliation Week Edition', in which it repeated the same claims. My questions are:

1. Given that the Premier's own report says that there are vacancies in Amata and Fregon, did the Premier mislead the house on 5 May when he claimed that there were 'properly supported youth workers' in each community; and, if so, when will the Premier correct this statement?

2. Given that most, if not all, of the so-called youth workers on the lands are untrained and without facilities and equipment, did the Premier mislead the house on 5 May when he claimed that there were properly supported youth workers in each community; and, if so, when will the Premier correct this statement?

3. Will the Premier provide details of when the youth workers commenced in Indulkana, Mimili, Pukatja, Pipalyatjara and Kalka; what training and support has been provided to each of the workers to date; and what will be provided in the next 12 months?

4. Will the Premier name the employer and describe the employment conditions for each of the youth workers on the lands?

5. Will the Premier provide details of the facilities and equipment available at this time to each of the youth workers in each of those communities and what will be provided in the next 12 months?

6. Will the Premier ensure that all progress reports are left intact on his web site so that interested people such as the

Australian Democrats can check actual progress against the government's claims?

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

The Hon. J.F. STEFANI: I have a supplementary question. Will the Premier refer this important issue to the Chairman of the Social Inclusion Unit to ensure the appropriate inclusion of Aboriginal people is attended to?

The Hon. P. HOLLOWAY: I am pleased to know that the Hon. Julian Stefani has suddenly discovered some sort of social conscience, because, if I recall, during the eight years that his party in was in government, he was remarkably silent. I did not hear one word from him when his party refused even to allow the Aboriginal committee to visit the Pitjantjatjara lands. Let that go on the record. The Liberals are total hypocrites on this subject.

MOUNT GAMBIER PRISON

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 dental services in South Australian prisons.

Leave granted.

The Hon. A.L. EVANS: Last week I asked a question regarding the provision of dental services in South Australia. A member of the community has contacted my office to advise that the Mount Gambier prison does not currently have a dentist chair or a dentist available at this time to treat inmates. The Mount Gambier prison has a capacity to accommodate 110 prisoners. My questions are:

1. Will the minister advise of the current level of resources and personnel allocated to each South Australian prison for the provision of dental treatment for inmates?

2. If it is the case that there are prisons in South Australia lacking personnel and resources to deliver appropriate dental services, would the minister advise the action that has been taken to remedy this situation?

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.

DIRECTOR OF PUBLIC PROSECUTIONS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Attorney-General, a question about the Office of the Director of Public Prosecutions.

Leave granted.

The Hon. J.F. STEFANI: Recently there has been much publicity about how the new Director of Public Prosecutions has described the funding of his office and the workload of the present staff. The DPP, Mr Stephen Pallaras QC, has described the under staffing of his office as critical and has complained that his current staffing level of 110 is well short of the mark. It is public knowledge that DPP staff are working under extreme pressure and some of them have been affected by stress. In view of the situation, my questions are:

1. Will the Attorney-General advise parliament how many staff members of the Office of the DPP are currently on stress leave?

2. How many staff have been on stress leave for up to one month as at 30 May 2005?

3. How many staff have been on stress leave for up to two months as at 30 May 2005?

4. How many staff have been on stress leave for up to three months as at 30 May 2005?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): It is interesting that the figures the Attorney-General gave the House of Assembly yesterday are as follows: since the Rann government has been in office (a comparatively short time), the number of full-time equivalents working in the DPP has risen from 67 to 103—that is, an increase from 67 to 103 in the past three years—and I think the budget has increased by about 60 per cent, or something of that order. Certainly there has been a very large increase. In relation to stress claims, I will refer those questions to the Attorney-General and bring back a reply.

METROPOLITAN FIRE SERVICE

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

Leave granted.

The Hon. J.S.L. DAWKINS: I understand that the training department of the Metropolitan Fire Service has a budget for six vehicles to be utilised by its training officers. However, apparently, most of these vehicles are currently allocated to SAMFS officers who have no connection with the training department. My questions to the minister are:

1. Will she confirm that the training department of the SAMFS has access to only 40 per cent of the usage of a twin-cab utility and no access to the other five vehicles?

2. What action will she take to rectify this situation?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): Clearly, the issues raised by the honourable member are operational matters. I do not have those figures with me, but, nonetheless, I will take some advice and bring back a response for the honourable member.

COUNTRY FIRE SERVICE

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about budget funding for CFS operational support.

Leave granted.

The Hon. J. GAZZOLA: Operational planning is a vital element in the ability of the South Australian Country Fire Service to enhance its responses to incidents and emergencies. Will the minister detail to the council how the government is increasing operational planning support for the CFS?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): Last week's state budget continued the Rann government's commitment to ensuring that our emergency services are properly resourced so that they can continue to play their vital safety and security role throughout the South Australian community, along with the extra funding for the replacement of more than 150 four wheel drive vehicles.

Members interjecting:

The Hon. CARMEL ZOLLO: It is not exactly called dying on your feet: it is called making copious notes before I came into the chamber.

The Hon. R.I. LUCAS: I rise on a point of order, Mr President.

The Hon. CARMEL ZOLLO: Thank you, Mr President, I am able to respond to the question.

The Hon. R.K. Sneath interjecting:

The PRESIDENT: Order! The Hon. Mr Sneath is interfering with the minister's opportunity to present her answer.

The Hon. CARMEL ZOLLO: I do apologise. As I was saying—

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: Well, I was saying—

The Hon. R.I. Lucas: Your mouth was open, but nothing was coming out. You were like a wide-mouth groper.

The Hon. CARMEL ZOLLO: Now you are wasting your own question time. As I was saying, last week's state budget continued the Rann government's commitment to ensuring that our emergency services are properly resourced so that they can continue to play their vital safety and security role throughout the South Australian community, along with the extra funding for the replacement of more than 150 four wheel drive vehicles across the Country Fire Service and the State Emergency Service. The state government is also providing an extra $2.5 million over four years for increased operation planning for the CFS.

The budget includes allocations of $612 000 in 2005-06, $627 000 in 2006-07, $643 000 in 2007-08 and $659 000 in 2008-09 for this initiative. Currently the Country Fire Service has an operational planning section, with three full-time staff located at CFS headquarters and one regional operations planning officer located in four of the six CFS regions.

Members interjecting:

The Hon. CARMEL ZOLLO: Perhaps honourable members should listen. The extra resources being provided by the Rann government will allow the CFS to add an extra operational planning officer for the remaining two regions. I am sure members opposite should be interested in this. The CFS will also be able to—

Members interjecting:

The Hon. CARMEL ZOLLO: I would ask members opposite to note that I am not needing assistance. The CFS will also be able to employ an extra operations planning officer for the two most active CFS regions: region 1, which includes the Mount Lofty Ranges and Kangaroo Island; and, region 2, which takes in the Upper Mount Lofty Ranges, Yorke Peninsula and the Lower North. As well, the extra funding allocated in the state budget will enable the CFS to employ two additional operational planning officers for CFS headquarters with associated and administrative support. The additional operational planning officers will increase the Country Fire Service capacity to prepare adequate risk—

Members interjecting:

The Hon. CARMEL ZOLLO: I am sick of yelling, Mr President.

The PRESIDENT: Order! There is too much interjection from Her Majesty's Loyal Opposition and it is not being assisted very much by some of the backbench on the government side.

The Hon. CARMEL ZOLLO: As I was saying, the additional operational planning officers will increase the Country Fire Service's capacity to prepare adequate risk and response plans, enhancing the operational response of the CFS to incidents and emergencies. The extra funding allows our CFS to take a major step towards the national focus of increased operational planning and preparedness and to actively participate in state, national and international planning activities, including counter terrorism exercises. The additional $2.5 million state budget allocation also enables the South Australian Country Fire Service to implement the operational planning recommendations of the Council of Australian Government's bushfire inquiry. I thank the honourable member for his important question.

The Hon. NICK XENOPHON: By way of supplementary question, does the minister consider not having a prepared answer to a question without notice a political emergency?

The Hon. CARMEL ZOLLO: I do not think that deserves a response, but I had copious notes already prepared.

The Hon. J.F. STEFANI: Will the minister advise the cost to replace the brass nozzles cut off all hoses recently at the North Plympton workshop?

The Hon. CARMEL ZOLLO: I have great difficulty finding the relevance to the question I was asked. I must admit that I thought the honourable member was joking, but I take it that he is serious.

The Hon. J.F. Stefani: I am serious.

The Hon. CARMEL ZOLLO: In that case, I will undertake to bring back a response.

TRANSPORT, PUBLIC

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about public transport between the northern and western suburbs of Adelaide.

Leave granted.

The Hon. SANDRA KANCK: I have been contacted by a constituent who lives in the northern suburbs regarding her difficulties in getting to and from work on public transport. Living at Parafield Gardens and working at Kilkenny, she found that it took two trains and a bus to make the trip to her workplace. This meant that each day she was spending a total of three hours travelling. The time margins in connecting between the various bus and train services were sometimes down to as low as 45 seconds, which could mean that an employee could arrive late for work if the connection was missed.

Equally, a problem in these circumstances is long waits between connections. During winter, switching from one form of transport to another meant that she was travelling home and walking the final distance in the dark, which is frequently an issue for women in regard to their personal safety and which acts as a disincentive for using public transport. In the end, she invested in a car and the hour and a half journey to get to work was whittled down to 50 minutes. However, not everyone can afford a car, and she informs me that for people in her area who can get only part-time work in the western suburbs it is almost not worth the effort of heading out each day to their job—and this is a factor in unemployment levels in that area. My questions to the minister are:

1. What attempts are being made by the government to improve public transport options for people travelling between the northern and western suburbs?

2. What analysis is made of public transport timetables to ensure that there is an appropriate time margin between different services and routes to allow commuters to make

their connections and get to their destination in a timely fashion?

3. Would the minister make this trip himself to experience at first-hand the time difficulties that commuters between the western and northern suburbs experience?

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

SWIMMING CENTRE

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Recreation, Sport and Racing, questions regarding swimming participation rates.

Leave granted.

The Hon. T.G. CAMERON: According to a recent article in the *Sunday Mail*, South Australia has the lowest swimming participation rate in the country, and experts in the area are blaming this on the state's outdated facilities. An Australian Sports Commission survey has found that only 8.9 per cent of South Australians swim at least once a year, compared with a 15 per cent national average. While multipurpose aquatic centres, including wave pools, have been built in Melbourne, Sydney, Brisbane and Hobart in the past five years, Adelaide has no similar facility.

The Hon. A.J. Redford: Without commonwealth help.

The Hon. T.G. CAMERON: I note from the interjection that those states have built those facilities without commonwealth help. Marion council has begun a campaign to pressure the federal government to contribute funds to build a multimillion dollar indoor swimming complex. Both the council and aquatic experts have said that fun water centres are crucial in motivating more people to exercise. The council has plans for a multifunction swimming centre that would cater for the southern suburbs and would be built on vacant land near the Westfield Marion centre.

The Hon. A.J. Redford: It was in our forward estimates prior to the last election.

The Hon. T.G. CAMERON: I take that on board. The council has committed land and $5 million to the project and will seek funds from private industry. I understand that the Rann state government also has agreed to match any federal government funding up to $15 million; however, no federal funding was forthcoming in the recent May federal budget and Marion council is becoming concerned that the project may be doomed. My questions to the minister are:

1. What steps has the state government taken to secure the necessary funding from the federal government to allow the construction of the new swimming centre at Marion to proceed?

2. Considering this project has been on the drawing board for some years now without any significant progress, will the minister, as a matter of urgency, contact his federal counterpart to forcefully put the case for federal funding for a state aquatic centre at Marion?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am aware that my colleague, the Minister for Recreation, Sport and Racing, has been in negotiations with the federal government for some time, and I will ask him to provide a report on the status of negotiations in relation to that matter. I know that it is an issue of significant interest to a number of people in this state.

The Hon. A.J. Redford: I hope he answers those letters quicker than he answers mine.

The PRESIDENT: Let us hope that it is quicker than the Hon. Mr Redford ceases to stop his interjections.

The Hon. A.J. Redford: I am upset about this issue, Mr President. It is your government—

The PRESIDENT: I am very upset about the continued interjections and disruption of question time.

COOBER PEDY

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, a question regarding the Coober Pedy community.

Leave granted.

The Hon. T.J. STEPHENS: I have been made aware of the situation in Coober Pedy whereby the incidence of antisocial behaviour has increased due, in large part, to an under-resourcing of the police.

An honourable member interjecting:

The Hon. T.J. STEPHENS: I am not sure that we can blame Bob for this one. Antisocial elements are apparently now moving between the Pitjantjatjara lands and Coober Pedy, and the government has failed to adequately resource Coober Pedy to deal with this influx of people. Transitional housing arrangements have placed further pressure on the town.

I am advised that cabinet was told when it met in Coober Pedy in July last year of the desperate need for increased resources for the police in Coober Pedy, but to date no action has apparently been taken. Given that I watched with glee the sight of the Premier advising us all that whatever Bob Collins wanted Bob Collins would get in order to fix the problems on the Pitjantjatjara lands in relation to indigenous issues, my questions are:

1. Will the Premier undertake to increase police resources in surrounding townships in his efforts to deal with the issues on the Pitjantjatjara lands?

2. Why did the Premier not listen to the suggestions put forward by locals at the community cabinet on how to deal with the issue? If one is going to ignore community cabinet suggestions, why go there in the first place?

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

CYCLING ACTION PLAN

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about the cycling action plan.

Leave granted.

The Hon. IAN GILFILLAN: As a cyclist and patron of Bicycle SA, I join with my colleagues in this place in expressing my interest in all matters to do with cycling. I note that in the transport section of the budget, Portfolio Statements, Budget Paper 4, volume 2, page 6, paragraph 14—'Highlights 2004-05 Transport', at the bottom of column 1, it states, 'Completed cycling action plan.' This is clearly a good piece of news, as there are thousands of cyclists in South Australia who would love to see the cycling action plan—

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: —including my colleague the Hon. Angus Redford, who is showing particular interest

in this matter. Unfortunately, so far I have been unable to find a copy of this cycling action plan, and I wonder whether it might be related to the 'Safety in numbers strategy for cycling in South Australia', which remains a persistent rumour in cycling circles—and you have to be in cycling circles to understand the significance of that. My questions are:

1. Will the minister advise whether the cycling plan is a secret document?

2. Will the minister advise whether there was a consultation phase which sought input from the public and various cycling organisations in South Australia and, if so, when?

3. Given that this plan is now listed as being completed, when is it likely to be published and made available to the public?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer those questions to the Minister for Recreation, Sport and Racing in another place and bring back a reply. I remind the honourable member that, while the cycling action plan may have been completed, the Rann government continues to support cyclists within this state. As I indicated yesterday, this government has provided some $2.6 million for the coastal park, much of which will be used to extend the bike trail which links with the Torrens Linear park trail, both north and south. We will continue to put money into that area to continue that plan, which will not only provide an attractive recreational environment but also significantly improve safety for cyclists who wish to travel along that path.

CIGARETTES, FRUIT FLAVOURED

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Health, a question in relation to fruit-flavoured cigarettes.

Leave granted.

The Hon. NICK XENOPHON: I note that the Hon. Angus Redford is very interested in this question but perhaps from a different perspective to mine. A media report of Monday 23 May reported that the state government was furious over the latest trend to hit our stores—fruit-flavoured cigarettes. The Channel 10 report of Monday 23 May reported the following:

> Health Minister, Lea Stevens, wants them banned here, fearful that they'll encourage even more young people to smoke. They smell sweet enough to eat, but these fruit-flavoured cigarettes are just as deadly as the regular ones and they've got anti-smoking groups fuming

The marketing tactics of the DJ Mix brand are also under attack. The brightly coloured packets even glow under disco lights and, while fruit-flavoured smokes are legal in Australia, there are calls for them to be taken off the shelves because of concerns that they will lure particularly young women to take up the habit. Imported from Hong Kong, they are now available in several capital cities in Australia. While there is a strong push to have the fruit-flavoured cigarettes banned in Australia, the federal government states that it is powerless to stop them being sold and leaving it to individual states and territories to legislate against their sale. The report on Channel 10 had a quote from Christopher Pyne, the Federal Parliamentary Secretary for Health, saying:

> As much as we might want to block these cigarettes from being sold in Australia, each state jurisdiction has to make that decision.

My question to the health minister on World No Tobacco Day is: given the minister's reported statements and concerns about these cigarettes, of some eight days ago, that she wants the fruit-flavoured cigarettes banned from sale in our state, will she act immediately to have them banned and, if not, why not?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his question. I am pleased that he joins the Minister for Health in the other place on World No Tobacco Day—

The Hon. Nick Xenophon: We have to agree on something.

The Hon. CARMEL ZOLLO: —yes, we do have to agree on something—in supporting the government and the minister in her stance. I will refer the question to her in the other place and bring back a response for the honourable member.

DISABILITY ACTION PLAN

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about the disability action plan in his department.

Leave granted.

The Hon. J.M.A. LENSINK: The document promoting independence disability action plans is, as the Hon. J. Weatherill, Minister for Disability, says, about demonstrating that the government is serious about addressing disability discrimination at all levels of the public sector. Each department is required to report against five separate criteria: access to services, information being inclusive, disability awareness, consultation and complaints processes, and compliance with the Disability Discrimination Act and the Equal Opportunity Act. This is the current one dated December 2004, and it is the fourth progress report. Under the minister's department, it states:

> Development of a new disability action plan is pending the development of a new DTED corporate strategic plan and the new disability action plan will incorporate revised action and communication strategies under a review of practices in line with the new agencies services and structure. DTED continues to make available the former agencies' facilities, information and services to the business community and the general public that are considerate and responsive to people with disabilities.

My questions to the minister are:

1. When will the new DTED corporate strategic plan be finalised, and what are the delays to it?

2. When will the new disability action plan be revised, and why are there delays to that as well?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will seek that information for the honourable member and bring back a reply.

RAIL FACILITATION FUND

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 on the Rail Facilitation Fund.

Leave granted.

