LEGISLATIVE COUNCIL

Wednesday 6 July 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.19 p.m. and read prayers.

PAPER TABLED

The following paper was laid on the table:

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

Department of Human Services Review of Financial Management—Stage One Final Report—31 January 2005.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 23rd report of the committee.

Report received.

STATUTORY OFFICERS COMMITTEE

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay upon the table the report of the committee, pursuant to section 151 of the Parliamentary Committees Act 1991.

Report received and ordered to be printed.

The Hon. P. HOLLOWAY: I seek leave to move a motion without notice in respect of the recommendation of the Statutory Officers Committee contained in the report.

Leave granted.

ELECTORAL COMMISSIONER

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

That a recommendation be made to Her Excellency the Governor to appoint Ms Kay Mousley to the office of the South Australian Electoral Commissioner and that a message be sent to the House of Assembly transmitting this resolution and requesting its concurrence thereto.

I understand that there is a limitation on what can be said in relation to this matter. I report that this is the first time since 1997, when the Statutory Officers Committee was first established to appoint officers such as the Auditor-General, the Ombudsmen and the State Electoral Commissioner, that the committee has been used in that ensuing eight years.

I believe that the committee system has worked well. As I said, this is a first for this committee, and I believe that the procedures established have set a very good precedent for the way in which these matters should be dealt with in the future. I understand that the choice of the person concerned was unanimous, and I certainly congratulate the person appointed to the position. I look forward to a productive relationship with her, as I am sure do all members, in the very important office of the South Australian Electoral Commissioner.

The Hon. R.D. LAWSON: I think that the Leader of the Government is correct in saying that this report is the first report of the Statutory Officers Committee recommending the appointment to one of the important statutory offices of this state. The committee is charged with the responsibility of making recommendations in relation to the appointment of persons, not only the Electoral Commissioner but also the Ombudsmen and the Auditor-General. As a member of the committee, I endorse the remarks made by the Leader of the Government, namely, that the process was carried forward efficiently and effectively. The committee sought the advice of the Commissioner for Public Employment and also officers within the Attorney-General's Department, which has administrative responsibility for the State Electoral Office. Speaking for myself and, I believe, also other members of the committee, we were well served by their wise counsel and efficiency.

The position of Electoral Commissioner is very important and demands a high degree of knowledge, skill, judgment and impartiality. The position was advertised nationally, and I am glad to say that a substantial number of very well qualified persons submitted applications. The committee examined some of those applications in detail and also received recommendations in relation to them. The committee has worked well and, along with the minister, I wish the recommended appointee every success in her appointment when it is duly made.

Motion carried.

QUESTION TIME

ASHBOURNE, CLARKE AND ATKINSON INQUIRY

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Minister for Emergency Services a question about the Rann government corruption inquiry.

Leave granted.

The Hon. R.I. LUCAS: When the issue in relation to the concerns from the DPP about a telephone call from Mr Alexandrides was first raised last Thursday 30 June, the Minister for Emergency Services, when asked what she had done with the complaint, said:

Again, it was not appropriate for him—

The minister was referring to the Attorney-General—

to look at it. I did look at the correspondence, and I asked that it be referred to the Chief Executive for advice.

We asked the minister what she did, given that she was the minister responsible for handling this issue. In response to a further explanation yesterday, the minister further explained that, when she referred to the Chief Executive last Thursday, she meant the Chief Executive of Justice in that particular response.

Today, in question time in the other place, the Attorney-General has indicated that that answer from the Minister for Emergency Services was not correct. The Attorney-General has indicated, in response to a question, that minister Zollo did not refer it to the Chief Executive of Justice. She actually referred it to the most senior political adviser to the Attorney-General, the Chief of Staff, for advice. The Attorney-General has also indicated in question time today that minister Zollo asked the most senior political adviser to the Attorney-General to seek legal advice and that, subsequently, as a result of that, a copy of the memorandum from the DPP was provided to Mr Alexandrides for his response.

My question to the Minister for Emergency Services is: why did the minister last Thursday, in response to the question, indicate that she had referred the memo to the Chief

Executive of the Department of Justice—and she confirmed that again yesterday, in response to questions—when the Attorney-General has now indicated that that is not correct and that she referred it to the Attorney-General's Chief of Staff?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The Attorney-General has just confirmed exactly what I did. I obviously asked for that advice through the Chief of Staff, who was with me at the time.

The Hon. R.I. Lucas: You didn't. You said that you referred it to the Chief Executive.

The Hon. CARMEL ZOLLO: For goodness sake! I think the member is splitting hairs. I asked that advice be sought.

The Hon. R.I. Lucas: First it was the Chief Executive; now it is the Chief of Staff.

The Hon. CARMEL ZOLLO: I asked, through the Chief of Staff, to get advice. I did not pick up the telephone and speak to the CE myself.

The Hon. R.I. Lucas: Who did you speak to?

The Hon. CARMEL ZOLLO: I did not pick up the telephone and speak to the CE myself. I asked, through the Chief of Staff of the Attorney-General, who brought the—

The Hon. R.I. Lucas: You rang him?

The Hon. CARMEL ZOLLO: No; he was there with me. He brought the correspondence to me.

The Hon. R.I. Lucas: Oh, so you opened it together and read it together?

The Hon. CARMEL ZOLLO: No; you know we did not do that. Stop being stupid.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: You are being silly. Not once but twice the member has been told that the correspondence, as per protocol, was opened in the Attorney-General's office, and it was brought to me. I looked at the correspondence. I had to make some decisions. First of all, was it appropriate for the Attorney-General to deal with it? The answer to that was no, because it was still at some level related to the case. Secondly, was it urgent? In my view, I had to look at what it said. I did not take down notes and I did not photocopy it but, obviously (and I think this has already been put on the public record), it was a recap of an animated conversation between two public servants—one employed under one section of the act, the other employed under another section of the act. I did not deem it to be urgent, because it was still—

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: —external to the case.

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: No; you listen to me in silence. It was related to the case but external to the case. It was not appropriate for the AG to be involved, but it was not that urgent because it was external to the case. I thought that it could wait until the return of the Hon. Paul Holloway, but in the meantime it was appropriate for me to seek advice, through the Chief of Staff, who was with me, of the CE.

The Hon. R.I. LUCAS: As a supplementary question: is the minister now claiming that she asked the Chief of Staff of the Attorney-General—for what? His legal advice or to seek advice from the Chief Executive?

The Hon. CARMEL ZOLLO: You are really being quite ridiculous.

Members interjecting:

The PRESIDENT: Order! The minister is entitled to be heard. I cannot hear her.

The Hon. CARMEL ZOLLO: You are being ridiculous. I just told you that the Chief of Staff brought the correspondence over to me. I made a few decisions, as I was empowered to do, in the absence of the Hon. Paul Holloway. I asked the Chief of Staff to seek the advice of the CE.

The Hon. R.I. LUCAS: As a further supplementary question to the Minister for Emergency Services, given that that is contrary to the statement that she made last Thursday, I ask: when she received the advice—from the Chief of Staff, I assume—in relation to it, what decision did she then take in relation to the correspondence? That is, did she then decide to ask the Chief of Staff of the Attorney-General to provide a copy to Mr Alexandrides, or did someone else make that decision?

The Hon. CARMEL ZOLLO: It was not a long conversation. I said to the Chief of Staff, 'Please seek the advice of the CE.' We both agreed that natural justice would then take its course.

The Hon. R.I. LUCAS: As a further supplementary question: did minister Zollo take a decision that afternoon to send a copy or direct that a copy of the memo be sent to Mr Alexandrides or not? Did she or didn't she?

The Hon. CARMEL ZOLLO: I just told you that.

The Hon. R.I. Lucas: No; I am asking the question.

The Hon. CARMEL ZOLLO: By saying that natural justice would take its course after seeking the advice of the CE, natural justice would mean that it would have to go to the person against whom the complaint was made.

The Hon. R.I. Lucas: That was your decision?

The Hon. CARMEL ZOLLO: My decision was to take advice from the CE. We both agreed that natural justice would take its course.

The Hon. R.I. LUCAS: As a further supplementary question: did the minister or did the Chief Executive take the decision to send a copy of the DPP's private and confidential memorandum to Mr Alexandrides?

The Hon. CARMEL ZOLLO: I had no reason to follow on from my involvement that day, as I said, for two reasons—

Members interjecting:

The Hon. CARMEL ZOLLO: I can sit down if you do not want me to answer the question. I had two reasons for not being further involved in any of this matter. First of all, it was not urgent, because it was external to the case. Secondly, between the time I tried to meet with the DPP and the correspondence being delivered to me, I had reason to believe that the Hon. Mr Holloway had spoken or was trying to speak to the DPP in relation to this case. So, I knew the case was being well looked after and well handled.

The Hon. R.I. LUCAS: I have a supplementary question.

Members interjecting:

The PRESIDENT: Order! There is a supplementary question arising out of the answer and relevant to the answer.

The Hon. R.I. LUCAS: Given that the minister has confirmed that she did not make the decision to refer it to the—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Yes, she has. She just confirmed that. Given that the minister has confirmed that she did not make the decision—

The Hon. P. HOLLOWAY: I have a point of order, Mr President. In supplementary questions, the Leader of the Opposition should not be trying to put words into the mouth of the minister. If the leader has a question, he should ask it.

The Hon. R.I. Lucas: She said it.

The Hon. P. HOLLOWAY: She did not say it, actually. You are not listening.

The Hon. R.I. Lucas: She does not know whether she made the decision.

The PRESIDENT: Order! A point of order has been taken. The supplementary question asked by the Leader of the Opposition must be arising from and relevant to the answer. I believe that at the moment he is complying with that. The supplementary questions arise from the first question and are relevant to the matters which were the substance of that question and the substance of the answer given by the minister. I do not think there is a point of order. Whether the Leader of the Opposition tries to put words in the mouth of the minister, that is his prerogative. I am certain that the minister will not be swayed by that persuasive attitude of the Leader of the Opposition and that she will make her own decisions, and the correct ones.

The Hon. R.I. LUCAS: Given that the minister has confirmed that she did not make the decision in relation to sending the memorandum to Mr Alexandrides, who made the decision ultimately to send the memorandum to Mr Alexandrides? Was it the Chief Executive of the Department of Justice or was it the Chief of Staff to Attorney-General Atkinson who made the decision?