The Hon. D.W. RIDGWAY: When the House of Assembly visited Mount Gambier recently, there was a wonderful announcement of the gifting of some surplus railway land to the City Council of Mount Gambier. On page 627 of the recent budget papers, I noticed that sub-program 2.8 (entitled Managing Rail Property) had a budget for the coming year of $2 418 000 for the provision of services to

efficiently and effectively maintain and dispose of rail property. It then goes on to say:

> The revenue associated with the sale of land is reflected in the statement of cash flows, which show a net positive benefit to the government.

In light of that my questions are:

1. What is the cost of the rehabilitation and disposal of land to the Mount Gambier council?
2. What would have been the commercial value of the land gifted to the Mount Gambier council?
3. Is the government going to offer surplus land in all councils in rural and regional South Australia as a gift, or was this just a bribe for the community of Mount Gambier prior to the election next year?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will seek that information from the Minister for Transport and bring back a reply.

REGIONAL FUNDING AND GRANTS REGISTER

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Regional Development, a question about the Regional Funding and Grants Register.

Leave granted.

The Hon. J.S.L. DAWKINS: In the year 2000, under the previous government, the Regional Funding and Grants Register was established by the then office of regional development, with support from the local government research and development scheme. The register was designed to provide information about the wide range of grants made available by local, state and federal governments, as well as commercial and philanthropic organisations. In particular, one of the aims of the register was to assist community groups in identifying the most appropriate grant available. The Regional Funding and Grants Register web site had over 500 different types of grants and funding solutions available to be searched on the database, over 263 organisations and individuals registered to receive regular weekly updates, and the names of 31 organisations and individuals located in regional South Australia who could assist with the preparation of funding submissions. The site was developed with the capacity for users to add testimonials. During the first four months of its operation, the register's home page received more than 13 000 hits. Many of these came from urban areas, as well as regional communities. My questions are:

1. Will the minister indicate the current level of usage of the register?
2. Will she also indicate what support is provided to the register by the Office of Regional Affairs?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his question in relation to the Regional Funding and Grants Register. I will refer the honourable member's questions to the Minister for Regional Development in the other place and bring back a response.

STATE FOOD PLAN

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Agriculture, Food and Fisheries, a question about the budget.

Leave granted.

The Hon. CAROLINE SCHAEFER: The day after the budget, the Minister for Agriculture, Food and Fisheries announced an additional $600 000 spending on the State Food Plan. Given that the budget line for the State Food Plan, in fact, shows a reduction of $400 000, will the minister explain the discrepancy in his statement?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I will undertake to get some advice from the Minister for Agriculture, Food and Fisheries in the other place and bring back a response.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. Given that the Minister for Emergency Services is the convener of the State Food Plan, will she give an explanation as to the discrepancy in the statement?

The Hon. CARMEL ZOLLO: I will undertake to get some advice and bring back a response. I have not had the opportunity to go through some of those sections of the budget at this time, but I will undertake to do so.

The Hon. CAROLINE SCHAEFER: I have a further supplementary question. Given that the Minister for Emergency Services is the convenor of the State Food Plan, was she not at all involved in the development of the budget for that program?

The Hon. CARMEL ZOLLO: The Minister for Agriculture, Food and Fisheries is the lead minister in relation to agriculture, food and fisheries. I was not involved on that particular occasion. However, it certainly does not mean that I am not interested. As the honourable member would know and as she said, I do convene the council. As I said, I will undertake to get some advice and some further information and bring back a response.

WATER SUPPLY, GLENDAMBO

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Local Government Relations, a question about Outback water supply.

Leave granted.

The Hon. T.J. STEPHENS: Members would be aware of the plight of the people of Glendambo regarding the lack of assistance the government has provided to the township in its attempt to secure a reliable water supply for the township and its 800 daily visitors. I have asked a number of questions in this chamber over the past 18 months and, to date, getting any sort of answer has been an extremely frustrating exercise. Members would also be aware of the pipeline announcement regarding Roxby Downs and Andamooka for the purpose of supplying water to the long-suffering people of Andamooka. Given that I asked a number of questions on that issue a couple of years ago, I am pleased with the outcome. My questions are:

1. Will the government commit to a study to determine what else can be done for Outback water supplies? If so, will it commit to have the report completed before the state election?
2. Will the government now commit to ensuring that Glendambo is the next town to have its water issues addressed?

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

PHYSIOTHERAPY PRACTICE BILL

In committee.

(Continued from 26 May. Page 1965.)

Clause 36.

The Hon. J.M.A. LENSINK: This clause relates to restrictions on the provision of physiotherapy by unqualified persons. I pause at this clause because I wish to look at the issue with a view, perhaps, to drafting an amendment. I have a couple of issues with respect to this clause, the first of which relates to concerns the industry might have that this clause might be used under exceptional circumstances, and the government has given an assurance that it would be only in exceptional circumstances. It is also the clause within which any amendment relating to visiting physiotherapists might be moved.

I am grateful to parliamentary counsel for drafting an amendment for me. However, at this time, I will not be moving it, and I wish to provide an explanation. Yesterday, I received an email from the chair of the board, Emeritus Professor Ruth Grant, who was the previous head of the physio school and who has held very senior positions within various organisations in relation to health, education and, in particular, physiotherapy. She is a very well-respected person, and I would always defer to her. In her email, the professor states:

> In response to your request re the visiting physiotherapists matter, the board is quite clear that it would prefer the matter to be dealt with within the regulations. There are a wide range of examples of visiting physiotherapists, as you identified in your speech. For the board to be consistent in its consideration of each case there needs to be the ability to have regard to the case in point. Whilst that might sound inconsistent, I can assure that it is not. Clearly, if the overriding decision is to include this matter in the bill itself, we would work with parliamentary counsel to achieve the appropriate wording.
>
> The issue is not primarily a mutual recognition one but one where, when all things are considered, a board is in the position to waive the registration fee if this is deemed appropriate. For example, for a physiotherapist accompanying a sporting team which plays in every state and territory—the fees for every jurisdiction together would be likely to exceed $1 000 per annum.

I think that most members would agree with me that, for the sake of administrative satisfaction, that would be rather onerous. The email continues in relation to the issue of section 36, which is a third matter:

> This section relates to restricted therapy or prescribed physical therapy. At present the only therapy 'listed' is manipulation—

which I referred to in my second reading contribution—

> The board has, over the years, tried unsuccessfully to get electro-physical agents included under prescribed treatment under the current act. As you would readily appreciate, whilst there is no question that electrotherapeutic treatment given by persons without the appropriate background knowledge and training can be a danger to the public, just how best to deal with this has been a challenge.

The email continues:

> . . . to include this in an act would require so many exemptions of persons registered in other acts that it would be unwieldy and, too, because this is included in some but not all other physio acts. Whatever the basis for the decision, the public still remains at risk, and that is a real concern for the board.

That is the end of Ruth Grant's email. I confess that I was unaware that electro-physical agents were not covered in restricted practice. As a former practising physiotherapist, this is of great concern to me, because the different machines we use, whether they be short wave or ultrasound, can literally cook people if they are not used in the correct manner. They can be incredibly dangerous and, as in the example of manipulative therapy where the students in their early days are very tentative because they are aware of the risk, the same applies to electrophysical agents.

Rather than leaving this in the too-hard basket, I urge the government to take a further look at the matter. I am sure there is some way, with research and consultation with the board and other relevant organisations, such as the association and perhaps the university, that some solution can be found. As Ruth Grant said, it has been provided for in other jurisdictions and I would consider in some ways that it is very risky to leave it unattended.

The Hon. CARMEL ZOLLO: I place on record that I am pleased and I thank the honourable member for withdrawing her amendment. As the government previously stated in this place, it is committed to addressing the issue through regulation rather than in the bill itself, and the government also has undertaken consultation with the physiotherapy association and board about making such provisions in regulation on a number of occasions, the last being as recently as yesterday, and it again reiterated that it deemed it appropriate to see such provision by regulations. In relation to electrophysical agents, the department will consider the matter when drafting the regulations and consult with the board and the association on the need to proscribe these agents in the regulations.

Clause passed.

Remaining clauses (37 to 75), schedules and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 14 April. Page 1696.)

The Hon. CAROLINE SCHAEFER: My contribution to the Supply Bill will probably be somewhat shorter than usual, given that in the time I have had my name down to speak to the bill we have, in fact, brought down another budget. However, there is one section of the Supply Bill which must be financed out of this particular line—that is, the supply of government funds during the period between the Supply Bill and the budget.

During that time the Minister for Agriculture, Food and Fisheries has found some $6 million to buy back commercial net licences, particularly targeting St Vincents Gulf. He has found another $1 million in this budget to buy back some more licences—unfortunately, he has given no guarantee at what price or over what time period those licences will be bought back. The offer made by the minister was $140 000 for a commercial net fisher surrendering their netting licence and retaining their hook licence, and $300 000 to surrender their entire commercial fishing licence. As I have stated on a number of occasions, for quite some time now it has been the policy of the Liberal Party to allow voluntary buy-backs. To all intents and purposes this is, indeed, a voluntary buy-back and so, as I said publicly at the time of this announcement, it was probably a move in the right direction. However, I want to take some issue with what will be the ultimate result of this buy-back and what, in my view, is the lack of morals applied to this buy-back.

It is certainly better considered than simply announcing to the river fishers that they would be out of a job and that,

out of largesse, they would be given some sort of ex gratia payment. At least this is an admission that it is a commercial buy-back and compensation of sorts. However, the trigger for this piece of supply, this $6 million, was a report saying that garfish stocks were at a level where they were about to fall over, sustainably. Mr President, you speak to local people the same as I do, and the people who actually fish assure me that fishing seasons are like farming seasons: they are periodically affected by droughts. We do not have enough science to know why that happens but, while there was certainly a shortage of garfish stock in St Vincent Gulf two years ago, without changing any methods and without putting anyone out of a living, the garfish have, in fact, returned.

I am assured by those who fish in the gulf—both recreational and, in particular, professional fishers—that there are more young, undersized garfish swimming around in St Vincent Gulf than has been the case for some 10 to 15 years. Garfish have a lifespan of four years, so next year there will be an abundance of garfish, and the government will take the credit for the fact that the garfish have returned because they have put some commercial net fishers out of making a living. In fact, nothing could be further from the truth. The garfish have already returned: they simply need another year or so to grow out. There is very little science. It is the old story of lies, damn lies and statistics, and the statistics that we are very often forced to use are often two to three years' old. That is the case with the supply of garfish at the moment.

I want to point out to people that what really is happening is that we are seeing a move to populist politics, which demands that the noisiest sector gets the rewards. Currently, all research and all stock assessment (that is, all research into the safe sustainability of the fishery) is funded by the commercial fishers. So, they provide the statistics which provide the government with the excuse to put them out of a living. The recreational sector—some 300 000 of them—who love to go fishing actually pay very little—they pay for a boating licence, which has a small levy which finances some of the boat ramps and jetties. However, they do not contribute towards the research in relation to whether or not the total catch is sustainable.

The real argument is not who is the goodie and who is the baddie: it is how big is the cake and how much of the cake does one sector either deserve or need. I am quite concerned—and I think that South Australian consumers should be concerned—that, inevitably, the size of the cake is remaining the same and the fishery is no less sustainable than it was 10 or 15 years ago when the commercial sector restructured itself. We have over a third fewer commercial fishers in this state than we had at that time. What is happening is that we are gradually surrendering the view that we actually need a viable commercial fishing sector in this state, and we are gradually saying, 'Well, really, it's more important that the Hon. John Gazzola and his friends are able to take their boats out on Sunday afternoon, dangle a line and catch fish'—although, certainly by reputation, I am assured that the Hon. John Gazzola does not, in fact, threaten many of our species! But, because he and his friends can do that at any time, we think it is important to retain a commercial sector.

I wonder how many South Australian consumers are aware that, when they go into their fresh fish shop, particularly the larger supermarkets, the array of 'fresh fish' thawed for their convenience is almost entirely sourced from overseas from cheaper areas where there are no such penalties on the commercial sector and where there are very few standards as to how the fish are caught, stored or processed. So, while we have one of the most efficient and most food safe commercial fishing sectors in the world, we seem to be hellbent on putting the sector out of a living. This minister is at least compensating these people. However, at the same time he is compensating them, he is closing most of the bays. He is progressively saying, 'Okay, here's some money. It's your choice; you don't have to take it. But, within two or three years, there will not be anywhere that you will be allowed to fish.' He is gradually closing the bays, particularly the bays that are most popular with the recreational sector.

Then, another department is introducing marine protected areas, which again removes, in the case of the only marine protected area where we have actually seen the lines drawn, the ability for the commercial sector to fish in the areas which are most popular for them. Further, most of St Vincent's Gulf is covered by native title, which again demands that the only people allowed to fish within that region would be Aborigines to whom title has been granted. There is a rumour going around, but whether or not it is correct I am not sure, because, when I sought advice from Fisheries, I was told that it was the responsibility of another department.

It would not directly say that some of the commercial licences that are supposedly 'voluntarily' being surrendered will, in fact, be transferred to those who are granted native title, if that comes about. So, by the time these people are given the option of either taking some money now or not taking the money and seeing what is left in the next financial year, what the offer then becomes, and having most of their traditional fishing grounds closed, and having marine-protected areas imposed upon them, and having a native title case to fight, they are left with little or no choice but to say, 'I won't be a commercial fisher any more'.

Again, when I sought advice from the department I was given the answer, 'Yes, we fully understand that, with fewer fishers, fish on the South Australian market will be much more expensive'. I do not know that the South Australian consumer understands the long-term effect of this on the industry. In the main, it is very efficient but, as is the case with virtually every industry that I know, there are more and less efficient people, and there are those who care greatly about the sustainability of their resource and others who do not. However, in the main we have a very efficient commercial fishing sector in this state, but we are about to see its demise by default. I think it is important that people realise that.

I think there is a vision out there that anyone who uses a commercial net is somehow raping and pillaging the sea. They appear to be totally unaware of the fact that there is a very thin strip of water that the commercial net fishers can fish in; that by law they may not drag the bottom; and that by law they may not fish in greater than three metres of water. By their own code of practice, they have limited to a great degree the number of bunt nets they can use.

I asked a fisherman, 'What if we allowed you to go out into deeper water?' and his answer was, 'Well, we have never liked to go into the deeper water because that is where the spawning takes place'. We are not only forcing these people out of a living, making it impossible for those of us who do not own a boat to have a meal of fresh South Australian fish, but we are also losing the inherited knowledge and scientific financial levy that we now have to the recreational sector. It is not my position to judge whether this is right or wrong, but I think it needs to be put on the record that this is not a move for greater sustainability; it is not a move for greater fish stocks: it is merely populist politics that says that 300 000

beats 150 any time. That is what this buy-back is about. It is not humane, it is not moral, but it is probably politically quite clever.

The Hon. J.S.L. DAWKINS: I support the second reading of this bill, which will provide $1.7 billion to ensure the payment of public servants and the continuation of state government services from 1 July until the Appropriation Bill for the 2005-06 year passes both houses. This bill gives parliamentary authority to the government of the day to continue delivering services via public expenditure. The government is entitled to continue delivering those services in accordance with generally approved priorities—that is, the priorities of the past 12 months—until the Appropriation Bill is passed.

Initially, I will focus on the efforts of business enterprise centres, which receive funding from the Department of Trade and Economic Development, as well as local government bodies and the private sector. The business enterprise centre network, which includes the Salisbury Business Export Centre, has been the outsourced provider of small business support services on behalf of DTED for a number of years. It does that through some seven BECs located across the metropolitan area working under the auspices of the peak body BECSA. BECSA believes that the BEC network has a proven track record of service delivery to the small business sector in metropolitan Adelaide. In order for them to sustain this level of service and continue to improve, some requirements need to be met. They are:

- A dedicated resource provided by DTED and the Office of Small Business to facilitate the coordination of BEC activities and improve communication.
- Longer term funding provided at an adequate level to maintain a sustainable BEC business information and advisory service.
- DTED continue to provide innovative business information and support programs to the BEC network to assist them in the provision of free and impartial small business advice and support.
- A mutual agreement outlining defined outcomes and performance measures established between the government and the BEC network.

In the Supply Bill debate on 2 June 2004, I highlighted that the network of BECs had undergone a number of reviews within DTED over recent times. There has been considerable speculation about the reduction in the number of BECs from seven to five. Indeed, a joint working group made up of DTED and metropolitan local government CEOs was in place at that time. In late May 2004—only five weeks from the end of the then funding arrangements—the then minister announced further funding for the existing network for a further 12 months. This was accompanied by a statement that a final determination of the future of BECs could be up to seven months away. I emphasised in that speech that this uncertainty does not provide a healthy environment for staff and the volunteers who put a significant effort into the work of the individual BECs.

As the proven providers of important small business and economic development services at the local level across South Australia, on behalf of the state government and in association with local government and other organisations, BECs are deserving of much greater certainty and vision for the future than was the case then, and, unfortunately, has been the case until only a few hours ago. I understand that the current minister (Hon. Karlene Maywald) met with BEC chairs and managers earlier this year in relation to the review. There was no conclusive outcome from that meeting, and no correspondence from the minister to the individual BEC boards or BECSA has been forthcoming since. The only contact regarding the review was a recent meeting between DTED and the BEC managers.

One must question this move as bad protocol by DTED and the minister at best, or, at worst, a deliberate move to disenfranchise the network of volunteers who support BECs. With DTED contracts with each BEC due to run out at the end of the financial year—again—I understand that a funding extension was granted until the end of September this year. It would seem that DTED and the minister do not recognise, or have not recognised over a length of time, the funding crisis caused by their indecision. This crisis relates to tenancy contracts for BECs and, equally importantly, employment certainty for staff. Managers were led to believe that each BEC would receive $150 000 in last week's budget. The question remains: would that funding be drip fed as has been the case this financial year? I understand that only this morning BEC managers were summoned to a meeting with DTED.

At that meeting, managers were advised that each BEC would receive $150 000 per year for three years from 1 July 2005, as a result of last week's budget. At last, the government has provided some long-term certainty to the BECs. Apparently BECs were also advised this morning that the government's proposal for board amalgamations will not go ahead. BECSA has strongly resisted changing the business enterprise centre brand, which is widely recognised in all states. I understand that as of this morning DTED has withdrawn its proposal to rename BECs. BECs have been smashed from pillar to post by four different small business ministers in the past two years. All they want is to go forward with the right model and the appropriate resources.

I now address some issues which are affecting an agency of the government and the people who work within it. Members would be aware that a restructuring of TAFE SA was brought into effect in the middle of 2004. This included all country TAFE institutes being merged into one vast region. However, I understand that, nearly 11 months later, many aspects of the restructuring process are yet to be completed. I am advised that the appointment of numerous senior managers has been delayed. This has caused problems with lower management positions, resulting in lecturers not knowing to whom to report. In a similar scenario to the BEC situation, many administration and support staff have no employment certainty due to being on contract, while permanent positions remain undetermined.

Concerned TAFE employees have also told me that the original structure has not been matched with funds and positions. The result of this has been greater work loads, particularly for lecturers and instructors. This has had a significant effect on staff health and morale. Many have experienced a vastly different situation from what they were advised would happen following the restructuring process. Many of the country institute campuses are embarrassed by the lack of attention to local accounts, as a result of all finance, purchasing and information technology matters being handled centrally in Adelaide. I am advised that many high calibre staff have left TAFE to seek stability, after being offered only four to six week contract extensions.

TAFE has had a high reputation within the state. The current situation must be rectified urgently or its status will be severely undermined. I again commend the passage of this

bill through the Legislative Council so that it can provide the $1.7 billion for the provision of state government services to the community. In closing, I support this bill as it will facilitate the continuing delivery of public services such as those which are exemplified in the business enterprise centres and through TAFE SA.

Debate adjourned.

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

In committee.

(Continued from 30 May. Page 1999.)

Clause 23.

The Hon. A.J. REDFORD: I move:

Page 19, after line 6—

Insert:

(a1) For the purposes of this section, bullying is behaviour—

(a) that is directed towards an employee or a group of employees, that is repeated and systematic, and that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the employee or employees to whom the behaviour is directed; and

(b) that creates a risk to health or safety.

(a2) However, bullying does not include—

(a) reasonable action taken in a reasonable manner by an employer to transfer, demote, discipline, counsel, retrench or dismiss an employee; or

(b) a decision by an employer, based on reasonable grounds, not to award or provide a promotion, transfer, or benefit in connection with an employee's employment; or

(c) reasonable administrative action taken in a reasonable manner by an employer in connection with an employee's employment; or

(d) reasonable action taken in a reasonable manner under an act affecting an employee.

We are now dealing with the issue of what the government euphemistically describes as 'inappropriate behaviour at work', but what the average person might come to understand as the topic of bullying. In some detail, I went through the position of the opposition insofar as bullying is concerned during the course of my second reading contribution. Members might note that the position taken by the Liberal opposition in another place regarding the legislation is different to the position we are adopting here.

The previous position of the opposition was, first, that workplace bullying had become an increasing issue over the past six or seven years, and that it was appropriate for this parliament to deal with that issue. Secondly, we gave our cautious support to a legislative response, notwithstanding the fact that the Stanley report, and, indeed, evidence given to the occupational, health and safety committee, was to the effect that, if bullying was not strictly defined, it could easily become the 21st century RSI and impose significant and unnecessary costs on employers and unnecessary impediments to normal practices.

The other difficulty of its being the 21st century RSI is that, if it is abused, it is likely that, at some stage in the future, parliament might seek to take away any remedies, and that, as we currently stand, it is a situation that we would deprecate. It was our view that we would support this on a number of conditions: first, that workplace bullying be strictly defined, and I set out that point in my second reading contribution. Secondly (and this was the point that we made in another place), that the Employee Ombudsman be delegated the powers of an inspector. Thirdly, that any remedies be in subsection (4) and not in addition to remedies available under equal opportunities legislation. Finally, that any remedies should not interfere with an employer's legitimate right to manage their business and, in particular, the dismissal process and/or the promotion process.

Following the passage of the bill in another place, I was approached by Business SA, which arranged a meeting with significant stakeholders in industry. I might point out that Business SA's position in relation to the issue of bullying is that it did not need to be addressed legislatively and that, in fact, it opposed any legislative provision. However, it recognised our position and approached us on the basis that it would want the best outcome possible.

The meeting was attended by a number of industry associations, and I am grateful to all of them for their attendance and for the constructive suggestions they made in relation to this policy. By way of background, let me explain that, currently, section 19 of the Occupational Health, Safety and Welfare Act imposes a duty on employers to provide a safe working environment. It is a broad duty imposed on employers and arguably includes the mental wellbeing of employees. The occupational health and safety committee was unanimous in the view that, if not addressed, workplace bullying can impose a risk to a safe working environment.

The government bill proposes to insert amendments that require an inspector to investigate bullying complaints, and, where appropriate, refer complaints to the Industrial Commission for conciliation or mediation. Obviously, if conciliation or mediation fails, the employer is at risk of being prosecuted under section 19. I would imagine that a prosecution, though, would be unlikely because of difficulties of proof; but, notwithstanding that, there is a risk of such. Also, I understand that there are an estimated 200 to 500 potential complaints of bullying each year.

Everyone who talked to me and with whom I consulted both in the committee process and subsequently indicated that, to deal appropriately with bullying (and this is consistent with submissions made by the Employee Ombudsman), these complaints are best resolved where two circumstances exist: first, timely and early intervention; and, secondly, an informal process generally at the workplace. The parties at our meeting identified four options in relation to the management of conciliation and/or mediation of these complaints: first, the Industrial Commission (which is what the government proposes in the bill); secondly, workplace inspectors; thirdly, the Employee Ombudsman; or, fourthly, independent mediators—or, indeed, a combination of workplace inspectors and the Employee Ombudsman, which is what I think the committee generally agreed upon.

The arguments for and against the above proposals in relation to each of them can be summarised as follows: first, the arguments for the Industrial Commission is that the commission is perceived as being independent and experienced in these matters. The arguments against are that conciliation should take place before investigation. I point out that this bill requires some degree of investigation from inspectors. It is argued that, if there is an investigation by a workplace inspector who is the policeman in this area, it is likely that the positions of the parties will become more entrenched as a result of that process. The second is that the commission does not have the resources or the culture to act in a timely fashion. The third negative is that, despite having the power to do so, the Industrial Commission rarely attends

workplaces to conciliate. I suspect that that is as a consequence of its workload.

The second option is workplace inspectors. The argument in favour of the use of workplace inspectors is that they may be perceived as independent, and certainly there is no doubt they can act in a timely fashion. However, the arguments against include: first, the confusion in the role of an inspector between being, on the one hand, a policeman and, on the other, a conciliator; secondly, the current lack of training of inspectors; and, thirdly, an inherent suspicion on the part of employers of inspectors undermining the prospect of successful conciliation or mediation. That option was strongly and most unanimously opposed by the employer groups represented at that meeting.

The third option is the Employee Ombudsman, which was the option the opposition had suggested in another place. The advantages of the Employee Ombudsman is that he has had considerable experience in conciliating bullying complaints, with a good record of success. Anecdotally, the current Employee Ombudsman is well regarded by employers. In addition, the Employee Ombudsman has probably been the champion of legislative reform in this area in this state. However, there is concern, particularly on the part of one business group, that he is not perceived as being independent, thereby undermining the potential success of conciliation or mediation. The other argument is that we will not always have Mr Gary Collis as the Employee Ombudsman. It may be that a replacement for Mr Collis will take a different attitude in relation to this matter and thereby undermine the whole scheme.

The fourth option is the use of independent mediators. This is a costly exercise, but putting aside the cost it is the best option. It would be timely and independent. However, the cost and who should bear it is an issue that has not been resolved. The cost could prove prohibitive for bullying that might take place in small enterprises.

The second issue discussed at that meeting was whether or not there should be an investigation by a workplace inspector prior to any intervention by a conciliator or mediator. Investigation is perceived as having the potential to slow down matters and polarise the position of the parties, which would undermine any conciliation or mediation process. That was the unanimous view of all business groups in attendance. Most of the associations were not in favour of the commission or the inspectors. However, the opposition has carefully considered the matters put to it at that meeting and it is believed that the most appropriate umpire is the existing umpire, and that is the commission. That is consistent with the government position.

The Hon. Nick Xenophon: Not the Equal Opportunities Commissioner?

The Hon. A.J. REDFORD: No. However, the opposition's position is that there should be a number of conditions upon which the commission would be the arbiter in these matters. First, the commission should be required to commence conciliation or mediation within five days of a complaint being made; secondly, that the commission be required to deal with the issue at the workplace if required by either party; thirdly, that the commission be required to conciliate or mediate informally; and, finally, that there be no or minimal investigation prior to any conciliation.

I have talked about this matter in general terms. The particular clause in front of us at the moment is the definition of bullying, and I will quickly go through it. For the purposes of the section, bullying is behaviour directed towards an employee or group of employees which is repeated and systematic and which a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the employee or employees to whom the behaviour is directed and which creates a risk to health or safety. That is a definition agreed upon by the Occupational Health and Safety Committee.

The second aspect of the definition is to protect employers who are taking reasonable action in matters involving demotion or discipline or taking action based on reasonable grounds not to award or provide a promotion, or administrative action taken in a reasonable manner in connection with an employee's employment, or reasonable action taken in a reasonable manner under an act affecting an employee. That is the provision of a warning by an employer to an employee which might ultimately lead to a dismissal.

During my second reading contribution, I gave some examples about these issues, but I urge members to support the inclusion of a definition of bullying in this bill. The absence of a definition is a major failure. If we allow bullying to be spread too broadly, we will undermine it. It will become the subject of ridicule and be the sort of thing that was described by the Stanley report as having the potential to be the RSI of the twenty-first century. This is a definition that has been adopted by the ILO and I see nothing remarkable about it.

The Hon. CARMEL ZOLLO: The government will not support the amendment. The opposition wants to insert a definition of workplace bullying that will gut the proposal. One of the major problems with the definition is that it requires repeated and systematic conduct. That means that, if there is one very severe, very nasty incident, it is not bullying.

I am aware of an incident where a 16-year old employee was subjected to bullying through a workplace initiation ceremony. The incident involved the employee being wrapped in cling-wrap from his neck to his feet by co-workers. The employee was then secured on a trolley and pushed around to an eventual resting place next to a 4.2 metre drop. The 16-year old was then subjected to having sawdust, wood glue and a fire hose put into his mouth. The harassment continued for approximately 30 minutes before a contracted foreman cut the 16-year old free. This is an example of once-off—rather than systematic—bullying. Under the opposition's proposed amendment, that would not be bullying.

When there are problems at work we want to see the focus on resolving those problems, not creating a lawyers' picnic to argue over whether something fits a definition or not. Under the bill, inspectors will do their best to resolve issues themselves; however, if they are unable to do so the option remains to refer the matter to the Industrial Relations Commission for conciliation and mediation. Under this proposal, the inspectors act as an important control mechanism—just because there is an allegation that something is bullying does not automatically mean that it will be referred to the commission.

The inspector is an important safeguard in this process. If an employee asserts that there has been bullying but the inspector finds that it is simply appropriate disciplinary action, then that is the end of it. If an inspector determines that it is appropriate to refer it to the commission and the employer believes that it is not bullying, the worst that can happen is that they attend conciliation or mediation. It is hardly a big stick approach. So, if a matter is referred to the commission, it must be remembered that this provision

provides for mediation and conciliation—there is no capacity for the commission to order an outcome. I think we need to keep the focus on fixing any difficulties that have occurred and not create arcane legal arguments that distract attention from the real issues.

The Hon. IAN GILFILLAN: I think it is worthwhile referring to some of the observations that were made in the Occupational Safety, Rehabilitation and Compensation Committee and that were spelled out in the seventh report, 'SafeWork SA Bill'.

The Hon. Nick Xenophon interjecting:

The Hon. IAN GILFILLAN: It is a very good report, and the Hon. Nick Xenophon is now a member of that very prestigious committee. Ms Patterson, who gave evidence to the committee, made this observation:

> . . . defining exactly what is bullying is perhaps one of the hardest tasks that anyone has to do.

The UTLC argued as follows:

> Identification of factors identified as bullying is probably easier than coming up with a definition.

So, we are setting the groundwork of trying to address this issue constructively when people who have been quite close to it indicate the extraordinary difficulty of actually coming up with a definition. However, we did come up with a definition that I think the Hon. Angus Redford possibly read into *Hansard*, but I will repeat it because it was, in fact, unanimously supported by the committee—of which there were Labor, Liberal, Democrat and Green members. Recommendation 14 states:

> The committee recommends that the term 'workplace bullying' or 'workplace harassment' be used instead of the term 'inappropriate behaviour' and that the definition as follows be adopted:
>
> 'Workplace bullying' or 'workplace harassment' means any behaviour that is repeated, systematic and directed towards an employee or group of employees that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten and which creates a risk to health and safety.

I cannot remember precisely who objected to the next recommendation, recommendation 15, but I was certainly one who supported—

The Hon. A.J. Redford: It was us at the time.

The Hon. IAN GILFILLAN: So you have changed position?

The Hon. A.J. Redford: Yes, as I have just explained.

The Hon. IAN GILFILLAN: If you had referred to the recommendation, that would have made it a bit clearer for me. That recommendation, which at the time was a majority of the committee and which is now, as I understand from the Hon. Angus Redford, supported by the opposition as well, reads:

> . . . the committee supports the option of referral of workplace bullying cases to the Industrial Commission for mediation. The committee recommends that the wording of the bill be amended to require inspectors to make all reasonable efforts to resolve workplace bullying complaints before referring them to the Industrial Commission. The committee also recommends that inspectors be suitably trained to deal with complaints of this nature.

It seems to me that we are moving into a relatively novel area for industrial relations and, although there are some precedents to refer to, I believe that it is still an experimental area of industrial relations and one that we need to be prepared to reconsider in the event of the reality, after some period of time of testing this. The report states:

> Whilst employer groups unanimously opposed the proposal to refer matters to the Industrial Commission for mediation or conciliation, some were simply opposed to mediation as a tool for dealing with workplace bullying complaints.
>
> Mr Frith stated that Business SA is opposed to this aspect of the bill because, 'Business SA has long been on record and, indeed, I believe so have other employer associations that that is an unwarranted experiment and that it is not done that way in any other state.

I accept that it is an experiment, but it is a well-intentioned experiment. The person who most impressed me as actually knowing what he was talking about was Mr Gary Collis, the Employee Ombudsman, because he is not the love-child of either the employer or the employee and he has had dealings with individuals who have turned to him for help. I quote from the report:

> The Employee Ombudsman, Mr Gary Collis, in his last four annual reports has made reference to the increase in workplace bullying matters in some workplaces, particularly the Queen Elizabeth Hospital. The Employee Ombudsman stated that legislation must enable a formal investigation to take place where it can be demonstrated that the employer has committed a breach of the act.

In relation to mediation, he stated:

> Any chance of resolving a genuine complaint of bullying depends on effective management and the time taken. If the complaint is not addressed within days, then in my view there is very small chance for a resolution that will satisfy both parties.

Mr Collis argued that the focus should remain on compliance with the Occupational Health, Safety and Welfare Act and the elimination of hazards, including psychological hazards, to the development and implementation of workplace management systems. Mr Collis's emphasis was not on trying to find a culprit and beat them around the ears with some sort of verbal or legislative stick but to try to analyse the situation which was defined theoretically as bullying and solve it because, unless it is solved, you either have a resentful, ongoing and simmering ill-will or, eventually, someone leaves their employment, and it may well be a victim who leaves that employment very severely psychologically damaged.

Mr Collis recognises that there has been an increase in workplace bullying, and it has been referred to elsewhere that there has been an increase in workplace bullying. But, I think the example of the definition of workplace bullying given by the government is an unfortunate one. I do not believe that anyone would have expected that one particular event during their school days constituted bullying. In the case given here, it may have been an indication of someone actually suffering an assault. If is identified as a particular event which is an assault, that should be analysed as a particular event which has maybe a victim, maybe an aggressor, but they are identified in those roles, and that event is a singularity. The whole anticipation of anyone who understands or thinks about the meaning of 'bullying' is that it is an ongoing repetitive pressure on a victim, usually by more than one person. It certainly exists, and it exists in workplaces and it possibly exists in this place.

So, I think it is as important that we wrestle with the effort to get a definition, and the definition should be in the bill. The Democrats' view is this: this is the government's initiated legislation and, if it is the government's intention to try to drive some purist line through and to mock and ridicule the criticism that comes with good intention from other quarters, it loses my sympathy. However, if the government is prepared to look at what are the constructive steps that are put forward, and it looks at getting some sort of satisfaction for all parties involved, the Democrats will support it. However, we are not prepared to ignore the contributions made by this committee—and I do not extol its virtues purely

because I sat on the committee, because other people in this chamber were involved throughout the whole length of the deliberations. The committee took hours of evidence and written evidence to assess the situation.

I indicate that the Democrats are not totally won over by the precise wording of the Liberals' amendments, and I honestly cannot quite calculate what impact some of the amendments further down the track will make on the effectiveness of the legislation. They use the word 'bullied'; the other word is 'abused', and I think in the common English language usage the word 'abused' is reasonably easy to understand. However, bullying is a new concept to be brought into South Australian legislation, and I believe it is behoven on this committee to make an effort to have a definition inserted in the bill.

The Hon. A.J. REDFORD: I thank the Hon Ian Gilfillan, because I think he has put it very well. We are not talking about one-off incidents here: we are talking about a safe system of work. Just because one event happens, it does not necessarily mean that you do not have safe systems of work. The example given by the government involved the commission of at least four separate criminal offences. It is our view that the criminal law should not be undermined by legislation such as this. If that particular young man had a problem or, indeed, even if he did not report it but it came to the attention of the authorities, the conduct that was described by the minister is so serious as to warrant charges of assault, false imprisonment and reckless endangerment of life. They are just three I can think of which have severe gaol terms.

The government says that this is not a big stick proposal, and I acknowledge that this is not a big stick proposal. Perhaps I am being overly suspicious, because I think the way in which the government has set it up, it is setting it up to fail. What then concerns me is what the next legislative reaction will be from the government when its system that it is promulgating in terms of dealing with bullying fails. It may well be a situation where we will get some draconian legislation, and that is something that we on this side would seek to avoid.