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: It is indeed obvious that you do not know what 'the course of natural justice' means. I said to take advice from the CE as to how it should be handled from there, and the course of natural justice would mean that the person whom the person was complaining against obviously would need to see a copy of what was being said about him and what the complaint was about. What is the problem with that? I am not sure what you are trying to get at.

Members interjecting:

The Hon. CARMEL ZOLLO: Indirectly, yes, obviously.

The Hon. R.I. Lucas: That is what we asked you four questions ago.

The PRESIDENT: Order!

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government a question on the subject of the Director of Public Prosecutions.

Leave granted.

The Hon. R.D. LAWSON: As was reported to the council on Monday of this week, last Friday the DPP issued a statement referring to a meeting with minister Zollo on 9 June, and he indicated in his statement that at 1.15 p.m. on 9 June he delivered a memorandum to the Attorney-General marked 'Private and Confidential'. He went on to say in his statement that the contents of that memo were known to a number of people, and on 10 June, namely the following day, it had come to the notice of the defence team in the Ashbourne trial, because the DPP reports:

> It was apparent from that discussion—

namely the discussion with the defence team—

> that they too were aware of my attempt to see the Attorney-General and, furthermore, they were aware of the general tenor of the conversation between Mr Alexandrides and the prosecutor. Once again, the contents of the memorandum if not the document itself had been leaked to the defence team by 10 June.

He went on to say:

> I—

meaning the Director of Public Prosecutions—

> was concerned at not having received any response from the government, not only because it raised serious issues of inappropriate conduct but also because the perception may have been that the interference came from the Premier himself.

The minister reported to the council earlier this week that he, as the minister responsible for the Ashbourne trial, had, in the interests of natural justice, referred the memorandum to Mr Alexandrides for comment. The Attorney-General revealed in question time yesterday that Mr Alexandrides has had the memorandum since 5.45 p.m. on 9 June.

Following the issue of this media statement on Friday, the Premier publicly announced that, in future, all communications between the government and the Office of the Director of Public Prosecutions should be in writing. This morning, another memorandum from the Director of Public Prosecutions to the government—this time to the Attorney-General—has found its way into the hands of Adelaide's media and has been used as part of the campaign to denigrate the Director of Public Prosecutions. My questions are:

1. As minister responsible, what is the nature of the investigations or inquiries that are now being undertaken into the allegations raised by Mr Pallaras?

2. Who is undertaking the inquiry?

3. Has he received any response from Mr Alexandrides about the matters raised?

4. When does the government propose to respond to the Director of Public Prosecutions?

5. Have the police been called in to investigate the leaking (to use the expression of the Director of Public Prosecutions) of private and confidential communications between the DPP and the Attorney-General?

6. What action will the minister take in relation to the leaking of yet another document from the DPP to the Attorney-General to Adelaide's media today?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I have already addressed most of those questions previously in this parliament. I have already responded to that matter. First, in relation to the allegations that there is a campaign to denigrate the DPP, I do not accept that there has been a campaign to denigrate the DPP. I think he is doing a pretty good job of doing that himself. I think all of us wish that the DPP would go out and prosecute. The state would be much better off if the DPP would go out, prosecute and put away a few bad people.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: In relation to the questions asked, I have already responded to most of those matters. I indicated yesterday and, indeed, Thursday of last week, that the only action that the DPP had requested both at my meetings and in the memorandum was that the point of contact between the Premier's office and the Office of the DPP be no longer Mr Alexandrides. As I said yesterday, that matter has been fully addressed by the decision of the Premier that, in future, communications between ministers and ministerial advisers and the office of the DPP should be in writing. Effectively that addresses that matter. In relation to—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Perhaps the Hon. Mr Redford would like to put his interjections in writing.

The Hon. P. HOLLOWAY: In relation to other matters, yes, it has already been pointed out to both houses of parliament that Mr Alexandrides was supplied with a copy of the report some time well after the DPP claims it was given. In fact, both offices have disputed the account of the Director of Public Prosecutions. The DPP's press release does contain assertions as to when that document was released. I am certainly not satisfied that that was necessarily the case.

As I indicated yesterday, I have spoken to Mr Alexandrides. I have had some discussions with him. I would expect that I would be receiving a written response to these matters fairly soon. When I receive that, I will be formally responding to the DPP, but there is no matter outstanding in relation to issues raised with the DPP. I quite specifically asked the DPP at the meeting what action he wished me to take. He said, 'No, this is simply for your information.' But, as I said, the only actual action was to contact the Premier in relation to the point of contact. That matter has effectively been resolved. Nevertheless, I will respond to the DPP formally. In fact, I could almost dictate it to you now, Mr President. I could write:

> Dear Mr Pallaras,
>
> Thank you for your correspondence to me dated 9 June. You will by now be aware that the Premier has issued a directive that all communications between your office and that of ministers and ministerial advisers in future be in writing. I believe this fully addresses the matters you have raised in your submission.
>
> Yours sincerely.

That is the sort of response that effectively would cover what has been raised, because that is all I have been asked to do. The Deputy Leader of the Opposition talked about police being called in. Heavens above! This submission came from the Director of Public Prosecutions. Only one person in this state under the act can take action if he believes that there has been some miscarriage in this area, and that is the Director of Public Prosecutions himself.

The Hon. R.D. LAWSON: As a supplementary question, is the minister confirming that the government does not regard with concern the statement of Mr Pallaras that the contents of the memorandum from the DPP to the Attorney-General—if not the document itself—had been leaked to the defence team on 10 June? Is the government not concerned? Secondly, is the minister confirming that this government will conduct no investigation or inquiry into that matter?

The Hon. P. HOLLOWAY: The DPP has not requested that any matter be addressed other than that which I have just indicated in relation to the question. If the DPP requests the government to take any further action, let him do so. But, certainly, that was all he requested of me in his memorandum, and in the meeting that I had with him. Again, I can just say that I believe that those matters have been fully covered. In relation to leaking, as I said, both my colleagues' accounts and that of the chief of staff of the Attorney-General's office and Mr Alexandrides strongly refute the suggestion that the document was released prior to six o'clock or thereabouts in that evening. Quite apart—

The Hon. R.I. Lucas: How come he rang the prosecutor at one o'clock—ESP?

The Hon. P. HOLLOWAY: There is a very good reason for that, but I am awaiting the formal response from the officer in the Premier's department. I do not think that one should jump to the conclusions as, I would suggest, the DPP has.

The PRESIDENT: The Hon. Mr Redford has a supplementary question arising out of the answer and relevant to it.

The Hon. A.J. REDFORD: Were the government's views expressed in parliament yesterday regarding the DPP's request concerning his status communicated to the DPP in writing in accordance with the new protocol?

The Hon. P. HOLLOWAY: That is not related to my responsibilities; and, certainly, it is not related to the question that was previously asked.

STATE EMERGENCY SERVICE

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Emergency Services a question about emblems.

Leave granted.

The Hon. A.J. REDFORD: Members might remember that, a couple of years ago, I raised the issue of what happened when one hit the government web sites. If one touched the piping shrike, hey, presto, a picture of the Hon. Mike Rann would appear. In the same theme—

The Hon. R.K. Sneath: You can't take your eyes off him.

The Hon. A.J. REDFORD: The only problem I have is taking my eyes off the Hon. Bob Sneath and shaking my head in wonderment that a man of his intellectual capacity made it here. I now have in my hands a memorandum dated 14 June from the State Emergency Service to all unit managers and all staff on the subject of SES dress items. The memorandum states a number of things, as follows:

> The State Dress and Equipment Working Party met on 30 April 2005—

I did not know there was even a body called the State Dress and Equipment Working Party—

> and conducted a total rewrite of the SES dress regulations as a first draft.

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: Perhaps they should have focused on the Hon. Bob Sneath, given his dress standards. The memo continues:

> A second matter to be addressed by the working party is the change of the SES shoulder badge.

The memo continues—

The Hon. R.K. Sneath: The standard of this council will go up—

The Hon. A.J. REDFORD: I would think that the member should give in. The memo further states:

> A number of staff and volunteers have proposed that the badge be changed to the checkered patch with SES Rescue, and this is worthy of consideration at this time.

It continues:

> The existing shoulder badge with the state emblem, piping shrike, is currently the subject of some debate at high government circles.

The Hon. Sandra Kanck: Should it be turned into a picture of Mike Rann?

The Hon. A.J. REDFORD: I will take that interjection. In brief, increasing pressure is being brought on the SES to move away from the use of that emblem on dress items, vehicles and other placements. This was drawn to my attention in the correspondence, which I think also is worth referring to, in that my constituent informed me that the SES is currently having its budget cut in some areas and tighter

controls are being placed on local units. This officer inquired as to how the SES can spend a heap of money on changing badges in that context. Indeed, my constituent referred to the fact that they will all receive new shirts, caps, overalls, and so on—and, indeed, new letterheads and new stickers for the sides of vehicles and equipment. Certainly, as shadow minister, I have not received one single letter or a single telephone call complaining about the current emblem or the current badge. My questions to the minister are:

1. What is meant by the term in the SES memorandum 'high government circles', and is the minister part of this 'high government circle'?

2. Why is pressure being brought on the SES to move away from the use of the piping shrike?

3. Is this the best way to spend emergency services funding and, in particular, SES funding?

4. What does the government have against the piping shrike?

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

Members interjecting:

The PRESIDENT: Order! The Minister for Emergency Services has the call.

The Hon. CARMEL ZOLLO: I have to admit that I am not familiar with the memorandum that the member has quoted.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: If the member opposite expects me to be familiar with every memorandum that goes out—

An honourable member interjecting:

The PRESIDENT: Order! That is a childish interjection and most undignified.

The Hon. CARMEL ZOLLO: —from one of the emergency services—

An honourable member interjecting:

The Hon. CARMEL ZOLLO: I do not think that a memorandum like that would go through my office, with all due respect. I am not familiar with it. However, I will undertake to obtain some advice and bring back a response for the honourable member.

The Hon. A.J. REDFORD: Sir, I have a supplementary question. Am I to assume from that that the minister is not part of the 'high government circle' that is referred to in the memorandum?

KAROONDA

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the recovery project at Karoonda.

Leave granted.

An honourable member: You frighten children!

The Hon. R.K. SNEATH: They have only come in to have a look at the joke, the Hon. Mr Redford. Now that he has sat down, it is all over.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.K. SNEATH: A severe wind event—

Members interjecting:

The PRESIDENT: Order! I do not know whether that is correct.