Finally, I want to comment about the government view that you cannot really define this. I draw the government's attention to attachment A of the parliamentary report—'Definitions of workplace bullying and related terms'. Set out in the report are three pages of tightly written alternative definitions, and I will give some examples. The Legislative Assembly of Ontario defines workplace violence; the Irish define workplace bullying and incorporates the term 'repeated'; the United Kingdom defines it as 'persistent, offensive, abusive', etc.; the World Health Organisation has a definition, and the definition includes 'repeated unreasonable behaviour'; Queensland has a definition; and Western Australia has a definition, which incorporates the term 'repeated'.

The problem with the Queensland definition is that it does not incorporate 'repeated behaviour' and in my view, with the absence of that, you are not talking about safe systems of work, and the honourable member would understand that, in dealing with Occ Health and Safety, we are talking about safe systems. Victoria incorporates the term 'repeated'. Western Australia incorporates 'repeated'. New South Wales does not have a definition. The South Australian Employee Ombudsman incorporates a definition that he uses, and he uses 'persistent ill treatment' which would recognise that this is repeated or more than just a one-off incident which, in my view, should be the subject of the criminal law. So there are plenty of examples where that has happened, and I have not heard from the government any argument other than the case that is given as to why this should not be defined.

At the end of the day, we as legislators have to take responsibility. I do not think it is fair on the Industrial Commission to sit there and try to work out what bullying is or what inappropriate behaviour is. At the end of the day we have had a parliamentary committee. It sat for a very long time. We have a range of definitions. They have all been considered at least by us, and I know that the government would not have been out of court in considering it, and I think it is an abrogation of our responsibility as legislators to sit there and not define it and hope like hell that the Industrial Commission might come up with some sort of definition, and I do not think that is fair on the Industrial Commission. If you really want to talk about a lawyers' fest, as the minister said then that is the way to create one. Just throw in a couple of words and say to the courts, 'You work it out.' That is what creates lawyers' fests. That is what adds cost to litigation.

I suspect that, in the absence of a definition, the first time it comes up before the Industrial Commission, you will have an army of lawyers seeking to intervene from various employer and employee groups, a huge case as to what this may or may not mean, and in the meantime the poor old employer and the pool old employee who really just wanted conciliation of their problem is just going to get lost in the dust. That is what I suspect might happen. I think the definition is important.

The Hon. IAN GILFILLAN: I would like to signal to the Hon. Angus Redford that the Democrats are quite sympathetic to (a1) but would oppose (a2). I am making the observation about supporting the first part of that amendment, because it does make a reasonably constructive attempt at defining 'bullying' and in that concept (b) which says 'that creates a risk to health or safety', I expect that a reasonable interpretation of 'health' would mean potential damage to psychological health because in quite frequent cases of bullying there is no physical sign of any trauma.

The Hon. Nick Xenophon interjecting:

The Hon. IAN GILFILLAN: Exactly; well, that is what I am getting affirmation of all round the traps here. I think one contribution to the debate which I think ought to be brought into it is the Law Society, and not every member of this place treats what the Law Society says as divine intervention. However, in this case Mr Ward, who is the president, made this observation:

> The comments that came with the Occupational Health and Safety Bill mentioned that inspectors would investigate bullying incidents. They would investigate them, consult, encourage a solution. Where it does not result in favourable outcomes it is referred to the Industrial Court. The concern of the committee—

that is, the Law Society committee—

> is that as it is currently drafted—

and this is clause 23, which is about section 55A—

> it reads as if the inspector just investigates and then makes a decision to refer it off, rather than have as the number one step that he or she would investigate and see if it could be resolved there and then. Again it is only a matter of nuance. We think that as the bill is proposed, it might not quite follow what the intention is.

That, of course, does reflect again what Mr Gary Collis emphasised so appropriately about rapidly attempting to heal the wounds. The Law Society suggests that an amendment to clause 23 is:

> 55A(1) If—

(a) an inspector receives a complaint from an employee that he or she is subject to workplace harassment, the inspector will investigate the matter and make all reasonable attempts to resolve the matter between the parties, and;

(b) the inspector has reason to believe that the matter is capable of resolution by conciliation or mediation under this section, the inspector may, after consulting with the parties and attempting to resolve the complaint, refer the matter to the Industrial Commission for conciliation and mediation.

I do emphasise that I think all the valuable contributions have emphasised the conciliation and mediation. I do not need to repeat that we are convinced there needs to be an attempt at definition, and we think that the first part of the Hon. Angus Redford's amendment would be satisfactory, and I would ask the government, if it would like to, to make an observation as to whether the Law Society's suggested amendments were considered and, if so, how were they received by the government?

The Hon. CARMEL ZOLLO: Perhaps if I can just respond to that one very quickly. I advise the honourable member they were more than considered. They were actually implemented. The honourable member referred to recommendation 15, but the committee recommends that the wording of the bill be amended to require inspectors to make all reasonable efforts to resolve workplace bullying complaints before referring them to the industrial commission. In fact, this has actually been done. It is clause 23, section 55(1)(c) and (d). Perhaps I should also place on the record that we do not believe our legislation undermines the criminal law at all. It is about repairing relationships in the workplace. I also advise that the advice that the government has received is that the majority of expert advice is against having a definition in the legislation.

Members interjecting:

The Hon. CARMEL ZOLLO: I advise that Queensland, Victoria and Ireland—to which I think the honourable member referred—do not have definitions in their legislation. They may have definitions in guidance material or codes of practice, but not in their legislation. The government consulted with the workplace bullying round table for advice on guidance material, including approaches to define bullying.

The Hon. A.J. Redford: Who? Name them!

The Hon. CARMEL ZOLLO: They were Associate Professor Larry Owens, senior lecturer in behavioural management and counselling, School of Education, Flinders University; Professor Phillip Slee, Associate Professor of Human Development, School of Education, Flinders University; the School of Psychology, University of South Australia, regarding its study on occupational stress, bullying in the correctional work environment and anger management for work environments; Ms Oonagh Barron, Project Officer, Worksafe Victoria, public sector and community services, who conducted the review to which I have just referred.

The Hon. A.J. Redford: Why did they not give evidence to the occupational health, work and safety committee?

The Hon. CARMEL ZOLLO: The honourable member would have to ask the committee. Certainly, these experts were consulted. I think it is important I place that on the record, given that the honourable member asked whom did we consult.

The Hon. NICK XENOPHON: First, I commend the government for raising this issue in the bill and the work of the Occupational Safety, Rehabilitation and Compensation Committee. The discussion to which the Hon. Mr Gilfillan alluded has been very useful in relation to this debate. I will deal with a number of comments made by members in terms of my arriving at my position. The minister refers to the assault or an incident involving a 16 year old worker. Obviously, he was a young lad who was very frightened; he would have been terrified at what occurred. The Hon. Angus Redford refers to four criminal offences, including endanger life, assault and false imprisonment. I would be grateful if the minister would indicate whether there was any prosecution in relation to that matter.

I think it may not be the best example with respect to this amendment, given that there were some clear breaches of the criminal law. I do not see this legislation as undermining the criminal law, but I foresee other remedies with the criminal law in relation to that. Will the minister tell us whether there was a remedy for that disgraceful behaviour involving that particular young, 16 year old lad, who must have been absolutely scared witless over what occurred? The Hon. Angus Redford—

The Hon. Carmel Zollo: What was the question?

The Hon. NICK XENOPHON: In relation to the example, which has been given and which horrifies us all, what steps were taken? Was there action under the criminal law? Was there some failure on the part of the criminal law to bring the employer to account or to justice? The Hon. Angus Redford made reference to this being a lawyers-fest and, if there is not a definition, on the first occasion there will be a whole swag of lawyers—

The Hon. A.J. Redford interjecting:

The Hon. NICK XENOPHON: Well, the Hon. Angus Redford is agreeing that on the first occasion there will be significant legal argument in relation to the bill in its current form. I think that is a valid point. Once a precedent has been set, obviously that will provide guidance for future cases, but, if we as a parliament can provide a framework and definition to give some certainty for those seeking a remedy under this section, that would not be a bad thing.

In relation to the issue of inspectors, I have some reservations about whether it is appropriate that inspectors, given their role of enforcement, almost a prosecutorial role in terms of powers with respect to expiation, and the like, have a role to deal with these types of matters. I commend the government for tackling an issue which is important and which needs to be tackled, but is it envisaged that some inspectors under this model will be specifically trained to deal with these matters? Would there be inspectors within the inspectorate who have a particular role to deal with the matters raised in this clause so that they are not seen as being out there prosecuting employers for other matters but, rather, have almost a quasi conciliation, mediation or specialist's role within the inspectorate? I would think that that is a better way to go, if the government is sticking to this model of using inspectors. I would be grateful if the government could indicate its position on that issue.

In relation to proposed new subsection (a1) of the Hon. Angus Redford's amendment, my principal reservation—and I have heard what the Hons Mr Redford and Mr Gilfillan have said—is with respect to the words 'repeated and systematic'. I have read what the committee said in its considered approach. I wonder whether 'repeated and systematic' is too narrow. There could be instances where there is such an overt case of bullying—of a threat by an employer to an employee—that it almost sets the scene for a continuum, in a sense, of intimidation on the part of the worker. It could be an extreme case, but I wonder whether

'repeated and systematic' is a reasonable restriction. I have real reservations about that. Apart from that, from my perspective the attempt by the Hon. Mr Redford to define it with his amendment is something that is welcomed.

The Hon. Ian Gilfillan referred to Business SA's concerns that this is an experiment and we should not go down that path. I agree with the Hon. Mr Gilfillan that this is certainly a well-intentioned experiment, but I do not want this experiment to have the potential for an explosion of litigation or action in the 21st century, as the Hon. Mr Redford has indicated. However, it is something with which we need to deal. In relation to the amendment of the Hon. Angus Redford, I cannot support it in its current form, although that does not seem to matter, given the numbers and that 'repeated and systematic' has the support of the Democrats.

In relation to proposed new subsection (a2) in the Hon. Mr Redford's amendment, I note that the Hon. Mr Gilfillan opposes that. Will the Hon. Mr Redford set out what bullying would not include? Has consideration been given simply to refer to that as inappropriate behaviour? There has been some debate about that. Given the matters raised in proposed new subsection (a2)(a) to (d), does the Hon. Mr Redford acknowledge that it could be argued that all the matters he has raised could not possibly be regarded as bullying or inappropriate behaviour? I am not sure whether that is clear to the Hon. Mr Redford. In other words, he raises some matters which do not seem unreasonable, but do they need to be the subject of a definition, in the sense that bullying could not possibly include those particular matters by definition, given the matters that are raised in terms of reasonable administrative or disciplinary action?

I raise that in a genuine attempt to wrestle with what I think is a difficult matter. It is a difficult concept. It is complex, but I think it is worth our dealing with this as a parliament. The other issue I raise with the government broadly and, indeed, with any other members, is that it is important that this be as informal as possible in an attempt to resolve this. Does the government consider that there could be any other mechanism short of a conciliation between the parties, or an intermediate step between the inspectors and the commission's being involved in respect of dealing with their concerns in relation to inappropriate behaviour?

The Hon. CARMEL ZOLLO: Before responding to specific questions asked by members, I place on record that external representatives on South Australia's workplace bullying round table, all of whom have agreed that a definition is appropriate at code of practice level, included representatives from the Office of the Employee Ombudsman, Business SA, Women's Working Centre and the Industrial Relations Commission.

The Hon. A.J. Redford interjecting:

The Hon. CARMEL ZOLLO: I think we have already made that point. The Hon. Nick Xenophon asked about the example I gave in relation to the young gentleman who was 16 years old. The example that was given when I responded previously was from New South Wales. There was a prosecution. However, even if a prosecution or other action is taken, it is often the case that a dispute between the parties still needs to be resolved. This is the purpose of having a conciliation or mediation process available; that is, to bring the parties together so that differences can be resolved and life can go on.

Another question the honourable member asked related to training inspectors. All inspectors are trained at present to deal with bullying, and all inspectors perform multiple functions, education, assistance and enforcement. The Hon. Angus Redford suggested that, on the first occasion, there would be many lawyers intervening. My advice is that that is precluded by section 55A(5)(a) where it says 'where the parties attend'. As to the questions about other processes or steps, we are not aware of any that are preferable.

The Hon. NICK XENOPHON: I am grateful to the minister for her answers, but, in relation to the New South Wales case of the 16-year old lad who was terrorised at work, how would this amendment work if we had a similar case here and there is clearly a criminal element in terms of an assault? What would the protocols be? Would it be that any action under this could not proceed until any criminal charges were dealt with? I presume that some parties might say, 'We are facing a prosecution. We are facing being charged by the police or the DPP; we do not want to participate in this.' What happens then so that there is not a doubling up or a situation where the employer could say, 'We are facing these criminal charges; why should we be subject to this particular regime or protocols?' as set out in the proposed amendment.' I am wondering how that would work, and I hasten to add that any employer behaving in that manner should have the full weight of the law against them and, in some cases, imprisonment if it is as bad as the example that the minister has given.

The Hon. CARMEL ZOLLO: I am advised that, ultimately, we cannot compel people to speak who do not want to speak. If there is no prospect of resolving the issue because someone refuses to speak, it is hard to imagine why it would be referred to the commission. However, if, as we would hope, the parties are willing to have discussions to get the relationship on track, the inspector and the commissioner could play a major role in assisting.

The Hon. NICK XENOPHON: I regard these as important amendments. I am trying to understand how they would work. Proposed new subsection (4) provides that, if a matter is referred to the Industrial Commission, the Industrial Commission must attempt to resolve the matter by conciliation or mediation as the Industrial Commission thinks fit. First, is it the case that the commission has an unfettered discretion as to how it is to be determined, whether it goes by conciliation or mediation; and, secondly, is the minister saying that if there is either conciliation or mediation one party can refuse to participate, or is it only in the case where there is a criminal prosecution, because of that potential conflict between what is happening in the criminal courts system? This is a genuine attempt to understand how it would work.

The Hon. CARMEL ZOLLO: The point I was trying to make was simply that the commission has the discretion between conciliation and mediation. The point I was making was that you cannot make someone speak or discuss something who refuses to do so. It is no more, no less.

The Hon. NICK XENOPHON: If you have a genuine case of bullying, harassment, or whatever, and the inspector tries to sort it out, he sends it off to the commission. The commission drags the parties before it, and the employer, who has been behaving atrociously to some workers, says, 'Get stuffed. I will not say anything.' Is that the end of the matter? I am just trying to understand how it would work.

The Hon. CARMEL ZOLLO: It is an incredibly difficult question because, as a matter of practice, what do you do? How do you compel someone to speak? How do you make someone speak if they decide to be mute about an issue? All the commission can do is conciliate and try.

The Hon. A.J. REDFORD: I start, first, by responding quickly to what the Hon. Nick Xenophon said. If they are not going to talk, they will not mediate, so it will not work. I say this to the Hon. Nick Xenophon that, as I understand his position, he is opposed to this definition. He spent 20 minutes tearing the government's position apart, agreeing with pretty much everything I have said, as I understand it, and he has indicated that he will not support my position. All I can say is that, if the honourable member goes home and his family says that he does not understand them or they do not understand him, I now know how they feel.

I adopt the criticism made by the Hon. Nick Xenophon. What I am at a loss to understand is that, having torn the government's position apart, how he can indicate that he will support the government's position and not support this amendment? First, I will deal with an issue that was raised by the minister, because sometimes the ugly side of industrial relations pokes its nose out in this debate. The minister said that the government does not want a legislative definition; it does not want parliament to define it. It wants this unelected group of people, most of whom have never met an ordinary working member of the South Australian public or dealt with an ordinary business. They have never had to door knock, they have never had to stand up and defend a position and they have never had to ask for anyone's vote.

What this group will do—most of whom I have never heard of in my life—is sit there and define it for us in some sort of code. That is as I understand the government position. I cannot understand why the government would say, 'Sorry, parliament, we do not think that you are capable of putting up a definition. This other group of people—and we will tell you who they will be—will sit there and state the definition.' I think that, as a matter of principle, that is wrong. It is us, the elected representatives of the people, who should be tackling this issue and not some group of people I have never heard of. If I can answer the Hon. Nick Xenophon's earlier question. He may well have forgotten it, but he asked me: what is the purpose—

The Hon. Nick Xenophon: Don't say that I have forgotten. Just stick to the issues.

The Hon. A.J. REDFORD: The honourable member asked me a question—

The Hon. Nick Xenophon: You mentioned families, and it is just pathetic. It is just absolutely pathetic the way you debate.

The Hon. A.J. REDFORD: Well, I did not understand your position.

The Hon. Nick Xenophon: Don't drag in people's families.

The Hon. A.J. REDFORD: I apologise to the honourable member.

The Hon. Nick Xenophon: You should apologise; it is disgraceful.

The Hon. A.J. REDFORD: To answer the honourable member's comments in relation to (a2), he may well be right that proposed new subsection (a2) is unnecessary and that in the interpretation of (a1) it is implied that an employer acting in a reasonable manner, whether in a promotion, wrongful dismissal or in the normal course of management, would not fall within the definition of (a1). I have had substantial numbers of constituents come into my office on a regular basis over the last couple of years making various complaints. I will give but two examples. I have had a number of people, particularly within the public sector, talk about the fact that, if they do not get a promotion and they go through the promotion appeals process, there is some sort of conspiracy or bullying that is taking place as a consequence of their not achieving that promotion. In terms of this definition I make abundantly clear that employers still retain certain rights in terms of their processes and what they need to do to manage their businesses.

The other example I have had is of late where employers are issuing letters warning employees about unacceptable conduct, which may well lead to the ultimate sanction, which is a dismissal, and a lot of employees are making WorkCover claims immediately they get these letters, which stymies the employer in terms of management of their work force. In relation to (a2), I am seeking to be quite clear that employers, whether they be big employers (such as the state) or small employers, can act in a reasonable way in terms of dealing with their work force both with promotions and discipline, transfers and other administrative action. I agree with the honourable member that it may well be the case that that is unnecessary and that a commission might say, 'Look, they are a given.' It is important sometimes in legislation to sit down and state it so that when lawyers or employees are looking at it they know the parameters within which we are working. I hope that gives some answer to the honourable member's question.

The Hon. CARMEL ZOLLO: We have had considerable debate on this. I ask that we put (a1) and (a2) separately.

The Hon. IAN GILFILLAN: I feel the minister has encapsulated what I foreshadowed as being what the Democrats would support, so it is a sensible measure. There is a quote from this excellent report that ought to be put into *Hansard*, as follows:

> At a recent international workplace conflict conference held in Adelaide, Professor Deiter Zapf from Germany stated that the terms 'bullying' and 'mobbing' are used interchangeably to refer to the same kind of behaviour. The term 'mobbing' is used in Europe, whilst the term 'bullying' is the preferred term used in Britain, Australia and New Zealand. He stated that a definition of bullying-mobbing has been universally agreed in the European Union. The definition requires that the behaviour be systematic, repeated and must last for a long time—at least six months—and the victim must be in an inferior position, with difficulties to defend themselves. He argued that it is not bullying if it is a single event or occasional event of two equally strong parties in conflict.

Quite clearly the European situation has been down the track and it is not a bad illustration of some of the wisdom that has come through its experience, which we would be well advised to follow, and the government will recognise the good sense in putting a definition into the legislation.

The Hon. Nick Xenophon was concerned earlier and suggested that it could be inspectors who were specially trained. To quote again from the excellent document:

> In 2002 WorkSafe Victoria developed a guideline to assist employers to manage workplace bullying. During this process WorkSafe recognised that responsibility for resolving the problem rests with the parties at the workplace. However, as part of their inspection process some inspectors were trained as nominated 'bullying designated inspectors'. The training ensured that the inspectors responded to complaints in a consistent manner. WorkSafe Victoria does not have the capacity to refer matters for mediation or conciliation.

So, there is a precedent for having specially trained inspectors and it may well be a practice that South Australia adopts. I do not know whether the minister is exercising a judgment that the debate in committee has reached the stage where we ought to vote, but if that is what she is saying I wholeheartedly agree.

The Hon. CARMEL ZOLLO: Before we do so, I point out that we maintain our original position. However, we recognise that there is some improvement in the sort of things the honourable member referred to as being said by Professor Zapf from Germany as compared with the shadow minister's amendment.

The Hon. NICK XENOPHON: I do not support the amendment (a1) moved by the Hon. Mr Redford because of the phrase 'repeated and systematic' for the reasons I have outlined. I commend him for trying to define bullying. In relation to amendment (a2) setting out what bullying does not include, I cannot see, in the absence of any argument to the contrary from the government, what harm that would do and I think it would make clear to employers that, if they are acting reasonably on a range of issues with respect to promotions or discipline, they should have no fear with respect to this subsection.

In relation to the exasperation I may have caused the government in asking about what would happen if an employer is not interested in going before a conciliation process or not participating, it was a genuine question and concern and not asked with any disingenuity on my part. I am sorry that the government was exasperated by that question, but I thought it was a legitimate question to raise in the context of this debate.

The committee divided on proposed new subsection (a1):

AYES (12)

Dawkins, J. S. L.	Evans, A. L.
Gilfillan, I.	Kanck, S. M.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J. (teller)	Reynolds, K.
Ridgway, D. W.	Schaefer, C. V.
Stefani, J. F.	Stephens, T. J.

NOES (6)

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

PAIR

Lawson, R. D.	Roberts, T. G.

Majority of 6 for the ayes.

Proposed new subsection thus inserted.

The Hon. IAN GILFILLAN: I would like to ask a rhetorical question: does anyone believe that employers will never be involved as bullies? As a committee, we are implying (as I have gathered from some of the debate) that in no way must an employee misuse this opportunity and in some way abuse the advantages of this legislation and, therefore, one must go to great lengths to protect the employer. Certainly, abuse of the system cannot be accepted under any circumstances, but it is naive to believe that there will not be circumstances in which the employer may well be part of a bullying procedure and, therefore, it should be part of the legislation to look at that as industrial harassment or bullying.

The Hon. A.J. REDFORD: If the Hon. Ian Gilfillan is suggesting that we do not think that employers can bully, we do. We have not suggested anything to the contrary and I am not sure where he gets that from. We believe that bullies come from anywhere. As the honourable member will recall from the evidence we received, you can get bullying up the line and bullying down the line. You can get what is known as 'mobbing', and I think the honourable member will remember the evidence that was given about how groups of workers will mob or bully a superior; you can also get the opposite, where groups of superiors will bully a particular individual or a particular group of individuals.

The opposition is not saying that employers do not bully. What we are concerned about is that in a lot of cases—and we have seen it on so many occasions, with stress and other issues—rights are given and then suddenly they are exploited, and we spend so much time down the track, legislatively, trying to address those problems. I am not sure whether the honourable member was here when we tried to deal with some of the abuses that arose out of stress claims in relation to WorkCover. I think the Hon. Michael Elliott was managing the bill, and it took an inordinate amount of time in parliament, and I am not sure that we have still correctly addressed that issue.

It is important to retain an employer's right to manage their business and to manage their staff. As I said in my second reading speech, and I think I also said in my earlier contribution, the opposition supports the concept of bullying provided that certain protections are contained within the legislation insofar as employers acting reasonably in terms of running their business is concerned. This is an important provision so far as the opposition is concerned, and we make it abundantly clear that, if we are not successful in relation to this amendment, we will oppose the clause. It is our view that, without these protections, the legislation is likely to cause more problems down the track, and we are going to see employers being subjected to all sorts of mischievous claims simply because they are attempting to manage their business and because they have a process to promote people, and simply because they might initiate a process to dismiss a person. We do not want employers' rights to manage their business to be undermined. It is hard enough to run a small business in this state without adding this imposition.

The Hon. IAN GILFILLAN: If there is behaviour by an employer which complies with the definition of 'bullying' (which is the first part of the Hon. Angus Redford's amendment), it is quite clear that it is an infringement of industrial legislation. If, on the other hand, it is not, the employer is at no risk. The details that are itemised in the second part of this amendment are superfluous to the intention of the legislation. The only one which, in any form, may be applicable is paragraph (d), which provides:

> reasonable action taken in a reasonable manner under an act affecting an employee.

If the mover of the amendment believes that, under any circumstances, that will protect an employer or give an employer a defence against what may be a reasonable allegation of bullying, it is very unfortunate. I do not have any doubt that the proper application of this legislation will protect any employer who is exercising the proper role of employer-employee in the management of his of her business.

The Hon. A.J. REDFORD: All we are trying to do is spell it out so that employers do not have to go to an army of lawyers and have it spelt out. All we are doing—and we do this on regular occasions; we do it in relation to lots of bills, and I know the honourable member has done it on the odd occasion—as I said in response to the Hon. Nick Xenophon, is that technically it is perhaps not necessary. However, we want this in the legislation in order to give comfort to employers that they can go about managing their business. We see this as a significant provision.

Members can vote how they see fit but, in the absence of this comfort for employers, we will not support bullying legislation simply because we believe the evidence given to

the committee by the Stanley committee itself that, in the absence of some of these protections, this has the capacity to become the RSI of the 21st century. That was the evidence given to the committee, and no-one but no-one came along to the committee and said that that evidence was wrong. Not even the UTLC came along and said that that was overstated. Everyone understands that we are taking a step in the dark here, and all we on the opposition side are trying to do is to say that, if an employer acts in a reasonable way in the exercise and management of their business, that does not constitute bullying. I do not think I can add any more than that.

The Hon. IAN GILFILLAN: I sat on that committee, and I might occasionally have had a lapse of concentration to some degree, but I do not recall their being any submission to that committee about this being the impending RSI of the next generation. If such a threat was given in evidence, why were the Liberal members of the committee not motivated to suggest that these measures be put into a recommendation? There is no reason why it should not be an afterthought; afterthoughts are quite often very valuable. However, in relation to voluminous evidence being given to the committee, either I was not there or it was not included in the report.

The Hon. A.J. REDFORD: I remind the honourable member that evidence was given by Mr Rod Bishop, who is the co-author of the Stanley report with Francis Meredith. Indeed, in his opening statement, he volunteered that evidence that it was the RSI of the 21st century and, indeed, not one single witness challenged that assertion, and neither did Mr Stanley or Francis Meredith when that evidence was given in their presence.

The committee divided on proposed new subsection (a2):

AYES (10)

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

NOES (8)

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

PAIR

Lawson, R. D.	Roberts, T. G.

Majority of 2 for the ayes.

Proposed new subsection thus inserted.

The Hon. A.J. REDFORD: I move:

Page 19, line 10—Delete 'an investigation of' and substitute:
considering

The particular purpose of this is to ensure that the inspectors, as I outlined before, consider the matter as opposed to investigate. The information that we have from mediators—and I am sure that all members received letters from Mediation Employment Relation Services—have pointed out to us, and we accept their assertion, that, if there is too much investigation, the parties entrench their positions and the likelihood of a successful outcome in conciliation and mediation is likely to be undermined. So, what we are seeking to do here is get the matter before a commission as quickly as possible and give the prospect of mediation and conciliation the best prospect of success.

The Hon. CARMEL ZOLLO: At the outset, I advise that the government will support the shadow minister's amendments Nos 96, 97 and 98. However, we are opposed to amendments Nos 94 and 95. Amendment No. 94 moved by the shadow minister proposes to remove the term 'an investigation' and replace it with 'consider'. The government opposes this amendment. An inspector should be able to use their investigative powers to explore all aspects of an issue, and rightly so. This amendment could be used to suggest that they cannot do so. It is appropriate for an inspector to be able to use the full range of investigative options to fully ascertain the circumstances, and this can be done expeditiously.

The Hon. A.J. REDFORD: I am grateful for the minister's response, because it ameliorates my concern quite significantly. I assume that, if you juxtaposition that with appropriate training of inspectors, we are less likely to get inspectors muddying the waters and more likely to get a successful outcome. I will not go to the extent of withdrawing the amendment, but I will not divide on it because I recognise where the numbers probably lie.

The Hon. IAN GILFILLAN: We are not persuaded that this first amendment No. 94 actually does improve the intention or activate the implementation of the bill, so we will be opposing it, but we will support the next one, which replaces 'attend before' with 'meet with'.

The Hon. NICK XENOPHON: I indicate that I do not support the amendment of the Hon. Mr Redford. If this is to work, there ought to be an investigation. I think 'consideration' lacks sufficient teeth to have any effective mechanism to ensure that there is an effective process with respect to dealing with any complaint.

Amendment negatived.

The Hon. A.J. REDFORD: I move:

Page 20, line 19, line 31—
Delete 'attend before' and substitute:
meet with

This is part of that desire to achieve a level of informality in order to ensure that mediation and conciliation has the best opportunity to work.

The Hon. CARMEL ZOLLO: The amendment moved by the shadow minister proposes to remove the term 'attend before' and replace it with 'meet with'. The government opposes this amendment. The shadow minister's amendment takes away from the respect that should be accorded the Industrial Relations Commission. It is appropriate that the words associated with participating in a process of conciliation and mediation within a forum, such as the commission, recognise the importance of the commission. The government believes that South Australians well understand the role that the commission plays in resolving conflicts in the workplace—and that should be respected. As I have said, we will not support the amendment, but, nonetheless, we recognise the numbers are not with us, so we will not divide.

The Hon. NICK XENOPHON: What practical difference does the honourable member see between 'meet with' and 'attend before' in terms of any sanctions or legal consequences which arise from it? Is it simply a matter of keeping it as informal as possible, and nothing more than that, or does he say it does some work, other than that?

The Hon. A.J. REDFORD: The honourable member actually answered it in the second part of his question. It is an indication from the parliament to the commission that we want these matters dealt with as informally as possible at the workplace. It is consistent with the subsequent amendments. Certainly, there are no sanctions. If everyone wants to towel up, get lawyers in, put on wigs and gowns and go the full process at the commission, then that is the way it will be

done. The honourable member will see further amendments down the track, particularly amendment No. 98, which provides that conciliation or mediation must take place at a workplace and must occur with with a minimum of formality. This amendment is consistent with that object.

The Hon. IAN GILFILLAN: There is a subtle distinction between the conciliation and mediation process, both of which are soft options that are strongly supported by the Democrats. In our view, conciliation is creating a situation where two previously opposing parties of their own volition come to some degree of harmony and remove the mischief that was there before. Mediation is where the mediator proposes some formula which, if it is successful, is agreed to by both parties. Certainly, our support for the amendment is because of the tone and the feel of the wording. As this is a very sensitive area, we think it is important to make that extra step of informality in an attempt for a friendly cooperative climate. I think the words in this amendment suit that better.

The Hon. J. GAZZOLA: What if the employer responds to the commissioner, 'Yes, I have no problems; I will meet with you, but we are pretty busy at the moment, so we will meet with you some time in December, six months down the track.'? How would the honourable member deal with that, given that we have to try to deal with bullying in an informal place, perhaps at the workplace, as expeditiously as possible?

The Hon. A.J. REDFORD: I am sure the honourable member would understand that, if one party wants to be uncooperative in the conciliation or mediation process, the conciliation or mediation process will fail. If an employer says, 'I am too busy to meet and I am not available for months,' and he or she has a bullying situation at the workplace, then the commission is entitled to come to a conclusion that conciliation and mediation is a waste of time. It is then a matter for the workplace inspector to determine whether or not processes should be initiated to prosecute pursuant to section 19. Every step and every part of mediation and conciliation, as the honourable member would know from his past experience, is dependent upon two parties endeavouring with goodwill to come to a landing. If one party wants to be dog in the manger, it does not matter what we do in this scheme of legislation, it will not make any difference.

The Hon. J. GAZZOLA: However, if we go down the path of conciliation, the parties are not invited to meet with the Industrial Relations Commission: the parties are invited to attend before the Industrial Relations Commission. I understand how the honourable member wants to have a fairly informal and casual approach, but I am not sure that the amendment sends out the right signal that the industrial commission will treat the matter seriously. However, if you send out a message to either party, 'We would like to meet with you,' how seriously will that be treated? I do not know what your amendment will do to assist remedying a claim of bullying in the workplace.

The Hon. A.J. REDFORD: It sends a message of informality. It is as simple as that.

Amendment carried.

The Hon. A.J. REDFORD: I move:

Page 19—
After line 37—Insert:
(5a) The Industrial Commission must seek to commence any conciliation or mediation within five business days after the matter is referred to the Industrial Commission under this section.
Line 39—After 'may' insert:
(subject to subsection (6a))
Page 20, after line 1—Insert:
(6a) the person undertaking a conciliation or mediation must—
(a) at the request of a party, attend at a workplace (on at least one occasion) for the purposes of the conciliation or mediation;
(b) deal with the matter with a minimum of formality.

I have already discussed these at some length.

The Hon. CARMEL ZOLLO: I indicate that the government will support the amendments. As I have already mentioned, we do not see any problem with the proposals and the government is happy to support them and also have them moved together.

Amendments carried; clause as amended passed.

Clause 24.

The Hon. A.J. REDFORD: I move:

Page 21, lines 15 to 27—
Delete subclause (4) and substitute:
(4) Section 58—after subsection (6) insert:
(6a) A court before which proceedings for summary offences against this act may be commenced may, on application under this subsection, extend a time limit that would otherwise apply under subsection (6) in a particular case if satisfied that a prosecution could not reasonably have been commenced within the relevant period due to a delay in the onset or manifestation of an injury, disease or condition.

This amendment deals with extension of time for the initiation of prosecutions. The opposition agrees with the principle that there are occasions (and there may well be many occasions) where it is necessary to extend the time within which a prosecution should be commenced. The government proposal is that the Director of Public Prosecutions is the body that needs to be satisfied before the commencement of such prosecution. It is the view of the opposition that this decision should be made by the court and not by the Director of Public Prosecutions. I think the issues are adequately summarised in the course of that statement.

In relation to the report, it is dealt with at page 54; and recommendation 17 was that the committee supports an extension of time only where the prosecution could not be initiated due to a delay in the onset or manifestation of injury, disease or condition. Everyone is in agreement with that. The only issue is who is the arbiter of that. It is our view that the arbiter ought to be the courts. Obviously it is the government's view that the arbiter ought to be the Director of Public Prosecutions.

The Hon. CARMEL ZOLLO: I indicate that the government will not be supporting the amendment. The amendment moved by the shadow minister proposes to provide that the court and not the Director of Public Prosecutions (as proposed in the bill) may extend a time limit for the initiation of a prosecution, if satisfied that a prosecution could not reasonably have been commenced within the relevant period due to a delay in the onset or manifestation of an injury, disease or condition. At present, prosecutions cannot be brought against duty holders who have breached their safety obligations if more than two years has elapsed since the act or omission which constitutes the offence occurred.

The proposal in the bill is that the Director of Public Prosecutions be empowered to extend these time limits where the prosecution could not be initiated due to a delay in the onset or manifestation of injury, disease or condition, or due to other relevant factors or circumstances. The Director of Public Prosecutions is well placed to consider whether an extension should be granted being independent of the investigative authority and able to review the intended exercise of the prosecutorial discretion.

Following the debate in the other place, I am advised that the Office of the DPP was consulted about whether, in considering an extension of time issue, the DPP would take account of the views of the potential defendant about the extension of time. The advice that I have received is that the DPP would take account of information it received from potential defendants about extension of time issues. As I have said, we are not able to agree to this amendment.

The Hon. NICK XENOPHON: I have disclosed before and I will do so again that I am one of the patrons of the asbestos victims of South Australia, and clearly this clause would be of much interest and relevance to people who have been diagnosed with an asbestos related disease, particularly the deadly lung cancer mesothelioma, which sometimes takes 20, 30, 40 years or more to manifest itself. I have some concerns about simply leaving this to the DPP. In this instance, I understand the government's position is that it is trying to get across the legislative message that it will make it easier for an extension of time to be granted. However, what happens if the DPP's office, for whatever reason—it could be a lack of resources—says that it has decided that it will not grant an extension. That could have all sorts of implications for the victim of an asbestos related disease with a delayed onset.

What safeguards are there for the victim in this case to have some say in the process? It just concerns me as to how it would work. I can understand the government's intention. I do not know whether the minister can nod in answer to this, but in the context of getting an extension for a prosecution, do you get an extension of time at the moment or is it simply a straight out period?

I am grateful. As I understand it, it is a straight out two-year period. This is expanding the ease with which an extension of time can be granted. I support that principle very strongly, particularly for those who suffer the onset of a disease, such as an asbestos-related disease. Why does the government say that it is better to deal with the DPP? Should there also be another mechanism if the DPP says, 'No, there will not be a time limit.' If someone is suffering from an asbestos-related disease, there ought to be some other mechanism (an appeal mechanism, perhaps) to the court to consider the facts.