The Hon. R.K. SNEATH: —impacted upon the Mallee town of Karoonda on Friday 10 June 2005 (I know that members of the opposition do not care what happened at Karoonda—or they do not even know where it is), which was widely reported within the media to have flattened homes and affected the lives of local residents. My question is: will the minister advise what the State Emergency Service is doing regarding the storm that moved through Karoonda on Friday 10 June?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The State Emergency Service (SES) has supported the recovery project at Karoonda following the severe wind event that impacted the Mallee township on Friday 10 June this year. The storm moved through the southern part of the town on a front only 400 metres wide. While it lasted only three or four minutes, it damaged 18 domestic dwellings with eight of those premises losing all or part of their roof. In the clean-up following this event, paid and volunteer SES resources were made available to the community, and have assisted the local government in returning Karoonda to its previous condition, in consultation with the community. SES has had two paid officers on site every day, supported by many volunteer crews. There have been five crews each day working directly with local government, cleaning up properties, cutting and removing damaged trees, and other tasks.

Our response has come from nine country or metropolitan units from as far away as Mount Gambier. Volunteers have provided approximately 800 hours of their personal time to support this community in its time of need. SES management support to the recovery operation was extensive, with three paid staff attending the town each day from 13 to 17 June. These officers worked closely with the community, Children, Youth and Family Services and other agencies to ensure that the community received an appropriate level of assistance. They were ably supported through this phase by SES volunteer personnel from a wide range of units who volunteered additional commitment to Karoonda.

I visited Karoonda the morning after the storm and witnessed for myself the good work of the SES, as well as other agencies, in particular the CFS. The response has been described as a good example of nature's worst bringing out the best in us. All the volunteers I met were working selflessly, together with the Karoonda community, to assist in the response and recovery. The recovery committee, which was set up on 15 June, has coordinated activity since then. I am sure members would know that the recovery committee is chaired by Mr Vince Monterola.

The committee has met twice and reverts to weekly meetings from this week. The committee comprises representatives from SAPOL, SES, CYFS, local government, South Australian Housing Trust, Salvation Army, Red Cross, Mallee Health Service and South Australian Ambulance Service. Karoonda highlighted not only the organisation's fulfilling its responsibilities but also the selfless input from our volunteers who elected to help the community get back on its feet after the disaster. I am sure I am joined by all in this chamber in thanking all those volunteers.

ROBE FOOTBALL CLUB

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Recreation, Sport and Racing, a question about the Robe Football Club.

Leave granted.

The Hon. KATE REYNOLDS: I am a bit of a one-eyed fan of the Birdwood Roosters football team, but a couple of weeks ago I spent a week in the South-East. I was fortunate to tour the Robe Football Club, which is home of the Robe Roosters. I saw for myself the substandard and, some would say, dangerous facilities in its so-called first aid room, which was built many decades ago. The club has been seeking funds to cover the cost of materials and employing contractors for the construction and fit-out of an upgrade to its whole clubrooms and, in particular, its emergency medical room.

This emergency medical room would be available for approximately 7 500 people each year who participate in sporting and other events at the Robe Sport and Recreation Centre. They have been successful in obtaining $27 000 in funds through the federal Regional Partnerships program, and they also applied under two categories for either $100 000 or $50 000 from the state government but, sadly, they have been refused. When the other place (as opposed to the parliament) sat in Mount Gambier in May, the Mayor of Robe district council met with the Minister for Recreation, Sport and Racing and outlined the situation. However, it was reported to me that the minister cried poverty and did not undertake to assist them in any way at this time.

To meet the cost of the total upgrade, the football club has been building a house with local sponsorship funds, interest-free loans from five businesses and hundreds of hours of voluntary work from local tradespeople. When the property is sold, they expect to earn about $120 000. The District Council of Robe is providing nearly $8 000 worth of in-kind work and is also providing an interest-free loan of $51 000. As I said, the federal government is providing just over $27 000, leaving a shortfall of $50 000. I understand that the most recent round of grants from the Office for Recreation and Sport, where they had applied for funding, had about 160 applications. Only 25 approvals were given, and rural members will not be surprised to learn that 20 of those were in metropolitan Adelaide, so only five were in rural or regional South Australia, and none was in the Liberal-held seat of MacKillop.

The situation the club finds itself in now is that the entire project is in jeopardy, because the federal government funding could be withdrawn if the state government does not very quickly provide at least $50 000. I point out that the playing surface is, to my envy, second to none in the whole of the Limestone Coast and, I suspect, regional South Australia. Clearly, the changing and medical facilities are well past their use-by date. The treatment room would service not only the football club but also several teams of netballers, male and female tennis players, two cricket teams, junior cricket and squash and various other events, such as the annual rodeo. My questions are:

1. On what basis was the funding application to the state government refused?

2. Will the minister accept the invitation issued in May to visit the Robe Football Club and see for himself how dangerous the current facilities are and, if not, why not?

3. Will the minister immediately allocate $50 000 to ensure that the Robe Football Club does not lose the funds allocated by the federal government?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Just the other day the honourable member was saying that the $25 million that had been found for disability services did not count. The fact is that the money has to come from somewhere. On behalf of my colleague, I reject the implication in the honourable member's questions that there is some bias, or anti-country bias, in relation to this matter. If we assume that the honourable member's figures are correct and that 20 out of 25 approvals went to the city, I remind her that the population of greater metropolitan Adelaide is somewhere in the region of 75 to 80 per cent of the state, which is the same ratio on a population basis of where the funds are going. So, I do not accept the implication that there is necessarily a problem with their allocation.

The honourable member asked specifically why this particular application was rejected. I will accept the honourable member's suggestion that there were 160 applications, of which 25 were successful. This means that there were about 135 more applications than we were able to provide funds for. I am sure that, if one went through them, there would be very many worthy ones right across the state, but there has to be a means of allocating these moneys. I will get the details as to how that is done from the minister and provide them to the member. Quite clearly, I think the member's own figures mentioned in the question indicate that there is far more demand than there is supply in relation to those funds.

WHISTLEBLOWERS

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about whistleblowers.

Leave granted.

The Hon. A.L. EVANS: The Queensland government has established the Morris inquiry to investigate 87 deaths in the Bundaberg Base Hospital which have been linked to Dr Patel. I understand that nurses have told the inquiry how their repeated complaints fell on deaf ears. My questions are:

1. Is the minister satisfied with the current system to investigate complaints made by employees in the health sector against other employees, particularly if the complaint alleges serious misconduct, negligence or fraud?

2. If so, can the minister explain why?

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

ASHBOURNE, CLARKE AND ATKINSON INQUIRY

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

Leave granted.

The Hon. R.I. LUCAS: On 20 November 2002, the Premier asked the Chief Executive of the Department of the Premier and Cabinet to conduct an urgent investigation into whether or not there were reasonable grounds for believing that there may have been any improper conduct or breach of ministerial standards or, in the case of Mr Ashbourne, the standards required of a ministerial adviser. The end result of that investigation is that there has now been released a copy of what purports to be the McCann report, which was signed on 2 December 2000 and which was released only recently.

I have been contacted by a very senior source with an intimate knowledge of the Department of the Premier and Cabinet, who has expressed grave concerns to me about the processes involved in the finalisation of the McCann report.

In particular, my questions refer to the final paragraph before the findings of that four-page document, which states:

You—

that is, the Premier—

have indicated that you intend to refer this report and its attachments to the Auditor-General and to seek his opinion on whether the matter has been dealt with adequately and in particular whether he agrees with the finding that no further investigation is necessary. A draft letter to the Auditor-General is attached.

I note that this is the supposedly final signed report of Mr McCann of 2 December to the Premier which refers to a previous and prior conversation with the Premier, indicating the Premier's knowledge of the finding that was included in the report of 2 December. So, my questions are:

1. Can the Premier explain how the final report—or what purports to be the final report—of Mr McCann of 2 December 2002 actually includes a specific reference to a prior discussion with the Premier at that meeting at which Mr McCann's findings were discussed with the Premier?

2. Can the Premier now confirm that the Chief Executive of the Department of the Premier and Cabinet actually discussed the findings of his report before he finally signed his report dated 2 December 2002 and now released as the official McCann report?

3. Was the Premier provided with a draft copy of Mr McCann's report prior to 2 December 2002 and asked for any comment on the potential findings of Mr McCann before he finally signed the report of 2 December, or did he have only a verbal discussion with the Chief Executive of the Department of the Premier and Cabinet prior to the final signing of the report of 2 December?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Isn't is truly remarkable how one can have a court case where a jury found the person not guilty of the charge in 50 minutes, the Auditor-General of the state concluded there was no problem, there was the McCann report, two QCs have looked at it and concluded there was no problem, and these events happened three years ago, yet this opposition is totally obsessed with this matter? I guess we should be delighted, because members opposite are not going anywhere; they cannot achieve anything. They are obviously not going anywhere: they simply want to create a circus. There can be only one reason why they are doing it, and that is that there are no other issues of substance in relation to the management of the state in all the other areas, such as the economy, health, transport, education and the like. But, in relation to the specifics of this question, I would not want to deprive the opposition of its obsession.

Members interjecting:

The Hon. P. HOLLOWAY: A cover-up? A cover-up of what? A jury found this person innocent. The matter has gone before a jury. This is unbelievable! A cover-up of what? There was nothing to cover up.

MAWSON LAKES, TRANSPORT

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about the Mawson Lakes transport hub.

Leave granted.

The Hon. D.W. RIDGWAY: On 26 March 2004 the then minister for transport, Hon. Trish White, announced in a press release that the Rann government would 'build a major transport hub with a bus and rail interchange at Mawson Lakes by late next year'. In response to that press release, Robert Brokenshire, the shadow minister, issued a press release, stating, 'The Rann government is obliged to build the Mawson Lakes transport hub, because the program was initiated by the previous Liberal government.' Mr Brokenshire said that the Liberal government had planned the infrastructure when Mawson Lakes was being developed and, despite all the media spin of the Rann government, it was a previous Liberal initiative. Today's announcement is no more than Labor media spin to make it look as if the government is doing something. All it is doing is getting on with a project planned by its predecessor. The Rann government has ignored the state's infrastructure needs for three years and only now, in the lead-up to the election, it has decided to act on a Liberal government initiative.

I am reliably informed that the railway station platform has been constructed by the Rann government, but it is now 50 millimetres, or some 2 inches, too low, and the trains will not be able to pull alongside it. I have also been informed that the project is now some two months behind time. My questions to the government and the minister are:

1. Will they confirm that the railway station is now 50 millimetres too low?

2. What action will be taken to remedy that situation?

3. What will be the cost to the project to fix that?

4. Is the fact that the project is at least two months behind schedule a result of this construction problem?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The honourable member seems to be claiming credit for the previous government for planning it, as it was its idea. It is really a patently absurd idea that, if some government should announce, way in the future, a list of projects it might like to build at some stage, it should be credited for the funding and ongoing planning of it; it would make politics an absurdity. All any government would have to do was come out and give a list of every project it might like to build in the future and pick it like a smorgasbord.

Members interjecting:

The Hon. P. HOLLOWAY: It was not like that because, in fact, the previous government did not have any infrastructure plan at all. The honourable member asked me whether the platform is 50 millimetres too low. I will find that out. The second question was: what remedy is there? Presumably, if there is a problem, I suggest that raising it by 50 millimetres would be a good remedy for it. We will find that out, and what cost. I would have thought that was the only and obvious remedy for it if, in fact, it was true. I will found that out.

An honourable member interjecting:

The Hon. P. HOLLOWAY: That is a bit of lateral thinking by the honourable member, and presumably go around and bulldoze every other platform by 50 millimetres to make it fit. I will refer that to the Minister for Transport and bring back a reply.

MINING ACT

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

Leave granted.

The Hon. G.E. GAGO: The government announced that it intended to review the Mining Act in early 2004. My question is: what progress is being made on the review of the Mining Act?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for her question and her continuing interest in this matter. The review of the Mining Act has been proceeding steadily over the past 12 months with a green paper due to be released soon. The Mining Act Review Steering Group has met several times, with the new independent chairperson Mr Barry Windle being appointed late last year. The steering group consists of representatives from all major stakeholders, both government and non-government, including the South Australian Chamber of Mines and Energy, the Extractive Industries Association, the South Australian Farmers Federation, the Aboriginal Legal Rights Movement and the Conservation Council of SA. The green paper will be discussed by the steering group to ensure that all views are incorporated before being circulated widely to industry stakeholders, environmental groups and other government agencies. Copies will also be available from the PIRSA web site. A public notice advising of the availability of the paper will be published in *The Advertiser* and several regional newspapers, with an invitation to anyone with an interest to obtain a copy and provide comment.

After the release of the green paper, it is envisaged that several experts will be hired as consultants to research particular issues and to investigate resource development law throughout Australia and overseas to ensure that the Mining Act will be comparable and competitive with other jurisdictions. After comments on the green paper have been received, workshops and meetings will be organised with stakeholders and interested groups to discuss proposals and solutions and to ensure all are kept informed and engaged in the whole review process. After full consultation, a white paper will be developed for further comment and then a draft bill prepared. It is anticipated that all amendments to the Mining Act will be operational by June 2007.

The PRESIDENT: The Hon. Mr Gilfillan.

MENTAL HEALTH COURT

The Hon. IAN GILFILLAN: Thank you, Mr President.

The PRESIDENT: I thought for a moment it was a most unlovely Mrs Kanck!

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Emergency Services, representing the Minister for Health, a question regarding a system of court hearings for mentally ill people who break the law.

Leave granted.

The Hon. IAN GILFILLAN: To enlighten you from the burden of wondering who was going to stand, I am interested in this question as well as my leader. We are as one in our concern about this matter. Therefore, I am very happy to be asking this question with the shared responsibility with the Hon. Sandra Kanck. Yesterday the Senate Mental Health Inquiry heard evidence from Father Peter Norden from the Jesuit Social Services. As part of its submission to the committee, one recommendation of particular interest is that the committee look at:

> . . . establishing a mental health court in every state and territory, working in concert with the Magistrates Court to assess the cases of mentally ill offenders.

Father Norden envisages that such a court would be an extension of the Magistrates Court, with specially trained and selected judges. It would be a court with a less adversarial approach and one designed to divert people away from the prison system and into more appropriate care. A quote in the recently released report into the review of South Australian mental health legislation is revealing about the District Court in South Australia. It states:

> The judges hearing cases rotate after a short period of time. Many have no interest or knowledge of mental health matters. Whilst they use the assessors to provide them with clinical input, it still means the outcome is a judicial one. I do not believe this process is efficient, nor in the patient's best interests.

I believe that honourable members, as well as the minister, would be fully aware that we have a problem with a disproportionate percentage of people with serious and diagnostic mental conditions as inmates in our prison system. Therefore, the question is an important one for the government to address. Does the government consider that a mental health court is appropriate for South Australia? If so, will the minister discuss this matter with the Attorney-General? If not, why not?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The honourable member is correct: we do have a review of the South Australian Mental Health legislation at the moment. I will refer his questions to the Minister for Health in another place and bring back a response.

GAMBLING, SMARTCARDS

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Gambling, questions about the report of the Independent Gambling Authority inquiry into smartcard technology.

Leave granted.

The Hon. NICK XENOPHON: Yesterday, the Minister for Gambling tabled two reports prepared by the Independent Gambling Authority into both smartcard technology and the effectiveness of gambling rehabilitation programs, inquiries initiated as a result of amendments to legislation instigated in this council late last year. The amendment dealing with smartcard technology required the IGA to report on 'how smartcard technology might be implemented with a view to significantly reducing problem gambling'. The IGA in its report recommended that legislation be put to the parliament to mandate smartcard technology for the reduction of problem gambling, which would entail the tracking of a person's play, the setting of limits and excluding a person from play. The authority concluded:

> On the information presented, it would appear that the technical capability to support smartcard technology exists and is currently commercially deployable.

Yesterday, the Minister for Gambling in his ministerial statement tabling the two IGA reports dismissed the IGA's recommendation for a smartcard system out of hand and said:

> The costs of the smartcard scheme are unknown and the benefits are unproven. More research would need to be done on aspects of smartcard and precommitment schemes.

My questions are:

1. Given the strong recommendation for the implementation of a smartcard system to significantly reduce problem gambling, will the minister at least inquire into the costs of implementing such a scheme? What research does the government say is necessary on what aspects of smartcard and precommitment schemes? Does the government not concede that the IGA's report is comprehensive on these issues. If not, where specifically is the report deficient? Does

the government propose that it will provide the resources to the IGA for such research?

2. Given that the minister has immediately rejected the implementation of a smartcard scheme, will the minister advise if and when he has received directly or indirectly any advice from Treasury, the hotel industry, poker machine manufacturers and any other gambling industry representatives on the potential revenue implications of introducing such a scheme and, if so, from whom?

3. Will the minister advise whether at any time prior to receiving and/or tabling the report from the IGA and on what date did he advise directly or indirectly any gambling or hotel industry figures or representatives that the government was opposed to the introduction of smartcard technology?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): As there is a large suite of questions, I will refer those questions to the Minister for Gambling in another place and bring back a reply.

GOVERNMENT SURVEY

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

Leave granted.

The Hon. J.F. STEFANI: Yesterday evening, people in the Adelaide electorate were contacted by phone by people declaring to be conducting a government survey to canvass opinions and answers on local government matters and other community issues. My questions are:

1. Will the Premier advise the parliament whether the government authorised this survey?

2. If so, in which electorates was the survey conducted?

3. What was the cost of the survey?

4. Will the Premier table the results of the survey in parliament?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I am not sure whether there is sufficient information in the honourable member's question to identify whether a survey was conducted. It would obviously depend on what other information is available. I will refer the honourable member's questions to the Premier and, if there is sufficient information to provide a response, I will bring it back, otherwise we might need more specific information.

MINING EXPLORATION

The Hon. J. GAZZOLA: My question is to the Minister for Mineral Resources Development. What is the most recent information on mineral exploration expenditure in South Australia?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I am pleased to be able to inform the council that the Australian Bureau of Statistics recently released the March quarter exploration expenditure figures, and those figures are very good. Mineral exploration in South Australia continues to surge, with ABS figures for the March 2005 quarter revealing virtually double the expenditure on the same quarter last year. Mining companies spent $14 million on exploration projects between January and March this year compared to $7.1 million for the same period in 2004, which, by any measure, is a significant jump in exploration.

All up, South Australia has recorded the biggest quarter on quarter increase of all the states and territories. It also builds on last year's success, when $55.5 million was invested in exploration in South Australia—a 55 per cent increase on the 2003 figure of $39.5 million. These figures show that the initiatives that the government has instigated in South Australia to promote our minerals potential are hitting the mark. South Australia has been experiencing steady growth since the Rann government introduced the PACE (Plan for Accelerating Exploration) initiative, which aims to achieve $100 million in annual mineral exploration expenditure in South Australia by 2007. The latest ABS figures suggest that we are well on track to achieving that goal.

Our share of the money being spent nationally on mineral exploration is at its highest level for almost 20 years (that is, 6.2 per cent), and it is growing at a faster rate than all other states. The PACE program has helped to increase the confidence and enthusiasm of mineral exploration companies investing in South Australia. Increased spending on mineral exploration today will result in significant economic and employment benefits for all South Australians in the future. The figures indeed are good, and I thank the honourable member for his question.

MATTERS OF INTEREST

INDUSTRIAL RELATIONS

The Hon. J. GAZZOLA: Comments in *The Advertiser* by the opposition spokesman for economic development in the other place on the plight of relatively poorly paid workers in South Australia could suggest that the opposition has some sympathy for workers. I must say that, certainly, that sympathy was not evident when the opposition in the Legislative Council tried to hamstring the Industrial Commission on workers' pay during debate on the bill to extend shop-trading hours. It will be interesting to see what renewed sympathy the Liberal opposition has for workers when the Howard government completely floats its new industrial reform package. According to the Howard—

The Hon. R.K. Sneath interjecting:

The Hon. J. GAZZOLA: The $9 000 royal suite, yes. According to the Howard government and the Treasurer, we are all members of the working class, and we are all better off under the federal budget's tax relief. As *The Bulletin* pointed out, Mr Costello's comments are not only a throw-away defence of tax cuts but also glib support for the Howard government's claim of being the workers' true friend. The article throws up some other interesting analyses. Yes, there has been an increase in wages for full-time employees in Australia, but the biggest increases have been for managerial and professional occupations, while the blue and pink collar employees have recorded the smallest increases.