I am just concerned about leaving it simply with the DPP. In my experience with extension of time matters, the courts have a discretion. I know that extension of time matters under the Civil Liability Act have been severely circumscribed following the Ipp reforms. However, not too long ago there was a broad discretion for courts in tortious actions to have an extension of time as justice demanded, and if new facts were brought before the court of which the plaintiff was not previously aware, and I say that as an analogous situation. My concern is that simply leaving it with the DPP may be too narrow. I support the principle. What does the government say about that in terms of any other mechanism that would allow an appeal from a decision of the DPP?

The Hon. CARMEL ZOLLO: I am advised that the decision would be open to judicial review.

The Hon. NICK XENOPHON: What does the Hon. Mr Redford say about the distinction between having the DPP doing this or a court? Does he agree that for someone who is suffering from mesothelioma, for instance, who wants to see some justice and some prosecution brought, that having the DPP involved in this could short circuit the process? What danger does the Hon. Mr Redford see in relation to that, given that we have gone down the path with the so-called Ipp reforms where extensions of time in civil liability matters are now much more circumscribed than they were?

Although the principles under the old section 48 of the Limitations of Actions Act allowed for broad discretion as the justice of the case required, what does the Hon. Mr Redford say about the DPP's office cutting through the red tape, particularly where someone has a serious illness and a very limited life expectancy?

The Hon. A.J. REDFORD: There are two schools of thought about this. There are a number of offences in the Criminal Law Consolidation Act that prosecutions can be commenced only with the approval of the Attorney-General, some of which have been changed to 'with the approval of the Director of Public Prosecutions'. What the government is doing here is not without precedent, but, generally speaking, it is the courts that decide. From a practical point of view, ultimately, the courts will decide, anyway, because the determination could be described as an objective one, that is, there must be a delay in the onset or manifestation of an injury or disease.

It is a decision by the Director of Public Prosecutions to prosecute on the basis of a finding that there has been a delay in the onset or manifestation of an injury or disease, or a condition or defect of any kind, or any other relevant factor or circumstance. If we leave it as it is, it can always be challenged in the court. Ultimately, the court will decide, irrespective. I will not go to the wall on this.

The Hon. Nick Xenophon interjecting:

The Hon. A.J. REDFORD: I have extraordinary sympathy for the group of people for whom the honourable member is advocating. I think that the honourable member deserves every accolade for what he is doing for the victims of asbestos. As the honourable member well knows, I have attended a number of meetings, and every time I walk out feeling distressed. Whatever you do will be cumbersome. If you are a Hardy's in relation to something like this, and you want to take issue about whether or not there is a delay in the onset or manifestation of an injury or disease, if the DPP makes a decision and you do not like it, you will seek judicial review of the DPP's decision.

On the other hand, if the court makes the decision and the DPP has to take it to court, it is beyond doubt once the prosecution starts because the court will have decided that as a preliminary step. At the end of the day, it is probably six of one and half a dozen of the other, except that there is the appearance of some independent judgment in terms of whether a prosecution ought to be commenced. I am not seeking to divide on this. I can understand both sides of the argument. I think that, from an opposition perspective, we would just prefer the independent umpire to be deciding these issues, but it is not the end of the world if they do not.

The Hon. NICK XENOPHON: If the DPP says, 'No, I will not extend the time', is it the case that the only person who would have standing to challenge that would be the prosecuting authority, the department? A victim would not have any standing in relation to that. The issue of standing is something about which I have had a particular interest in the past.

The Hon. CARMEL ZOLLO: In response to the honourable member, I am advised that, if the prosecution is being brought by the department, the victim would not have standing. I am advised that it is also the case with Mr Redford's proposal.

The Hon. IAN GILFILLAN: For the record, and to help work out the numbers, I indicate that the Democrats are not attracted to the amendment and will oppose it.

The Hon. NICK XENOPHON: The Hon. Angus Redford has given a very straight-forward exposition of this. It is probably six of one and half a dozen of the other. I will support the government's position on this and, if the opposition comes up with some other stunning argument in the meantime to argue for its recommittal, I would have an open mind on that, but at this stage it seems that the government's position is the preferred one, particularly for the sorts of people I am worried about.

Amendment negatived; clause passed.

Progress reported; committee to sit again.

[Sitting suspended from 6.4 to 7.48 p.m.]

MOTOR VEHICLES (DOUBLE DEMERIT POINTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 May. Page 1961.)

The Hon. CAROLINE SCHAEFER: My contribution will be relatively short tonight, given that I spoke on—

An honourable member interjecting:

The Hon. CAROLINE SCHAEFER: Very well, we can make it into a long and tortuous process. As has always been my preference, sir, if you have nothing sensible to say, it is a good idea not to say anything at all. So I will try to make a sensible contribution to what is a very serious subject: that is, improving road safety in South Australia.

I think we all agreed, in yesterday's debate, that South Australia's road safety record—in spite of the rhetoric of this government—is currently abysmal. As I said yesterday, I have watched successive governments over many years and, whenever there is a spate of road accidents (particularly fatalities), the knee-jerk reaction from the populist press and the government of the day is to say, 'Right, we will lower the speed limit and we will increase the penalties.' Again, as I said yesterday, by far the majority of speeding accidents are caused by people who are already breaking the speed limit.

Doubling demerit points for long weekends and public holidays, which is what this piece of legislation is about, will not change the accident rate within South Australia one iota unless it is accompanied by some commonsense application of a package of necessities throughout this state. Currently, half the budgeted road funding in South Australia is to be spent on red light cameras in spite of the fact that less than 2 per cent of road accidents occur at the site of traffic lights. Rather than this knee-jerk, populist, 'grab another headline by increasing penalties and decreasing speed limits' response, what we hope will eventually come out of some of these debates is a whole package being worked on and evolved—a package which would include some realistic funding for road maintenance. When I say realistic funding, that would probably necessitate double the funding currently allocated as well as some targeted funding to where the accidents actually happen. Perhaps we do need to look at trees on roadsides, perhaps we do need to look at Stobie poles—we certainly need to look at driver education.

I was in this place when the Hon. Sandra Kanck moved an amendment to make it compulsory for all young drivers to do what is called, I think, an evasive or driver education course before they are granted a full licence. We opposed that at the time because we believed that, unless the government was prepared to fund it, it would mean that only those young people who could afford (or whose parents could afford) to pay some $300 for the course would be able to do it. Those from poorer backgrounds would not. However, if this government is serious about saving lives perhaps it needs to include funding for those sorts of instructors and courses within their budget for road safety.

There is no convincing evidence that doubling demerit points is working: in fact, the RAA has come out and said that doubling demerit points for public holidays will, by itself, do nothing—and it has copped some of the usual abuse from the minister, Mr Conlon, for doing that. We understand that a document has been produced within the department that indicates exactly that; that doubling demerit points without introducing an holistic package will do nothing to save lives in South Australia.

The Hon. R.I. Lucas: Is that right?

The Hon. CAROLINE SCHAEFER: Yes, that is right. That then begs the questions: why are we doing this other than for a cheap headline for Mr Conlon immediately at the time when people were grieving about a spate of fatal accidents, or are we self-funding our own road maintenance with fines? Has anyone looked at the amount of increased revenue this government has promulgated by increasing the size of fines and increasing the severity of crimes? Has anyone looked at the fact that it is estimated that 10 per cent of the people on the roads do not currently have a driver's licence, nor have they ever had one, and, in many cases, they have never driven a registered vehicle? Has anyone looked at those statistics? If they have, they have not shared this knowledge with the opposition or with the Independents in this place or in another place.

Has anyone looked at the startling statistics which have come from Victoria which indicate that a huge percentage (I believe it is 21 per cent) of the people tested on the roads for illicit drug use, not alcohol, returned a positive test? If that is the case, and if driving ability is impaired at least as much by illicit drugs as it is by alcohol, why are we doing nothing about that? In spite of the fact that the member for Schubert has introduced at least one, if not two or three private member's bills over the last few years, why is it that the government has not supported his private member's bills? In this case, I do not think he is particularly precious about the form that such legislation should take, and I am sure he would be prepared to discuss a practical method of introducing such testing. We know that the science is available to do that, but we have had no reaction whatsoever from this government about introducing such measures.

It seems to me that we will wait until the Premier has a week where there is not a great deal of news, and he will introduce that as one of his initiatives, because, in my view, he is more impressed with front-page stories than he is with road safety initiatives and packages. As I said, the RAA and the National Motorists Association have said that, unless double demerits are accompanied by a whole suite of other measures, they will not work. Yet the number of police on the roads is no greater than it has ever been. In fact, we are informed that it is barely keeping up with attrition. The number of police resigning is about equal to the number of police being put on the beat and, indeed, on the roads.

The opposition will move a series of amendments, which we believe will go some of the way (far from all the way, because we do not control the budgetary process) to being

more realistic than the process that is mooted here. Above all, we have information that a discussion paper was prepared by the department of transport and presented to the Road Safety Advisory Committee with regard to double demerit points on public holidays. In spite of repeated requests by the opposition, that piece of paper has not been forthcoming. One of the reasons that I have been given as to why that is the case is that those who prepared the paper have not signed off on it. I am sorry but, if a discussion paper is prepared by departmental officers at the request of the minister, it is the minister who has the power to either produce or not produce that document.

To me, it is complete nonsense. As an Opposition we are at least as concerned as anyone else about the road accidents and the road fatalities in this state, but how can we be expected to proceed, as I have said before, with commonsense, decent legislation if we are not in possession of all the facts? So, while I will support the second reading, it is the intention of the opposition to block this piece of legislation from proceeding any further until we are provided with the facts that we know exist.

The Hon. NICK XENOPHON: I rise to indicate my support for the second reading of this bill and to indicate my support for the general principles as set out in the bill with respect to double demerit points. I am grateful for the very comprehensive contribution of the Hon. Caroline Schaefer in relation to the matters she has raised. If the report that the Hon. Caroline Schaefer refers to is of direct relevance to this bill—

Members interjecting:

The Hon. NICK XENOPHON: Well, if there is a report there of relevance, I am confident that the government will provide details of that. I want to do everything I can to try to get this bill through this week so that the bill can be operative for the June long weekend. However, I do take the point of the opposition that, in terms of appropriate process, we should have whatever useful information there is before us when considering this legislation.

I support the general principle that there ought to be a provision for double demerit points at certain times of the year, and I note the rationale set out in the second reading explanation of the government that it heightens the awareness of drivers at certain times of the year when road use is particularly heavily, if it is used as a tool to increase people's awareness of the importance of not speeding and of not engaging in behaviour that would lead to demerit points. This additional penalty creates heightened awareness, which I think is a good thing. However, I also think it is important to know how similar legislation has operated in other states. I think we are one of the last jurisdictions that does not have double demerit points. It is in force in New South Wales and Victoria—

The Hon. Caroline Schaefer interjecting:

The Hon. NICK XENOPHON: I am grateful to the Hon. Caroline Schaefer. She indicates it is in force in New South Wales and Western Australia and perhaps Queensland. I ask the government to indicate which jurisdictions in Australia have double demerit points, how long they have had them in place, and what difference it has made in terms of accident rates and driver behaviour on the weekends that double demerit points have been in place; and, in terms of community attitudes and the like, whether it has had a flow-on effect of people being more careful overall with respect to speeding offences.

I am not sure whether there are any like-for-like comparisons for speeding offences and demerit offences with respect to speeding, but I would like to think that the introduction of double demerit points has made a difference, given that it would at least heighten awareness that bad driver behaviour receives an additional penalty at certain times of the year. Of course, speeding is dangerous and excessive speed is dangerous whether it is on a long weekend or in the middle of the week. That is something that needs to be taken into account.

I also note, Mr President, your contribution on ABC Radio, I think at the end of last week, about the fact that there are all these mechanisms to punish drivers and to discourage irresponsible behaviour, and I agree with that. However, there does not seem to be an alternative approach to reward those drivers who do the right thing, when they pay their registration or some form of bonus or incentive for good driver behaviour. It seems that it is the lousy drivers and the drivers who get the demerit points on a regular basis who are more significantly represented in accident statistics, and they are the ones who keep the premiums as high as they are, because of the cost of the road toll in terms of death and injury on our roads.

I would be grateful if the government could respond in terms of what has happened in other jurisdictions and what it expects that this will do in terms of the impact on the road toll. I do not see this as the be-all and end-all, but I do see it as another element in reducing the road toll. Also, given that there is a discretion there to have demerit points on days other than long weekends and specific holiday periods, as I understand it, what will the criteria be to trigger double demerit point periods? Also, I have noticed that, whenever there have been double demerit point periods in New South Wales, there have been extensive publicity campaigns and the like in the Sydney media. How will the public be made aware that it is a double demerit point period? Will there be a significant media campaign in the press or radio or television to heighten awareness that there are new penalties and to have that extra incentive for drivers to slow down?

The Hon. Caroline Schaefer: Only if it's popular.

The Hon. NICK XENOPHON: Well, I am not sure whether the Premier is planning to be in any advertisements, but I think it is important that we know that there will be an extensive advertising campaign for what I think is a measure that has the potential to reduce our road toll, and it is important we do everything we can to ensure that as few South Australians as possible get killed and injured on our roads. I support the second reading.

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

SUPPLY BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2017.)

The Hon. R.I. LUCAS (Leader of the Opposition): I support the second reading of this bill. This is the conventional Supply Bill, which provides resources to ensure the continued operation of the public sector until the Appropriation Bill can be passed some time early in the new financial year after 30 June. This legislation provides the money to enable the continued operation of the public sector in accordance with the general principles outlined by the budget

last year, and that can continue broadly until the new Appropriation Bill has been passed.

I want to address a handful of issues. Obviously, I will address these issues in more detail some weeks down the track when we debate the Appropriation Bill, but it is an opportunity to raise some general issues as they relate to supply. We have seen in recent days a complete change in fiscal strategy from the government. We had heard for some three years that the new government had moved away from cash accounting, and, indeed, that was a decision continued from the former government. The former government for the last few years had maintained both cash accounting and accrual accounting concepts in the budget papers so that both were recorded.

The former government, as per the recommendations of the Audit Commission in 1994, introduced a concept of the non-commercial sector. One of the decisions this government has taken has been to get rid of the concept of the non-commercial sector and to move back to the more traditional concept of the general government sector. There is some reason for that; that is, the general government sector is the commonly reported concept amongst most states and territories. However, what it means in South Australia is that a number of key agencies, therefore, are not included in what is called our budget result. I will address this issue in more detail in the Appropriation Bill debate, but a number of significant agencies, such as the Housing Trust, some of the TransAdelaide-type agencies and a number of others, which were included in the non-commercial sector, are not included in the general government sector.

When we start talking about the budget bottom line, we are now talking about a completely different concept, which excludes key service functions of government that have been acknowledged as key service options of governments for many years. It is the reason why the Audit Commission recommended that the non-commercial sector concept be developed. It believed it gave a fairer indication of the budget operations of government. I can understand the reasons why the government has moved to it, and there are some favourable reasons it has chosen to do it, as well. What it does mean is that we now have a fundamental weakness in that the general government sector concept does not really fairly reflect the budget operations of our South Australian government. It excludes some key sectors. That is the first point.

The second point is that the government for the past three years has claimed that the particular accrual accounting measure that would be used was a concept called the net lending or net borrowing measure. Again, I will address this in greater detail in the Appropriation Bill debate, but the Treasurer and the government proclaimed loudly that this was the one true measure, in terms of measuring the health of the budget, in an accrual accounting sense, and that the net lending-net borrowing concept had to be used.

I understand that, when this budget was being constructed, Treasury advised the government that, if government continued to use the net lending-net borrowing concept, as it had for the first three years, the government would report virtually a balanced budget this year and deficits for the next three years. Clearly, from a government that has been making claims in the past three years about having developed accrual surpluses, that was not the sort of advice that the Treasurer and the government wanted to hear. What we have seen on this occasion—and it is a fair indication, I think, of the attention span of the local media in South Australia—is that the only commentator who picked this up was Standard & Poor's, together with the opposition of course, and the only media writer to address it has been Michelle Wiese-Bockman, albeit briefly.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Leader of the Government says that the Treasurer told people. The Treasurer mentioned it in the briefing but, if one looks at the budget speech, the budget speech actually claims this is continuing Labor surpluses. The budget speech continues to claim there are surpluses going into the future, as well. I defy the Leader of the Government to point out in the budget speech the reference to changing the fiscal goal posts. What happened was that Treasury provided the advice to the government that this would mean it would have to report deficits in three of the next four years, so what did the Treasurer do? The Treasurer then said, 'Okay, if they are going to be deficits we will come up with a new definition. We will now have a different target, which is called the net operating balance, and the net operating balance can be constructed so instead of having three deficits out of four in the next four years we have four surpluses.'

It is as simple as that. You use a different accounting concept; you change the fiscal goal posts and voila, magically and mysteriously our Treasurer managed to turn three deficits out of four years into four surpluses out of four. As I said, the Treasurer indicates that, at the private briefing behind closed doors, he mentioned this to the journalists, although having spoken to some of the journalists they indicated that it was in very similar terms to what is in the budget papers; that is, it was not entirely clear that that was exactly what the government was doing.

The government did talk about a new concept, but it did not highlight the fact that, if it used the old concept, it would have had three deficits out of four budgets; and the only way in which it could get four surpluses out of four was by changing the definition. We have now moved from cash to the net lending-net borrowing concept to the net operating surplus concept. I note in the budget papers (I have not been through all the detail) that, if you go back to the cash concept under the general government sector, there are actually significant deficits. We have gone 360° almost, in that we now have a situation where the accrual accounting measures, at least on the new definition, are recording surpluses, but, when one looks at the old traditional cash accounting measures, we are recording deficits again. I will take more time during the Appropriation Bill debate when we have had the opportunity to pursue and flesh out some of these detailed issues in the estimates committee procedures of the House of Assembly.

The second issue is some budget reforms in the treatment of budgets, budget documents and budget consideration of the parliament. I have raised previously that, towards the end of this parliamentary session, I intend to seek the support of my party and the parliament for a standing committee of the Legislative Council to be established after the next election. I indicated previously that I thought that was a fairer concept, in that it would only apply to whatever government happened to be in government after the next election. The former Liberal government would not have had an upper house standing committee on budget monitoring issues, and, equally, this first Labor government would not have had such a committee, but whichever government is elected after the next election, it is my personal view that we ought to establish an equivalent, in part, to an estimates committee

process, that is, a standing committee process in the Legislative Council.