It seems that not all members of the working classes under Mr Costello's definition are equal. Yet the government, according to the article, can take some comfort from the fact that inequality has not risen under the Howard government. It points out that the proportion of full-time employees earning less than the average weekly earnings has fallen from 71.4 per cent in 1996 to 69.7 per cent in 2002. What comfort

can we take, though, in the fact that 68 per cent of full-time workers earn below the average weekly earnings?

In other words, only 32 per cent earn more than the average weekly earnings. Share ownership, we are also told, is at an all time high, though I would imagine that not many workers would be sharing in this. And other pressures are building. An additional estimated 190 000 Australians will be shifted into the work force by 2009 from the disabled and sole parent queues, with a consequent decrease in income under the Newstart allowance. Add to this that, according to the Australian Bureau of Statistics, 613 000 Australian workers are looking for more hours of employment while 388 000 out of around 546 000 unemployed are looking for employment.

Together with the lack of skills for many at the lower end of employability and the lack of certainty over a take-up in employment of the disabled (complicated by what the Australian Council of Social Services notes as a lack of adequate funding to get the disabled back into employability), we will have a further increase in the numbers at the bottom end of the divide.

There is a further compounding factor in the federal government's new industrial reform legislation—an industrial revolution that the Prime Minister claims 'is based on principles that balance freedom and fairness'. The removal of protection for 3.8 million workers from unfair dismissal laws and the stripping of awards will provide little comfort for many who could, as a result, fall into the low end of the division of wealth.

In regard to earnings, Mr Howard has stated that no worker will suffer. He said, 'On this issue, my guarantee is my record', and pointed out that real wages have risen under his government's industrial watch. However, there has been serious questioning of the Prime Minister's reliance on mathematical magic to support his argument, especially as it concerns wage reality for low income earners. A study by St Vincent de Paul of statistics presented in the NATSEM report regarding the wellbeing of low income workers challenges the Prime Minister's optimism and, I believe, exposes his intention to again deceive the public. Obviously, as St Vincent de Paul points out, a larger percentile pay increase for the less well off is less in real terms than a lower percentile increase if the former is coming off a lower—and, in this case, a much lower—base pay rate.

Statistics aside, the reality of Mr Howard's claim is summed up in the charity's paper as an illusion, a 'headlong dash into a chasm of inequality' in a country where a quarter of the population—4.5 million people—live in households where total income is less than $400 per week. The words of the Prime Minister of a new 'flexible, equal and fair system of industrial relations' and the reality of the workplace provide little comfort for the growing vulnerable in the wealth divide.

STUDENTS, VOLUNTARY UNIONISM

The Hon. T.J. STEPHENS: I rise to speak on the recent debate concerning voluntary student unionism. Members would be aware that the federal government has announced that it is seeking to abolish the compulsory nature of the charges that student unions impose upon students who study at universities in this state and in this country. These fees are supposedly intended to provide students with access to services they may require in the course of their studies, which are both easily accessible on campus and provided at a cheaper rate than might be found elsewhere. Unfortunately, this is a highly romanticised view of the role of student unions. It is a little like saying that the Labor Party stands for workers when its leader is a Hugh Grant imitating, latte sipping sell-out who does not believe in the workers' right to strike.

The fact of the matter is that student unions, like their industrial counterparts, do not represent the majority of the people who would comprise their base support. The student union movement has always been filled with a rich mosaic of wannabe politicians, but, with the rise of electronic media and the 24-hour news cycle, their opinions and rantings are given disproportionate coverage. This allows them to posture for a future career path as a union official/party hack, gain preselection, then become leader of the party, just like the hero of the Labor Party, Mark Latham. That is not to say that they have been unsuccessful.

Until informed of the facts, many people are generally accepting of the hysterical claims made by the student unions. These fees range from $300 a year to two to three times that figure. I am sure that people in this chamber would be aware that the cost of the text books that students are required to purchase is often equal to this amount. Students' books are not included as part of their fees. A further practical example of this is the fact that, at Adelaide University, 58 per cent of the child-care places are used by the staff, not the students. It is absolutely scandalous.

I also wish to briefly explore the arguments used by advocates of compulsory unionism to tenuously justify its continuation. I acknowledge that much of this ground has been covered by my federal colleagues and, indeed, Dr Southcott has provided some very compelling arguments, which I intend to relate here. The first often quoted argument is that the government imposes taxes in the same way that universities impose fees. To a point, this is true. However, there is one very important difference. Universities are not governments. There is no social contract between students and student unions. Universities do not provide services in cases where the market can reasonably be expected to fail. Instead, they replicate services, often at the market price or more, that would compete with other businesses, except the universities have a closed shop; there is no competition and it is a hideous monopoly.

It is often claimed that, if the services that are so popular and critical to the survival of students at university are not paid for by compulsory fees, they will fail. As anyone who has studied economics will tell you, most businesses will survive if there is sufficient demand. The most popular sports programs will continue if that is the will of the participants. I also wish to highlight the point about compulsion. The Liberal Party has always claimed to be the party that represents choice for individuals. But these student unionists, many of whom are members of Young Labor, claim that compulsory fees are a necessary and, indeed, welcome invention. That depends, apparently, where the money is being paid. If your dollar is being paid as part of the compulsory fees, the compulsion is fine, even though you may not benefit at all or to an extremely minor extent—certainly not enough to justify your fees.

If your dollar is paid to the government through the HECS scheme, where students receive a subsidised first-class education, the value of which exceeds the level of payment, the fact that students are compelled to pay for something they have bought is treated almost like a crime against humanity by some. According to the student unions and the Labor

Party, it depends on the type of compulsion as to whether you should have to pay. I conclude by saying that I support the federal government's move to release students from the burden of compulsory unionism; and I also welcome universities to the modern industrial relations system.

MEDICARE

The Hon. G.E. GAGO: Today I rise to discuss the importance of universal access to health care, and how the federal government continues to dismantle this essential component of Australia's infrastructure. A truly universal health care system ensures that all Australians are able to access free hospital care, bulk billing or rebated medical services, and subsidised essential medicines. Quality health care should be available in a timely and efficient manner, determined by need, not personal financial resources.

This system should be defended, retained and strengthened. However, the federal Howard government is moving to dismantle this universal health care system. It continues to embrace an approach (based on user pays), which results in a two-tiered health system where an individual's socioeconomic status determines their ability to access medical services. The cornerstone of Australia's national health care system is Medicare, a universal system of health insurance funded through a combination of general taxation and a Medicare levy, based on ability to pay. As the federal government chips away at Medicare, those on the lower tier—those unable to afford private health insurance and who are dependent on Medicare—are further disadvantaged.

One example of this erosion is the federal government's broken promise regarding the Medicare safety net. Before the federal election last year, federal health minister Tony Abbott promised that those on the lower tier would be protected through the Medicare safety net. If Medicare was working properly, it should not need a safety net at all, but Mr Abbott decided to introduce this scheme in order to cover the government's failings in health after nine years of neglect. Under this scheme, Medicare would continue to pay the 85 per cent rebate on the scheduled fee. Once an individual or family reaches a certain threshold in a calendar year, Medicare would also cover 80 per cent of out-of-pocket costs over and above the rebate for the rest of that year.

The cost of the safety net is estimated to have blown out from $400 million a year to around $1.3 billion. To compensate for this gross misjudgment and oversight, the federal government has declared that it will lift the threshold for low income earners from $300 to $500, and for others the threshold will rise from $700 to at least $1 000. Mr Abbott has conceded that the government was aware costs were increasing before the election last year, yet, at the time, he made a rock-solid, iron-clad guarantee to the Australian people that the safety net would not change. Now that the threshold levels have been raised, 1 million fewer people will benefit from the safety net.

On 27 September last year—nearly two weeks before the election—the department of finance released its costings of the policy, which revealed the $1.3 billion blowout. This result was posted on the department of finance's web site, and both the Prime Minister and Mr Abbott would have known about it. Instead, they maintained their lies, stating that the Medicare safety net would not change, despite knowing the costs had blown out.

Another example of this chipping away at Medicare is minister Abbott's attempt to cut Medicare funding to those accessing IVF. The government was considering reducing the number of IVF treatments eligible for the 80 per cent Medicare rebate to three a year for women under the age of 42, and to a total of three for women over 42. This means that women who could not afford to pay for multiple treatments would not be able to have a baby and start their family if the government were to go ahead with this plan. I notice that the government is backtracking at a rate of knots in relation to this plan.

Mr Abbott tried to justify his position by stating that an IVF procedure was elective and non-essential and, to give his defence some punch, the minister fudged data regarding the success rate of IVF procedures. Whilst children may be non-essential to Mr Abbott, Australians expect him to run the health care system in the community's interests and keep his commitments. At present, he is doing neither.

CAMPBELLTOWN CITY COUNCIL

The Hon. J.F. STEFANI: Today, I raise some serious concerns about the conduct and administration of the Campbelltown City Council. I do so on behalf of many ratepayers who have contacted my office, as well as a number of councillors who, at a council meeting held on 28 June 2005, were verbally intimidated and physically assaulted during the deliberation on option 3B of the master plan to upgrade the cultural and leisure centre at a total cost, including interest, of $27.9 million. This figure differs greatly from the figure of $13.9 million published in the fact sheet distributed by the council and does not include other considerable additional costs, which have not been detailed or considered by the council.

It is my shared view that some of the members of the council have behaved improperly and with reckless indifference to the standards of propriety generally and reasonably expected, by ordinary decent members of the community, to be observed by members of a local government body. There has been and continues to be a history of disastrous decisions taken by the council over a long period of time relating to the extravagant waste and expenditure of public money, to the detriment of its ratepayers, on such projects as the Migrant Monument, Lochend House, the Campbelltown soccer grounds and the Athelstone Football Club. Time does not permit me to place on the public record all the information contained in the documents forwarded to my office during the past 12 months. Suffice to say that I am not the only member of parliament to receive this information, and I know that at least two Rann government ministers, as well as the Premier himself, have also received some of the documents.

I will now detail one of the issues which has been the subject of much community debate and which causes great concern. I refer to the loan arrangement between the council and the Athelstone Football Club, which also operates poker machines. Initially, in December 2000, the council borrowed $390 000 from the LGFA over a 15-year term, at 6.75 per cent, in order to advance a loan for a similar amount to the Athelstone Football Club. In October 2001, the club requested that the loan be increased to $468 000 and that payments be made over a 20-year term. On 17 June 2002, the Athelstone Football Club requested a further extension of the loan to $503 000 and submitted a business plan showing how it would meet monthly repayments of $3 560 to service the new loan.

On 4 July 2002, the mayor and the CEO signed a debenture document with the LGFA for a loan of $503 000 over a

15-year term at 6.9 per cent. On 15 July 2002, the Campbelltown council signed a loan agreement with the Athelstone Football Club for the sum of $503 000 at 6.9 per cent. The loan was repayable over a 20-year period by monthly instalments of $3 895.30, commencing on 15 August 2002. As at 30 June 2002, the club owed the council $23 376.61 and, by January 2003, it became apparent to the council that the club could not meet its loan repayments, as no repayments had been made from September 2002 to January 2003.

Monthly repayments of $1 000 were received from February 2003 until July 2003. On 11 April 2003, the Athelstone Football Club distributed an important notice to all members and supporters. The notice, in part, states:

> The City of Campbelltown council elections for 2003 will be held in May. Over the past years, the club has received good support from several of our councillors in relation to all senior and junior sport within the club. These people have taken an interest in our club and the facilities that we offer the local community, and we ask for your support in electing them onto the council in the positions that they seek.

The notice then lists the names of the councillors and the mayor. It continues:

> We ask you to support these people who have assisted our club over many years and return your voting paper as per the instructions you will receive.

On 22 August 2003, the President of the Athelstone Football Club wrote to the CEO of the council advising that the club had financial difficulties and many outstanding creditors, including an amount of $75 000 owing to the ATO. In its letter, the club sought further finance from the council, including the freezing of its loan repayments until January 2005.

On 2 September 2003, the CEO of the Campbelltown council, under agenda item 18, confirmed that the club owed $559 341.97 to the council and recommended a further loan of $60 000. The club's repayments were to be frozen until January 2005 and the budget and cash flow statements were to be submitted. This year, council resolved to forgive the debt and convert half of it to lease repayments by the club.

Time expired.

SCHOOLS, EDUCATION AND TRAINING

The Hon. KATE REYNOLDS: I believe I was the only member of parliament who attended a rally on the steps of Parliament House yesterday, with more than 5 000 teachers, student services officers and TAFE lecturers in attendance. At the same time, the Minister for Industrial Relations issued a media release entitled, 'Students the Victims of Teachers' Strike'—as if teachers do not care about students. One has to assume that the minister was not listening. The Australian Education Union's claims are about much more than pay rises. It seeks to improve learning outcomes for students. After all, isn't that what education is all about—students and their learning? In fact, when in opposition, the now Rann Labor government said:

> Education and training are the cornerstones of a healthy society, and are the most powerful tools available to individuals to realise their potential and ensure their wellbeing. Labor is committed to the provision of a strong public education system.

It also said:

> Labor recognises the critical role of the teaching profession and other education workers in an excellent education system and supports improvements in their professional standing and working conditions.

It also said:

> Labor recognises that a well qualified, skilful and committed teaching profession, whose value and status is properly recognised and supported, is pivotal for a quality education.

I do not think the people attending that rally yesterday thought that Labor still thinks that way.

I would like to consider some of the aspects of the teachers' claims that have not been highlighted by the Minister for Industrial Relations or, sadly, the Minister for Education and Children's Services. The South Australian Democrats recognise that teachers are not just seeking fair wages but a fair go for all students in South Australia—from the Anangu Pitjantjatjara lands to Kingston in the South-East—for students with both special needs and those considered 'mainstream'.

The AEU has asked for lower class sizes so that all our students are given the best opportunity to learn, because a ratio of 28 to one in some cases is totally unacceptable. Teachers need to spend time to maximise learning outcomes for our students, and to do this they need smaller class sizes because class size, along with teacher quality, is the biggest determinant of student learning outcomes. Large class sizes are identified as a significant workload issue and a major cause of stress and WorkCover claims.

Of course, this class size issue is exacerbated by the increased complexity of classes; the inadequately supported mainstreaming of students with disabilities; the limited physical space available as students get physically larger; the introduction of computers and more furniture into small spaces; a reduction in practical student subject options; and the increase in the school leaving age. We know that the current staffing formula is outdated, and we know that it does not recognise the changes in student population complexity, the physical size of teaching spaces or teaching methodology.

The AEU has also asked for improvements to Aboriginal education to provide more opportunities for Aboriginal employees and an environment which encourages Aboriginal people to become educators. The union understands that role models are essential for our Aboriginal children—not just footballers or runners, but as educators, doctors and scientists. Country education is another concern for the Australian Education Union and the South Australian Democrats. We are facing a state, if not nationwide, teacher shortage over the next five years. Country schools, especially remote schools, are already suffering, and retention rates of staff in country schools will continue to fall unless more is done to encourage people to join the profession and to teach in country areas.

The AEU wants improved professional development for country teachers, better access to relief teachers, adequate staffing in remote areas, and better incentives to teach in remote areas. Its log of claims asked for improvements in safety at work, not only for the benefit of teachers and SSOs but also for the benefit of students. Student services officers, teachers and TAFE lecturers are vitally important in our society and our education system, because they shape the young people who are our future. The Rann Labor government should be treating them with respect, not with contempt. We need to show that their contribution to our society is valued, to encourage future generations to take up the challenge of leading our young people into adulthood. As those attending the rally said, with the 5 000 flags they waved yesterday, we should be valuing learning by reinvesting in public education.

ULURU PILGRIMAGE

The Hon. A.L. EVANS: An extraordinary sight was witnessed this year in Central Australia as hundreds of young people from every state in Australia converged on Uluru to participate in activities of cultural exchange as Ambassadors for Reconciliation. The Pilgrimage to Uluru, now in its fifth year, is coordinated by Schools in Harmony, a nationwide movement established by Fusion and educators working in the public, private and independent school sectors. Along with arranging pilgrimages to central Australia, over the past 12 years Schools in Harmony has organised parades of celebration, Advent pageants and hundreds of community festivals. Schools in Harmony exists to bring young people, educators and communities together to celebrate the rich diversity of cultural life in Australia.

The organisers of the pilgrimages ensure that each young person undertakes a significant journey of personal reflection by providing a package of material, including a journal and a map of Indigenous Australia, identifying the hundreds of Indigenous nations that existed before settlement. During the first journey in 2001, a connection was made with many of the Anangu elders living at Uluru. This year the Indigenous elders once again extended a warm, heartfelt welcome to the young travellers who had travelled to Uluru, some from as far as away as Sydney.

As in previous years, the young people who participated in this year's pilgrimage were invited to learn about Anangu culture through a number of activities. First, the pilgrims were taken on a tour through the Uluru Cultural Centre. The centre showcases the Anangu way of life, both traditional and current. After the tour, the pilgrims were driven to Kantju Gorge for a time of reflection. The gorge is located at the end of a guided walk at the base of Uluru. After the tour, the pilgrims celebrated all they had learnt together with the local Indigenous community in an outdoor concert experience. The concert began with a welcome to everyone by an Anangu elder. Indigenous women sang, and children from the local primary school also performed.

The last cultural event was a dawn service on top of a sandhill in view of Uluru. At the end of the dawn service, time was given to the pilgrims to reflect on all they had discovered on their pilgrimage. Reflecting on the trip, one of the team leaders said, 'We arrived at Kantju waterhole, and everyone went quiet. It is an incredibly special place.' A 15-year old young person from Sydney's west reflected that he was amazed at how so many cultures were working together, something he had never seen in his home town of Penrith. Many of the pilgrims have said that the journey has taught them what it means to treat people with respect. I hope Schools in Harmony continues to offer these pilgrimages for many years to come, because the experience is an extremely positive one.

HALLETT COVE SHOPPING CENTRE

The Hon. A.J. REDFORD: The Hallett Cove shopping centre expansion is a significant and important development for the residents of Hallett Cove. Over the past five years the Marion City Council has worked hard with the communities of Hallett Cove and Sheidow Park to develop the Marion South plan. It has consulted widely and has attracted the interest of developers, and it has also managed to secure funding from the commonwealth Howard Liberal government through the hard work of Liberal local member, Kym Richardson MP, to help pay for some of the road infrastructure changes required to implement the plan.

The Marion council has extensively consulted with the Hallett Cove, Sheidow Park and Trott Park communities and surveys have been conducted. The results of those surveys show the following:

(a) Strong support for road-link changes between Hallett Cove, Trott Park and Sheidow Park, which currently have Lonsdale Road dividing those communities. Indeed, nearly 90 per cent of respondents support those changes, of which 60 per cent indicated they were very strongly supportive;

(b) Support for the development of a civic centre including library, youth facilities, a hall, etc., running at 97 per cent. The only real community facility currently existing in Hallett Cove is the Cove Tavern, which has recently been redeveloped and comprises a front bar and a substantial number of poker machines. So, a pokie-free community centre; and

(c) Almost no-one in these surveys failed to express a view.

Lonsdale Road and east-west access is clearly an important issue if this development is to proceed. A significant part of the plan is a $40 million upgrade of the Hallett Cove Shopping Centre, which will bring a number of benefits to our community including:

(a) More retail competition, giving Hallett Cove residents cheaper prices for groceries, given that currently we only have one major supermarket in one of the largest suburbs in South Australia;

(b) The creation of a local community area. In other words, a town square, bringing the community closer together, enabling our young people to have vibrant live music and other cultural activities which obviates the need for our kids to travel to the Marion Shopping Centre;

(c) Importantly, job opportunities, first, during the construction phase and, secondly, jobs in the centre which I believe will grow into an important cultural, community, government and business centre in the south.

It will be a $40 million upgrade providing 70 speciality shops, two competing supermarkets and a discount department store, for example, a Big W or a K-Mart, and I know that my wife and my kids are pretty excited about all this. Further housing facilities for our elderly, including retirement and nursing home facilities are also part of the plan. The survey also shows that the residents do not believe that the council should pay for the project at the expense of rate increases, and I have to say, as a ratepayer, I have some sympathy for that view.