As I have highlighted before, I do not believe it ought to replicate the estimates committee process of the House of Assembly at the time of the Appropriation Bill debate because I think that replicates the process that ministers go through currently. I am not personally a supporter of members of the Legislative Council sitting in joint session with House of Assembly estimates committees. I think significant procedural issues would need to be resolved in that sort of process. I know there have been some within my own party and elsewhere who have suggested that as an option. The option that I would like us to consider is that we would have a committee, which, as I said, would not operate at the time of the budget, but, in essence, it would have the responsibility to monitor expenditure within government departments and agencies and progress against the budget through the financial year.

As with some of the Senate estimates committees, as you would be familiar, Mr Acting President, they do have a role at the time of the budget. I am not suggesting that, but throughout the year they have the capacity to look at different departments and agencies, to have ministers and senior public servants appear before them to be questioned about the progress of the budget performance within those departments and agencies. I think that is a most worthwhile reform. I think that is consistent with the view I have had over the years of building on the strength of the Legislative Council as a house based on committee work. It would also keep ministers and senior public servants on their toes.

Inevitably, it would be a committee that would not be controlled by the government of the day, which is why I am suggesting it should occur after the next election because, subject to the will of the people in March, it may well be that it is a Liberal government that would need to confront the estimates committee process of the Legislative Council. I believe that, if it is to be successful, it would need to be properly resourced. We would need to have a situation where people with specific expertise in terms of budgets and financial matters were available on a permanent basis to provide permanent ongoing staffing and knowledge for the committee.

The reality of public sector finances are such that, unless you live with them and understand them for a period, you will never understand them completely. If people were to come and go, it would be an impossibility in terms of getting to the bottom of the public sector finances and being able to apply and prepare appropriate questioning for ministers and senior public servants. Again, I intend to speak in a little more detail during the Appropriation Bill debate when the council reconvenes in September of this year, which will be the last session prior to the coming election. If my party agrees with the position that I am putting, I would be intending to test the support for such a concept in the Legislative Council.

The other issue in relation to budget reform that I want to touch on tonight is what I am aware of in relation to budget processes in some of the states of America, where the legislature has very powerful budget or finance committees. For example, in the state of Oregon, there is a Legislative Revenue Committee and a Legislative Fiscal Committee. The Legislative Revenue Committee has a staff of about six or seven, and all of them are trained at the Masters or PhD level in economics or finance. They have considerable expertise in terms of modelling revenue issues for individual legislators, so that, if an individual legislator wants to make a change to the land tax act, the individual legislator is not dependent on the executive arm of government or its equivalent of the Treasury for providing revenue forecasting advice. The Legislative Revenue Committee of the Oregon legislature has the capacity to provide that detailed advice to the individual legislator in terms of preparing alternative revenue options. There is a different system in America which we all understand and which means that that particular committee and exactly what it does might not be immediately transferable in terms of its usefulness to the South Australian experience.

If one also looks at the equivalent body, the Legislative Fiscal Committee (again, I will give some more detail in the Appropriation Bill debate), one can see a body which is professionally staffed with a significant number of permanent staff and which provides assistance to individual legislators in terms of analysis of budget papers and documents. That office is bipartisan or non-partisan, and it is available to all members or legislators in the Oregon legislature. It provides detailed and professional advice on budget issues to those members.

The history of the Oregon legislature is such that it does have these two separate, very powerful budget-related committees. What might be more sensible in the South Australian context would be the notion of a single committee in relation to budget which, again, would have a reasonable level of professional and permanent expertise available to the committee and which was available to provide advice in terms of budget analysis, budget documents, revenue and tax and expenditure issues to individual members of parliament or to different departments.

When I recounted to some people in Oregon that, as the shadow treasurer in South Australia and the Leader of the Opposition in the upper house, if I were to come up with a revenue proposal or a particular expenditure proposal, no professional economic advice would be available to me to assist in any proposition, they were quite bemused, because the circumstance in Oregon and in most other American states is quite different. As I said, there are some reasons for the difference in America because a lot more individual proposals or propositions are sponsored by individual members of parliament as opposed to governments and opposition, which is more the case in the Australian political context.

Nevertheless, I think that some aspects of what we can see in the American legislatures might be able to be modified for potential use in the future in our context in South Australia. It does seem a strange set of circumstances. It is a good thing when you are in government that the Treasury is solely available to provide advice to the Treasurer and to the government, but nothing is available to provide advice to the opposition, the Independents or to third parties. I think that there are some things there that we can look at.

The third issue that I believe we can look at in the context of some of the American states is the approach that their audit officers have adopted. I was interested to look at some of the arrangements in some of the American states as they apply and compare them to the arrangements in terms of audit function in South Australia, and, for that matter, in Australia. There are a number of examples, but one example is the State Audit Office in Washington State. Admittedly, the big difference there, of course, is that the State Audit Office is an elected office, which is a little different to our circumstances in South Australia. We need to bear that in mind.

With the State Audit Office in Washington and a number

of the other states, any individual legislator can approach the office and ask for reviews of particular functions within a government department or an agency. Any individual legislator can contact the State Audit Office and seek progress or update on an ongoing review that is being conducted by the State Audit Office, with the exception, of course, of anything which the State Audit Office might deem possibly to cross over a criminal investigation, or that might impinge on something along those lines that the State Audit Office was conducting.

By and large, as was explained to me, there is a process of open engagement. Any member of the media or the community can ring the State Audit Office in Washington State seeking information in relation to its ongoing functions or operations. The State Audit Office initiates quite complex efficiency reviews off its own bat on particular expenditure decisions of the executive arm of government in Washington. Just before I was there there had been a major investigation by the State Audit Office into its Medicade scheme in that area, and a number of other major reports had only just been concluded and were being released in quite a public way. The releasing in a public way is all part of its electoral process in that the state auditor is an elected office, although I am not suggesting that we ought to explore that proposition here in South Australia. Some of the processes of the state audit offices in the United States are not directly transferable.

However, a number are, and another we ought to look at is the extensive system of peer review of state audit offices in the American states. By peer review, there is a national State Auditors Association and it means that up to nine or 10 officers from another state audit office will come into, for example, Washington State and conduct a random survey of the audit function of that office and report independently and publicly on their findings. So you have quite an extensive system of peer review. If we take the Australian context, we would have a team of senior officers from Victoria coming to South Australia, being in a position to be able to demand documents and detail on particular audit functions conducted by the South Australian Audit Office and then producing an independent public assessment of the efficiency and effectiveness of the audit function in South Australia. Equally, South Australian officers might be prevailed upon to go to Victoria and conduct a peer review of the audit function. It is an interesting concept.

One of the issues we will be addressing, if and when we get the Public Finance and Audit (Auditor-General's Powers) Amendment Bill back to us, is how in a general sense we ensure that the efficiency and effectiveness of our audit function is up to world-class or Australian-class standards or as good as we wish them to be. There are a number of amendments that the opposition has already flagged in another place to look at that.

Some of the Australian states have triennial reviews of the Auditor-General's office, and a parliamentary oversight committee is one option. The peer review by other audit offices of an audit function is an interesting concept and one at which I have had a close look and will further consider in terms of potential amendments to the Public Finance and Audit Act.

The final issue I wish to address is the approach of this government in relation to budget issues (or appropriation and supply issues) to people who are critical of what the government is doing. The most recent example has been this unseemly fiasco between the Rann government, in particular the Premier and the Deputy Premier, and the new Director of Public Prosecutions. A significant part of the most recent outbreak of 'world war three' has been in relation to the budget for the Office of the Director of Public Prosecutions. In going eyeball to eyeball over the past 48 hours, the Deputy Premier has had to blink first because I understand that, prior to the Premier visiting today, he promised another $500 000 in funding over and above—

The Hon. P. Holloway: That is 50 per cent in real terms.

The Hon. R.I. LUCAS: I am not sure what the number is, but they went eyeball to eyeball for 24 hours and the Deputy Premier blinked first. I do not think the Premier wanted to face Mr Pallaras today without having another gift in his back pocket, and evidently another $500 000 was given to Mr Pallaras to try to quieten him down.

The Hon. Ian Gilfillan: Sounds like the media conference was worthwhile.

The Hon. R.I. LUCAS: I think it was, but it did not work because I understand that later this afternoon he had another media conference and has continued the broadside on the Rann government and, in particular, on the Deputy Premier.

The Hon. P. Holloway: Maybe he will successfully prosecute somebody soon.

The Hon. R.I. LUCAS: Here we go! The Leader of the Government is attacking the Director of Public Prosecutions by saying that perhaps he will successfully prosecute someone soon. It is sad that we are seeing in both houses a full frontal attack on the Director of Public Prosecutions by not only the Deputy Premier and the Premier but now the Leader of the Government in this place with snide assertions that all he is interested in is budget issues and that he is not too interested in launching successful prosecutions.

It is demeaning of the Leader of the Government in this place to join a full frontal assault on the new Director of Public Prosecutions. It indicates that clearly a concerted strategy is being developed by the Premier, using the Deputy Premier and now the Leader of the Government in this place, to launch a full frontal assault on the integrity and capacity of the Director of Public Prosecutions. I am disappointed in the Leader of the Government in this place. What we have on this particular budget issue is someone expressing concerns, and the Deputy Premier—in his ministerial statement yesterday and his subsequent statements—is inaccurate and unfair in his description of the process and his criticisms (in part, at least) of the Director of Public Prosecutions.

A significant part of the Deputy Premier's criticism was: how dare the Director of Public Prosecutions complain about budget issues when he had not even written a letter to the Treasurer seeking additional funding. My first point is that, of course, he was not the Director of Public Prosecutions when the budget bilaterals were being conducted—that was the Acting DPP—but that was just a minor inaccuracy from the Deputy Premier. Let us assume that he actually got the right Director of Public Prosecutions before he launched his coward's castle attack on the Director—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I must say that I am intrigued at the Leader of the Government supporting the Deputy Premier, because he was only recently waxing lyrical about how unfair it was that criticisms were being launched on senior public servants and public servants. Yet he himself is party to—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The government accused the

Director of Public Prosecutions of playing politics, of not making a genuine bid but playing politics in the media.

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Leader of the Government will have an opportunity to respond at a later time. The Leader of the Opposition has the call.

The Hon. R.I. LUCAS: The criticisms from the Deputy Premier and the Rann government were specific and over the top in relation to the Director of Public Prosecutions. One only has to look at the ministerial statement, as follows:

> In my opinion, Mr Pallaras' posturing over resources was unbecoming of a statutory office-holder. . . In other words Mr Speaker—if you dish out criticism, you have to be prepared to take it as well. . . Having said that, I now look forward to seeing Mr Pallaras putting his considerable debating skills to good use, in a court of law.
>
> In summary, Mr Pallaras can't have it both ways. He can't attack us through the media and then invite us to pick up the phone and talk to him directly but then whinge about it when we take up his clear invitation.

Members interjecting:

The ACTING PRESIDENT: Order! Interjections are out of order on both sides of the chamber.

The Hon. R.I. LUCAS: It goes on:

> The truth is that he doesn't seem to like public or private criticism but he doesn't mind dishing it out. . . You cannot complain about not having the budget increase of your dreams when you don't even write to the Treasurer a letter spelling out what you want.

And that is the particular statement to which I return. The first issue is that he was not even the Director of Public Prosecutions at the time of the key part of the budget bilaterals. The second issue is that the Director of Public Prosecutions, under the budget processes of the former government and of this government, is not entitled to write directly to the Treasurer—and the Treasurer knows that. The budget processes are such that a bid for funding from the Director of Public Prosecutions must be done through the justice portfolio and the Attorney-General. The Attorney-General goes to a budget bilateral with the Treasurer and takes with him, in this case, the bids of all agencies within the justice portfolio. The Attorney-General is the one who would, on behalf of the Director of Public Prosecutions, argue for any increase in funding.

The Treasurer would have known that, yet in his ministerial statement and his public statements he chose to take a cheap shot by saying to the media (because the media would not understand what the budget process was), 'Well, if he didn't even write a letter to me as Treasurer seeking additional funding then how on earth can he complain about not having received any extra funding?' Indeed, even the Attorney-General has been forced to concede that the budget protocols are such that the Director of Public Prosecutions is not entitled to write directly to the Treasurer on these budget issues, that everything is to be done through the justice portfolio and the Attorney-General.

We have seen a consistent behaviour pattern from this government right across the spectrum. There were the budget issues as they related to the Cora Barclay Centre where the Deputy Premier attacked the people associated with that centre in relation to funding issues there. The Deputy Premier attacked the Director of Public Prosecutions. The Minister for Infrastructure attacked the RAA's approach on various issues—including the double demerit points legislation, as my colleague the Hon. Caroline Schaefer indicated. We also saw an example where a number of key bodies complained to the Premier about the funding issues as they related to the Port River bridges.

As you know, Mr Acting President, there was an advertisement which ran, I think, on a Saturday in *The Advertiser*, and that morning the Premier personally rang and abused all bar one of the signatories to that particular advertisement—the RAA signatory, the Road Transport Association signatory and a couple of others (I do not have the advertisement with me). The Premier rang all except one of those people on the Saturday morning and verbally attacked them and abused them for having the temerity to be critical of the Rann government's decision in relation to the opening and closing bridges over the Port River. The jury is still out at the moment, but the latest estimate has been about an extra $100 million for the cost of opening the bridges.

The Hon. D.W. Ridgway interjecting:

The Hon. R.I. LUCAS: My colleague the Hon. David Ridgway says, 'At least.' There may well be information indicating that it will be even higher than that. Again, we will pursue the government in relation to the cost of the opening bridge—through the Public Works Committee and through the forums of this parliament the Deputy Premier and others will be pursued on the issue.

As I said in a grievance debate some weeks ago, now that the Deputy Premier and Treasurer has broken the long-held convention that Public Finance and Audit Act section 32 audits are not conducted on previous decisions made by former governments, this is one of the issues I am certainly considering, in the event there is a Liberal government, in having a look at a section 32 audit of the decision-making processes as it relates to this issue.

My advice is that Treasurer's Instructions have been breached and, in the government's view—and, of course, in the Auditor-General's view—if you breach a Treasurer's Instruction that is an unlawful act and, in relation to public servants, that has led to disciplinary action. If ministers like the Minister for Infrastructure or the Deputy Premier have been involved, that will certainly be their jobs. If they were in opposition, they would have nothing more to lose. However, there may be further action that will need to be taken against what would be in those circumstances former ministers.

There is a consistent behaviour pattern from the Premier and the Deputy Premier in terms of bully-boy tactics, verbal abuse, confrontation and intimidation for anyone who chooses to oppose. I am aware, having spoken to significant business people around town prior to the last election, of people who had taken telephone calls from the now Deputy Premier and who were verbally abused over the telephone because of statements they had made.

The Hon. J. Gazzola interjecting:

The Hon. R.I. LUCAS: No, it is not hearsay. It was direct evidence from the people who know.

The Hon. J. Gazzola: Name them.

The Hon. R.I. LUCAS: In at least two cases, they were threatened by the now Deputy Premier that, if there was to be a Labor government, contracts with the government would be threatened by Mr Foley.

The Hon. J. Gazzola: They are serious allegations.

The Hon. R.I. LUCAS: Very serious and consistent with the behaviour of the now Deputy Premier. The position we have, of course, is that a lot of those people are not prepared to speak publicly because they still have contracts with the government, and they want to continue to work and operate with the government. The difference now is that with the

possible exception of the head of the Parole Board, who has been prepared to take up the battle with the Premier in relation to budget issues, we now have a Director of Public Prosecutions who is prepared to stand up to the Premier and the Deputy Premier.

Reading the Deputy Premier's ministerial statement and the statement made by Mr Pallaras, it is quite clear that the Deputy Premier has come the heavy, or tried to come the heavy, with the Director of Public Prosecutions. He has made all sorts of veiled threats in relation to funding for the Office of the Director of Public Prosecutions. The difference this time compared to the examples I have given previously is that the Director of Public Prosecutions has said, 'I'm not beholden to you. I am prepared, first, to complain to the Attorney-General; secondly, complain publicly; and, thirdly, make it apparent to anyone who is prepared to listen that I will not be intimidated by you as the Deputy Premier in relation to budget and funding issues.'

The Hon. J.F. Stefani: He is a true Elliott Ness.

The Hon. R.I. LUCAS: Perhaps, in that respect, he is. Together with Frances Nelson, we now have two people who, because of their positions, are prepared to stand up to the bully-boy and intimidatory tactics of the Deputy Premier and the Premier. Whereas, there have been many examples prior to and since the election where people have been intimidated by verbal abuse and intimidation from the Deputy Premier and the Premier—

The Hon. J. Gazzola interjecting:

The Hon. R.I. LUCAS: I will give examples. Look at the advertisement in relation to the Port River bridges and look at the signatories to that, which include the RAA, the Road Transport Association and a couple of others. Ring them and ask them whether or not my statement is correct that they were telephoned on the Saturday morning by the Premier and verbally abused.

The Hon. J. Gazzola interjecting:

The Hon. R.I. LUCAS: I have just told the honourable member.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The Mr Gazzola seems to be in good voice, and we look forward to his contribution in this debate.

The Hon. R.I. LUCAS: I doubt whether we will. Unless it is written for the honourable member, we are unlikely to hear a contribution from the Hon. Mr Gazzola. Indeed, even if it is written for him, it will have to be in words of one or two syllables for him—

The ACTING PRESIDENT: Order! The leader would be well advised to return to his text.

The Hon. R.I. LUCAS: So, what we have is a situation where for the first time we have some—

The Hon. J. Gazzola interjecting:

The Hon. R.I. LUCAS: I think the honourable member should return to his basket press—

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS: Go and join Sneathy and finish off the bottle. We have a situation where for the first time we have someone like the Director of Public Prosecutions who is prepared, on these budget issues, to stand up to the Premier and the Deputy Premier. As I said, we can add his name to a very small list, which now includes Frances Nelson in relation to the Parole Board, and in the past the people at the Cora Barclay Centre. In the end, the public opposition to what the government was doing with the Cora Barclay Centre meant that the government had to back off in relation to its budget decisions.