The cost of fixing the east-west access across Lonsdale Road is $8.9 million, about eight days' poker machine revenue for this government. The commonwealth has given $3.2 million and the state government has promised $1.4 million, to be paid who knows when, and the developer $600 000, leaving a balance of $3.7 million to come from Marion council. Given that it does not want to increase rates, obviously, following the survey, one of the only options it has is the sale of surplus land. In that respect, one has to consider land sales as one option. Another option would be to have no land sales. That would mean the state government would need to increase its contribution to $3.7 million and that would save some open space that is currently under consideration.

The state government, in fact, appears to be doing everything in its power to stop the plan. Firstly, the Premier is indicating that he will oppose the sale of any land and, secondly, the state government has announced that it will now not be giving $1.1 million but only $440 000 because it wants

to sell land that is only worth $5 000 for $440 000 to build a car park in the north. That shows how much this government cares about the south.

Time expired.

NATURAL RESOURCES COMMITTEE

The Hon. R.K. SNEATH: I seek leave to move a motion without notice concerning the Natural Resources Committee.

Leave granted.

The Hon. R.K. SNEATH: I move:

That members of the council appointed to the committee have permission to meet during the sitting of the council this day.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: MULTIPLE CHEMICAL SENSITIVITY

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

That the report of the committee on its inquiry into multiple chemical sensitivity be noted.

Multiple chemical sensitivity (MCS) is a controversial condition that raises many concerns in different sectors of the community. Surveys undertaken in 2002 and 2004 of over 4 000 South Australians by the state's department of health have found that 16 per cent of respondents experience some form of chemical sensitivity, and just under 1 per cent identify themselves as having multiple chemical sensitivity. Other studies from interstate and overseas estimate prevalence rates of between 6 and 25 per cent, depending on the definitions used. One of the most difficult issues with which the committee grappled during this inquiry was that there is no single agreed definition of MCS amongst medical professionals nationally or internationally.

In addition to the suffering caused by the condition itself, lack of recognition causes a range of other practical problems for sufferers in terms of lack of access to kinds of assistance available to other people suffering from chronic conditions or disabilities. Generally, MCS is the term used to describe a chronic and often debilitating condition which has a wide range of symptoms. Many other terms have been used over recent years to describe multiple chemical sensitivity, including ecological disease, environmental stress syndrome and 20th century disease. The World Health Organisation's international program on chemical safety recommends the term 'idiopathic environmental intolerance'. I am sure members would not be surprised that this term has not been embraced.

These symptoms occur in response to a range of chemicals at levels of exposure that are nominally harmless to most people. Chemicals such as herbicides, pesticides, solvents and everyday chemicals found in perfume, diesel fumes and household cleaning products are commonly cited as triggering symptoms. MCS symptoms can also be exacerbated by environmental agents such as tobacco smoke, vehicle exhaust and electromagnetic radiation (EMR). Symptoms commonly experienced by MCS sufferers (as cited in the report) include burning eyes, nose and throat, concentration and memory lapses, nausea, muscle pain and dizziness, breathing problems and fatigue. These symptoms often appear in combination and can lead to physical and social disability.

Evidence received by the committee included diverse opinions about the causes of MCS, some even refuting that chemicals are the cause of the symptoms experienced. Whilst there is research to support both the chemical causation and opposing views, currently there is no conclusive body of evidence to support any one theory. There is also no definitive diagnostic test for MCS, and there is often an overlap with other conditions such as fibro-myalgia, a condition causing chronic muscle pain and fatigue and chronic fatigue syndrome.

Having said that, the Social Development Committee heard compelling evidence of real suffering as a result of MCS from people within South Australia and elsewhere. Before continuing, I would like to acknowledge the members of the Social Development Committee: Ms Frances Bedford, Mr Jack Snelling (who has since retired from the committee), the Hon. Trish White, Mr Joe Scalzi, the Hon. Michelle Lensink and the Hon. Terry Cameron. I would also like to thank the staff of the committee. The research officer, Ms Veronika Petroff, was a real trooper. She came into this inquiry at the eleventh hour and put the report together after most of the evidence had been received; and, I must say, she did an excellent job. I would also like to thank the secretaries, Ms Robyn Schutte and Ms Kristina Willis-Arnold. The committee also wishes to acknowledge the many individuals who provided evidence to the inquiry, including a number of people suffering from MCS. Some of these people made quite extraordinary efforts to present their evidence before the committee; and the committee was extremely grateful for their efforts.

The committee heard from 22 witnesses and received 166 written submissions from a range of individuals and organisations from both within Australia and overseas. The committee heard from many people that exposure to a range of chemicals—harmless to most people—can be very debilitating for them. The body of evidence supporting the link between low level chemical exposure and the symptoms these people are suffering is also growing. Many sufferers become socially isolated and experience great hardship, exacerbated by a lack of recognition and understanding of the condition.

For example, some MCS sufferers cannot maintain paid employment due to chemical exposure in the workplace, and often even find it difficult to do the things that most people take for granted, such as shopping in a supermarket or even visiting a GP when they become ill. Because their condition is not recognised, some sufferers have found it difficult to access entitlements, such as commonwealth disability support pensions, workers' compensation schemes and subsidised housing and health schemes, which are available to other people suffering from chronic conditions and disabilities.

Lack of any consensus in the medical and scientific community about many aspects of MCS also makes it difficult to form a coordinated approach at the state or national level to improve access to services and benefits needed by people with MCS. There is also no consensus in the medical community about any effective treatment regime that could be supported by the government. There is therefore a need to continue research into MCS with a view to some consensus in future. Some aspects of the condition, such as the effects of MCS on fertility, are also poorly understood.

The committee has therefore recommended that an adequately resourced and ongoing research agenda be established on a national level, including the monitoring of the prevalence of the condition and also to review existing research. Without pre-empting the outcomes of that research,

there are other recognised conditions, such as chronic fatigue syndrome, which were once treated with cynicism in the past and which lacked research to create a consistent approach to recognition. One medical practitioner who provided evidence to the committee commented:

> In the early years, chronic fatigue syndrome and chemical sensitivities both had an equal status, that is, disbelief by the medical profession and a tendency to blame sufferers for the illness they experienced. Chronic fatigue syndrome is now relatively well accepted but chemical sensitivities lag behind.

A national approach is also particularly important in view of the fact that many of the issues for sufferers relate to issues that come under federal jurisdiction, such as Centrelink payments. Meanwhile, the committee has identified a range of strategies that the state government can implement to help MCS sufferers achieve a better quality of life, including improved access to public and community facilities, such as health care and support services. The committee believes that a first step towards relieving suffering is to raise awareness throughout the medical profession and the wider community. Simple actions such as changing cleaning products or reducing fragrances used by family, friends and workplace colleagues can make a difference. Support and information from medical professionals about managing symptoms also can be useful.

The committee has recommended the establishment of a state MCS reference group to provide up-to-date information on MCS to state and local governments and relevant professional and community organisations. This would also address the concerns of many who provided evidence about the need for greater collaboration between the state and local governments. Another key recommendation is that the Department of Health continues its investigation into MCS protocols for hospitals and other health services with a view to providing better access for chemically sensitive patients.

A number of European and North American hospitals and health care facilities have adopted policies and protocols to address chemical sensitivity without risking the health or wellbeing of other patients. We have also recommended that the Department of Health consults with existing support services for people with chronic illnesses with a view to improving access for people with MCS and works with state disability and other government departments and agencies to explore practical ways in which to improve access to services for people who are disabled by the condition.

Another key finding of the inquiry was that exposure to herbicides used by local councils for weed control is reported by some to have a significant impact on the health of MCS sufferers. The committee therefore recommended that the MCS reference group develops best practice guidelines to enable local councils to introduce no spray registers. These registers would identify MCS sufferers in the community and minimise the chemicals used in their immediate environment.

While a lack of official recognition of MCS somewhat restricts our ability to address some of the issues raised, the Social Development Committee believes that some of the things that the South Australian government and community can start to implement can help to raise the quality of life for MCS sufferers. This is especially important in view of the many people in the community, in addition to those suffering chronic MCS, whose health is also affected by chemical sensitivities. It is also important that this state advocates for continued research in this area with a view to some national consensus in the future about the recognition and treatment of this condition.

We have seen some measures in countries such as Canada, parts of the United States, Germany and Sweden that have improved the lives of chemically sensitive people without impinging upon the health and welfare of the community at large—for example, hospital protocols, zinc-free policies in workplaces and public spaces and occupational health and safety policies that recognise chemical sensitivities. We believe that there is a need here in Australia to raise the profile of the condition on a national level. Meanwhile, we must do what is within our jurisdiction and raise awareness of the condition to work towards a better quality of life for South Australian sufferers in the future, and we believe that the recommendations of this report represent a strong and effective platform from which South Australia can begin this process.

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

GAMING MACHINES (PROHIBITION FROM COUNCIL AREA FOLLOWING REFERENDUM) AMENDMENT BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill for an act to amend the Gaming Machines Act 1992. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

I dedicate this bill to the residents of Coober Pedy, with whom I have worked extensively in the last few months, and, in particular, Boro Rapaic, local councillor and president of the local progress association, who has been relentless in his campaign to rid Coober Pedy of poker machines. I also dedicate this bill to all those regional communities which have been deeply impacted by the introduction of poker machines some 11 years ago and which want a mechanism to deal with them at a local grassroots level. I would like to make reference to the mechanical aspects of the bill before talking about the broader social and economic context of the impact of poker machines in regional communities.

I am well aware that when we debated poker machine legislation late last year, in the context of the government's bill, I moved a number of amendments. One of those amendments provided for a statewide referendum to remove poker machines, with a five-year grace period—which I thought was more than generous. Given that those hurt by poker machines did not get any notice at all, it seemed to be a reasonable compromise in the circumstances. I note that I did not receive the support of any of my colleagues with respect to that amendment and, in a sense, this is a fall-back position. This is a second best option.

This bill focuses on the removal of poker machines from regional communities—non-metropolitan council areas. The reason for that is that the evidence—and I will refer to that briefly—clearly points to the fact that if poker machines are removed from a relatively isolated community it will have a significant impact on levels of problem gambling. For instance, if poker machines are removed from, say, the council area of the City of Salisbury but the machines remained in the City of Playford (an adjoining council area) the impact on problem gambling would not be as dramatic. In a sense, this is an opportunity for South Australians in regional communities to have a direct say with respect to the removal of poker machines.

This bill provides a mechanism for electors within council areas outside the metropolitan area to have a petition. The bill provides:

> The petition—
> (a) must clearly state its purposes; and
> (b) must be signed by not less than 10 per cent of the total number of electors. . .
> (c) must comply with any other requirement prescribed by the regulations; and
> (d) must be submitted to the Electoral Commissioner.