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

The Hon. R.I. LUCAS: So we can only hope that, the longer this goes on, more and more people who have been subjected to this sort of behaviour by both the Premier and the Deputy Premier will be encouraged to speak out, to join with Frances Nelson, to join with Steve Pallaras, to join with the Cora Barclay Centre people, to join with the people of Loxton, as my colleague the Hon. Mr Dawkins indicates, to join with people like David Holst and the Disabilities Community Movement and others, and to speak out publicly against some of these budget and funding decisions that have been made by the Premier and the Deputy Premier.

What has been demonstrated is that, if people are brave enough to stand up, in the end the Deputy Premier will blink. We saw it today with the Director of Public Prosecutions, when a lazy half a million dollars extra out of our supply in South Australia was mysteriously found to enable the Premier to attend the meeting and, hopefully, to mollify some of the anger and concern felt by the public servants in the Office of the Director of Public Prosecutions towards what they believe were unmerited attacks on them by Premier Rann, in particular, and the Rann government.

So the opposition supports the second reading of the Supply Bill and, clearly, we would hope that the debate in the estimates committee of the Appropriation Bill will provide us with further detail which will enable a fuller analysis of the implications of the Appropriation Bill for the people of South Australia over the coming year and the forward estimates.

The PRESIDENT: It is the tradition of the council that the lead speaker, and that is the Hon. Mr Lucas in this matter, is often given more latitude on the Supply Bill than is normally extended. All honourable members should remember that they need to talk on the Supply Bill. This is not the Appropriation Bill and it is not an address in reply, but I am cognisant of the precedence where the lead speaker has been given some latitude, and I am sure he will claim that he was distracted by interjections to get him away from his core subject, but I ask all honourable members to take that into consideration when further contributions are being made.

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

EDUCATION (EXTENSION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 May. Page 1916.)

The Hon. R.I. LUCAS (Leader of the Opposition): The Liberal Party's position on this legislation and previous versions of this legislation is well known. The Liberal Party will support the second reading of this bill to move amendments in the committee stage and will then decide a position, subject to how the bill emerges from the committee. The Liberal Party's position, put simply, is that we have for a long time supported the proposition that our schools are dependent on the continued collection of school fees—the materials and services charge—and that without the collection of those fees our schools would not be able to provide the current quality of education that they do provide.

This system has operated under Liberal and Labor governments for many years, more years under Labor governments than under Liberal governments, and the situation is that schools, for a long period of time now, dating back to when

I was the shadow minister, complained about what they believed to be the small percentage of parents who could afford to pay but chose not to pay, and they wanted support from government to be able to collect those fees. There are, broadly, three groups within school communities. There are those who can afford to pay and who do; there are those who cannot afford to pay and the School Card or its equivalent makes payment on behalf of that particular group—

The Hon. Caroline Schaefer interjecting:

The Hon. R.I. LUCAS: Yes. The third group is the group in the middle which is, as I said, the group that can afford to pay but choose not to pay. I am not going to repeat the detail, as I have on many occasions in the past, of examples of the complaints that we received as an opposition and then as a government, about this particular group of parents, but the bottom line was that parents wanted support from governments and departments in terms of collecting school fees. The Liberal Party's position has been that we are prepared to support the compulsory collection of school fees and we are also prepared to support schools and school councils in the collection of a reasonable level of school fees. That is a brief summary of the history.

We also have the situation where now I think on three separate occasions the Rann government has continued to defer the operation of the sunset clause. There is a sunset clause in the legislation. The substance of the clause allows the continued operation of the collection of compulsory school fees but it has a sunset provision in it, and this government has continued delaying a decision on the issue of school fees and school fee collections by continually extending the sunset clause on the basis that it is having a report done, or it is still considering its position, or it is implementing changes.

What we see in this bill is the second or third example of that, and this example is even worse. After almost four years this Labor Government and this Labor caucus has not been able to resolve its position on school fees and school fees collection. What they are seeking to do now is to defer that decision until after the next election. In essence, minister Lomax-Smith is saying, 'I know it has been almost four years. I know we will go a whole parliamentary term, but the government and I do not want to make a decision on this until after the election. We know the Australian Education Union will not be happy if we support school fees and the compulsory collection of school fees. We know that some within the left within the caucus will not be happy with that.' Therefore, the easy solution is just to defer consideration until after the election, so this bill is seeking to extend the sunset provision until September 2006. In the new parliament, if they are lucky, members of the government will not have to make the decision because there will be a Liberal government; and that means they have gone a whole parliamentary term without having to make a decision. If they remain in government, obviously they are trying to indicate they will be in a better position to make a decision straight after an election, rather than just before an election.

Of course, there is no guarantee that they will take the decision in 2006 either, because they could have taken the decision in 2003 straight after the last election. Their position is quite clear. There is nothing that the government has to do. It is just a decision: yes or no. Do we agree with the collection of school fees and do we agree with supporting the compulsory collection of school fees? It is a relatively simple decision. The Minister for Education and Children's Services is trying to dress it up in a lot of palaver. She has suggested processes, forms and guidelines. I am not sure that the minister knew what she was talking about, to be honest. On reading her second reading explanation, I note she spoke a lot and said little in trying to convince the parliament that she was not—and the government was not—in a position to be able to decide whether or not they were going to support the compulsory collection of school fees.

The Liberal Party's position is that it believes this government should make the decision, as was intended during this particular parliamentary term. We believe that the Legislative Council should not support a continued deferral by this government of a critical decision for education in South Australia until after the next election. We need to see the policy of this Minister for Education and Children's Services in relation to school fees and the compulsory collection of school fees. We are prepared to look at a potential compromise. It is not our ideal position. Our ideal position is that the existing position be arrived at and a decision be taken by this government prior to September this year.

We moved an amendment in the House of Assembly in the interest of compromise to give the minister up to an additional three months. There is some argument against doing this in the month of December, and we acknowledge that. It does not mean that, if the deadline is extended to December, the government has to use the additional three months. If the government needed it, there is the potential for an extra month, for example, perhaps October, in order to finally make a decision; that extra month may or may not assist the government. Our preferred position is that the government should make a decision one way or another. Secondly, we are prepared to look at a compromise in relation to a short extension to December this year. Our central position is that this decision should be taken prior to the election and not be deferred until after the election.

In assisting the consideration of this legislation, I indicate—as my colleague did in relation to an earlier piece of legislation—that there is a critical report, which is being conducted by Mr Graham Foreman, on the operation of school fees and school fees collection in schools. Mr Graham Foreman was engaged to undertake an external review. I hope that the Australian Democrats—in particular, the Hon. Kate Reynolds who has carriage of the issue—might support me in forcefully requesting from the minister a copy of the Foreman review to assist us in our consideration of the legislation. It seems silly that, if a major review is being conducted by Graham Foreman in relation to the operations of the school fees arrangements within schools, it is not to be made available to the opposition and other interested parties in the parliament. I hope that the minister will provide a copy of that. I hope that the Independents and third parties in this place might support the Liberal Party proposition in their second reading contributions. I invite the Hons Kate Reynolds and Nick Xenophon, and others, to put a similar position to the minister, demanding a copy of the Foreman review before we are in a position to proceed to the committee stage.

I note in the second reading explanation that the minister in the other place outlined that, since coming to office, the new government had added a social inclusion supplement. Could the minister provide the detail on that? Could the minister also provide to members of the Legislative Council the number of School Card recipients in 2003-04 and the latest estimates for 2005? What is that number as a percentage of students within schools? That is, the number of

students receiving School Card, and what percentage that is for each of those years within our schools. I think we will be surprised to see that the School Card recipients are a significant number of our school-aged population.

The minister also indicated in her second reading explanation that the government had made some changes. One of the changes was that there was now a presumption that anyone applying for the card would get it, rather than the reverse. I ask the minister to provide a detailed explanation of what that change entails, because we will want to explore that issue in the committee; and, if we can get an answer to it before the committee stage, it might expedite the consideration.

I also understand that the minister has copies of the guidelines which will be issued. She refers to that in her second reading speech. She says definitively:

> For instance, we know that the inclusions will be well defined. There will not be school trips and VET courses. There will not be any question of private use of computers or the internet or any question of unacceptable activities. There will be no question of staff costs, teachers' materials, special purpose programs, student support services or IT being included in the charges. The pro forma will allow only those acceptable inclusions to be billed to the parents, who will then be able to read both the polling instructions and the billing instructions clearly. In fact, this will be a great advance on the situation today.

I seek a copy from the minister of those pro formas and the guidelines upon which she has clearly based her comments in the second reading speech, as I have just indicated. I indicate the Liberal Party's support for the second reading of the legislation. We would hope that the minister will assist our consideration by providing that information to us as soon as possible.

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

LEGISLATIVE REVIEW COMMITTEE: SUPPRESSION ORDERS

Adjourned debate on motion of Hon. J.M. Gazzola:

That the report of the committee be noted.

(Continued from 13 April. Page 1633.)

The Hon. IAN GILFILLAN: In speaking to the motion that this report be noted, I indicate that, in the best Sir Humphrey tone, this is a very brave step. It is probably the one measure which would be universally condemned by the media in any opportunity it had, because it is a calm and rational assessment of the public value in publishing the names of accused before any process on determination of trial or appeal has been heard. It is interesting to note that there is a minority report from the one member who dissented consistently, and that was the Hon. Angus Redford. Evidence was taken from various quarters, including the Chief Justice, as well as the media. It is fair to say that we benefited from a wide range of points of view that were put before the committee, but the massive confrontation (and I think that is the best way to put it) of the committee by the massed media (with its legal counsel alongside) failed to daunt the committee.

The committee showed signs even then of not bowing to the will of the media, and that incurred the editorial criticism of *The Advertiser*. It was an editorial about which I certainly contemplated—and I think there was some sympathy from other members—instituting defamation proceedings or certainly contempt of parliament. We felt that it is reasonable to criticise the judgment of committees and the decisions in parliament but that it is definitely out of order to belittle the actual institutions and structures of parliament, and particularly if—

Members interjecting:

The Hon. IAN GILFILLAN: Mr President, I have a point of order: I cannot concentrate.

The PRESIDENT: The point of order is upheld. The minister should not be walking between the President and the speaker.

The Hon. IAN GILFILLAN: Thank you very much, Mr President. I have no objection to their having a conversation but not between you and me. I am addressing my remarks to you and I found it a little difficult to penetrate. I make the point that *The Advertiser* takes upon itself a very sanctimonious role from time to time and, if it wants its editorials to be treated seriously, then seriously we will treat them. I think that the wording of the editorial in which it felt that it had this self-righteous view to be able to condemn and belittle a parliamentary committee was totally unacceptable. I am sorry that we were not able to take a more aggressive approach. A letter was penned by that gentle but arch diplomat, the chair (Hon. John Gazzola).

We did make our point to the editor of *The Advertiser*, but I do not think that it upset him unduly. The reason that I feel if not enthusiastic but certainly obliged to speak to this report is that it addressed an issue which Dame Roma Mitchell addressed many years ago, indicating the damage done to individuals and to sections of the public by the impetuous publication of names and circumstances of offences, or alleged offences—that is the point: they are alleged offences—before any proceedings have established any reliable credibility on the information that is published.

I believe it is not unfair to say that the media is mainly motivated to entertain and grab attention, and therefore establish advertising revenue from their circulation and their reader or viewer public. They are not motivated by taking, on balance, the most accurate, fair and temperate provision of information to the public. If they were, then I for one would have taken their submissions far more seriously. In my experience, they have shown virtually little, if any, application of adherence to principles of providing fair, honest and accurate information when put in contrast with the opportunity of getting a banner headline and a photograph, or some sensational material, which they know the public, who are irresistibly prurient, will read. So, I had no qualms about this committee properly addressing the issue of suppression orders. I am sure that others have put this into *Hansard*, but the term of reference states:

> Inquire into and report on the operation of section 69A of the Evidence Act 1929 and, in particular, the effect of the publication of names of accused persons on them and their families who are subsequently not found guilty of any criminal or other offence.

The report is available for any member of the public to read. There is no point in my trying to go through it. However, I will dwell on the recommendations, because the recommendations and those committee members who voted for them comprise the real summary. We listened to so much evidence and eventually deliberated for some time. Recommendation 1 states:

> The majority of the committee—

and I will name the members, because I think it is quite an

interesting cast list—

Hon. Gazzola MLC;—

we are given just our surnames, but I am sure that the Hon. Gazzola will not be offended by my reading it, because that is how it appears verbatim in the report—

> Hon. Geraghty, MP; Hon. Gilfillan MLC; Mr Hanna MP [that is the majority] recommends that information that would identify an accused charged with a criminal offence should be suppressed until the accused has been acquitted of the charge, or if convicted has exhausted all levels of appeal but excluding the period for special leave to appeal to the High Court. However, publication of information that would identify an accused charged with a criminal offence should be permitted if such publication would assist the relevant investigation. Publication would be permitted by order of the court.

It is significant to point out that the two opposition members, the Hon. Dorothy Kotz MP and the Hon. Angus Redford MLC, did not support that recommendation. From that recommendation I would also emphasise the point which, from time to time, is glossed over when you just read the first paragraph; that is, where there is an argument that the publication would assist investigation, the majority agreed that that would override this universal suppression. Recommendation 2 states:

> In the event that recommendation 1 is not implemented—

in other words, there is no legislation to introduce and implement recommendation 1, which I have just identified—

> the majority of the committee recommends that undue hardship to the family of an accused should be incorporated into the test for making suppression orders pursuant to section 69A of the Evidence Act 1929.

The majority in that case included Hon. Gazzola MLC, Mrs Geraghty MP, Hon. Gilfillan MLC and Hon. D. Kotz MP. The two members missing in these circumstances are Mr Hanna MP and, as is the regular case right through this, the Hon. Angus Redford. It is a bit of a change of scenario, but it is nice to see the Hon. D Kotz exercising her compassion for the family in these circumstances and supporting recommendation 2. Recommendation 3 states:

> The majority of the committee recommends that suppression orders which currently can only be inspected at the court in the Suppression Register should be available by email upon request.

There was a substantial majority for that recommendation, and the only one of the eminent team on the committee who missed out on that one was the Hon. Angus Redford MLC. Here we come to the unanimous recommendation, recommendation 4, which states:

> The committee recommends that the Suppression Register should contain all interim suppression orders.

On that point there was no dissent. Recommendation 5 states:

> The majority of the committee recommends that, where an identified accused has been acquitted of a charge that was reported in the media, a report of the acquittal must be published with the same prominence as the charge report. Where, for example, the charge report was published on page three so should the acquittal report.

The majority in this case boasted all members except the Hon. Angus Redford MLC, who said, I must say, somewhat graciously, that he had sympathy with recommendation 5, but then did not support it. If recommendation 5 (which is 'equal publicity of the acquittal should be required as publicity for the accusation') is to be denied by the media, how can they hope to hold any credibility when they say that they are engaged in a pure and open disclosure of matters of importance to the public in the judicial system? It makes it a total farce. To me it is an embarrassment to be led by their submission to try to treat their application as being motivated from the purity of their heart and the benefit of society at large.

The minority report is attached to the report (and, as with the main report, they will have no difficulty in finding it and reading it), and members will see that it carries a slender analysis of the evidence and, more or less, a compliance with the status quo with a few other, what I would call, minor alterations which could be considered and which, in itself, does no harm. The reason that the committee was prompted to consider this matter at all was that, for some time, it has been sitting in the conscience of the state that this matter should be addressed and addressed constructively.

I am unashamedly supportive, as are my colleagues. The Democrats have for years been supportive of this principle, but I would not hold my breath. I have no expectation that a government of either Labor or Liberal composition would contemplate such a measure.

The problem is that the media rule. No party that is aspiring to government will risk the ill will and disapproval of a massed and combined media that sees that one avenue for what it views as an attractive diet for their readers, viewers and listeners is to be slightly restricted. The unfortunate aspect about this is that statistically the application of the suppression orders as they are currently, and about which the media from time to time have complained, having described us as the suppression state and the laughing-stock of the nation at large, show very slender numbers.

On page 40 of the report, a table shows the number of suppression orders since 1989. In 1989 there were 77 suppression orders but only 26 suppressed a person's name or identity. I will not go through them all because the numbers vary between 14 and 37 in the year 2000 (that may have been the Snowtown events). Generally speaking they vary between 14 and 20. All of those are not the suppression of the name of the accused. No-one could say that an enormous amount of information has been suppressed by the application of these suppression orders up to this time. Furthermore, the cases where the names are suppressed have, to my knowledge, never prevented the media reporting the event. They report the event with a person unnamed, just as they report the event when the offender has not been found or identified. The actual crime or offence still gets substantial media coverage. It is not as if we are starving the media of its oxygen flow, lifeblood or whatever the analogy might be in the circumstances.

I make the point before concluding my remarks that it is not only the accused (whether falsely or only partially guilty) who is the victim from time to time being named inappropriately in a blaze of publicity but rather the family. In many cases the families suffer almost a lifelong penalty. For the majority of the committee it is essential that the publication of the name of an accused is considered in the context of the damage done to innocent parties. Unless we live in a society in which the whole society shares the blame and guilt of the offender's offence, then we must be conscious that to impact on innocent members of the family a cruel punishment they do not deserve is a factor we ought to consider. If it means that the publication of a name is delayed or never revealed under certain circumstances, that may be the case. Certainly the suppression for the time in which the person has not been proved to be guilty is the minimum of what the majority of the committee held firmly in its deliberations on the matter. In noting this motion—and I am sure I speak for the majority of the committee—we urge parliaments and governments in

South Australia to heed this report and legislate to implement it.

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

ESTIMATES COMMITTEES

The House of Assembly requests that the Legislative Council give permission for the Minister for Industry and Trade (Hon. Paul Holloway), the Minister for Aboriginal Affairs and Reconciliation (Hon. T.J. Roberts) and the Minister for Emergency Services (Hon. C. Zollo), members of the Legislative Council, to attend and give evidence before the estimates committees of the House of Assembly on the Appropriation Bill.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): We need to sort out the availability of Terry Roberts, so we will deal with the matter tomorrow.

ADJOURNMENT

At 9.30 p.m. the council adjourned until Wednesday 1 June at 2.15 p.m.