It provides, in terms of a time frame, that petitions must be signed within a three-month period. Once the relevant requisite number of signatures is obtained, there must be a referendum to be determined on a date by the Electoral Commissioner, under the auspices of the Electoral Commissioner, 'not less than six months and not more than 12 months after the date on which the petition is submitted'. In the event that the referendum is successful, then machines must be removed by the fifth anniversary of the date of the referendum.

There is also a further provision that the Crown is not liable to compensate any person. My reasoning in relation to that is that there is no legal requirement to do so under state law; that a five-year time line is more than adequate; and that the return on investment for many poker machine venues has been dramatic, given the research from the Productivity Commission that 42.3 per cent of poker machine losses are derived from problem gamblers, and further evidence from the University of Western Sydney, more recently, that close to 50 per cent of poker machine losses are derived from problem gamblers. I believe that proposition is more than fair in all the circumstances.

The South Australian Centre for Economic Studies produced a comprehensive report in August 2001 on the impact of gaming machines on small regional economies. It was prepared for the Provincial Cities Association of South Australia. Michael O'Neill, Director of the South Australian Centre for Economic Studies, deserves to be commended for the comprehensive and impartial way in which he has looked at the issue of the impact of poker machines on regional communities. Indeed, he provided information and memoranda to members of parliament in the lead-up to, and during, the poker machine debate late last year.

It is most unfortunate that the recommendation of the Independent Gambling Authority, based, I believe, on the South Australian Centre for Economic Studies, for regional caps to be put in place was not supported by either house of this parliament. Ultimately, that failed. The views of the South Australian Centre for Economic Studies need to be heeded on the impact of poker machines in the general community. For instance, the report in 2001, looking at the 1998-99 statistics, indicates that, for instance, in Port Augusta the average loss per problem gambler was in the region of $8 739 and Whyalla, $8 985.

In terms of the number of problem gamblers in the provincial cities to which the report relates there were 3 097 problem gamblers, based on the rigorous criteria set out by the centre. In the metropolitan area, it was 17 858 problem gamblers and, in other non-metro South Australia areas, it was 2 241 problem gamblers, which is a total of 23 196 problem gamblers. Given the Productivity Commission's finding that, on average, seven people are affected for each problem gambler, those figures need to be considered and are very sobering in terms of their impact on regional communities.

In an overview on the assessment of the impact of gaming machines on small regional economies, published in May 2002, the South Australian Centre for Economic Studies elaborated on some of its findings. It indicated that, for the provincial cities in aggregate, the net impact on community wellbeing of electronic gaming machines (EGMs) is negative and is in the range of minus $.6 million to minus $43.6 million. Even assuming that EGM tax revenues are fully returned to where they are raised, in only three of the nine council areas covered by the provincial cities does the range of net impacts include a positive upper boundary—Loxton, Waikerie, Port Pirie and Whyalla. In only one (Loxton-Waikerie) does the balance of probabilities suggest that a non-negative net outcome is likely. In relation to the Loxton-Waikerie area, the losses appear to be lower than the other areas referred to.

The centre states that the key factors underlying these results include the fact that annual net gaming expenditures per head of adult population are above the state average in eight of the nine provincial cities, with Loxton-Waikerie being the exception. Even though incomes per head are lower than the state average in all but two of them, Mount Gambier, Grant and Port Lincoln, the centre estimates that there is a higher prevalence of problem gamblers in the provincial cities, with 2.18 per cent of the adult population on average, than for SA as a whole (2.047 per cent of the adult population), with only Loxton-Waikerie (1.38 per cent) below the state average.

When you look at the figures of a well-respected economic think tank, such as the South Australian Centre for Economic Studies, it is clear that, on the whole, regional communities are doing it tougher than metropolitan Adelaide in relation to the impact of poker machines. That is why I have introduced this bill—because there is clear evidence that the proximity of access to poker machines is a significant driving factor in the level of gambling addiction. The Productivity Commission made that clear in its comprehensive—and, indeed, many would say world-leading—report tabled in 1999. The whole issue of prevalence, proximity and spatial distribution of poker machines is fundamental on the impact of problem gambling in communities.

In September 2004, in a report entitled 'Gaming machine accessibility and use in suburban Canberra: a detailed analysis of the Tuggeranong Valley', which was commissioned by the ACT Gambling and Racing Commission, the Australian National University, the Centre for Gambling Research, made some very interesting and pertinent findings with respect to the link between proximity and problem gambling. The executive summary of that report makes the following points:

> The closer EGM gamblers live to their regular club, the higher their annual expenditure on gaming machines tends to be.
> · EGM gamblers living closer to their regular club report spending more on EGMs per year than gamblers living further away.
> · People who travelled less than 3.54 kilometres to their regular club were found to spend more per annum ($1 858) than those who travelled greater than this distance to their regular club ($580).
>
> The annual EGM expenditure of both males and females appears to be influenced by the distance to their regular club:
> · Overall, males spent more per annum ($2 935) and females ($1 065); however
> · Males who travelled between 2.65-3.45 kilometres spent more per annum ($5 921) than males who travelled less than 2.65 kilometres to their regular club ($2 135).
> · For females who travelled less than 3.54 kilometres to their regular club, women under the age of 41 years were found to

spend less per annum ($672) than those over the age of 41 years ($3 121).

I think it is important to set out those reports so that I cannot be accused of referring to the findings out of context. This relates to a distance of just a few kilometres. The residents of Cooper Pedy gathered signatures for a petition at relatively short notice, and the number of individuals who signed the petition exceeds the number of Coober Pedy residents who voted in the last federal election. That is very significant in terms of the depth of community feeling and the views of Boco Rapaic and many others that poker machines have been a very significant factor with respect to poverty in Cooper Pedy, as well as negative social impacts, such as the impact on small businesses, on families, on young children going without food needlessly because of their parents' poker machine addiction and, of course, the terrible impact on the indigenous community in and around Coober Pedy.

When I visited there earlier this year and spoke with residents at one of the community centres, the impact of and the devastation caused by poker machines was all too evident on the people I spoke to from the indigenous community. The ANU report makes this point:

The distance to club is identified as the strongest explanatory variable for EGM frequency when assessed statistically. Persons living within 4km of their regular EGM to club have more frequent EGM sessions than more distant EGM gamblers.

- Tuggeranong residents who travel less than 3.54km gamble on EGMs more often (32 times per annum) than people who usually travelled further to gamble (22 times per annum).

It makes the point that there is that very clear link with proximity. However, that report relates to just a few kilometres—a difference between three or four kilometres, where there is only a few minutes of travelling time by car.

The people of Coober Pedy make the point that their nearest pokie venue is, as I understand it, something like 100 kilometres away and that it would be a fair hike in terms of any impulsivity. It would make a huge difference to the people of Coober Pedy if the town's 56 poker machines were removed, and they simply want an opportunity, via a referendum, to decide on that matter. It seems that the proprietor of the town's poker machines has done extremely well out of poker machines in that community. If you accept, as I do, the statistics of the very high proportion of revenue that comes from problem gamblers, then those profits, as in other venues throughout metropolitan and non-metropolitan South Australia, have come to a very significant degree off the backs of problem gamblers.

This is an issue that will not go away, particularly in regional communities. It is an issue about which the people of Coober Pedy feel passionate. They want a legislative mechanism whereby they have an opportunity, through a democratic process and through grassroots local democracy, to do something about an issue that has shattered the dreams of many in the town of Coober Pedy. This would give them an opportunity to have their say and, if the referendum decided overwhelmingly that poker machines be removed, as I believe it would, it would mean that there is light at the end of the tunnel. A five-year time line is more than generous for the removal of poker machines when we consider the enormous return on investment that so many of these venues seem to make—and that investment is fuelled to a very significant degree by problem gamblers.

I urge honourable members to support this bill in order to give local communities a say. This is an issue I will be pushing very hard so that regional South Australia can have a say. I believe that Coober Pedy, in a sense, could be a litmus test and a beacon of hope for communities that have been very deeply impacted by poker machines. I believe that the time has come to finally give communities a say—something they have never had—on whether they have poker machines in their communities—something that has been so addictive and so destructive for so many South Australians.

The Hon. IAN GILFILLAN secured the adjournment of the debate.

EYREIAL AG SERVICES

The Hon. IAN GILFILLAN: I move:

That this council respectfully requests the South Australian government, on behalf of the people of Eyre Peninsula, to make a substantial ex gratia payment to Kevin Warren of Eyreial Ag Services to offset the expenses incurred providing his three crop duster aircraft to act as water bombers to fight the January bushfires on Lower Eyre Peninsula.

Before speaking in some detail to this motion, I want to make it absolutely clear and to put on the record that, prior to indicating my intention to move this motion, there had been no conversation or discussion with the Warrens of Eyre Peninsula. They had no idea that this was my intention, and it came as a surprise to them to learn that this motion is before parliament. I think it was a pleasant surprise but, nonetheless, it was a surprise. I want to make that absolutely plain, so that there is no suggestion that they had been involved in some discussion, let alone a request, that such a matter be brought forward. I am bringing this matter forward because I am convinced that hundreds—probably thousands—of people believe that the Warrens deserve more than just token and verbal thanks.

Every time I have visited the fire-affected area—and I have been over there several times—I have heard more stories of the major role played by the three Eyreial Ag pilots in saving both property and lives on the Tuesday of the January bushfires. One couple told of being trapped by the fire, with the outbuildings burning and the car alight. The husband had major breathing problems by the time the house caught fire. They were talking by telephone with the Warrens, and one plane was continually water bombing them. Realising that the fire was under the roof, the pilot landed in a paddock to direct a fire unit to the rescue, as there was no available communication between the aircraft and the CFS. The Warrens contacted a friend of the trapped couple and overflew him while he broke through a roadblock and drove in to take the people clear of the fire and onto the hospital. Kevin Warren told me that they could only work around the edges of the fire because of the dense smoke. He has no idea how many houses they saved, as they bombed everything they could, whenever they had the opportunity.

I heard many stories of people returning home expecting the worst, only to find evidence that the house had been saved by the water bombs, while everything else had burnt. One man was caught by the fire in a stubble paddock and was trying to outrun the fire, which was quickly overtaking him. One of the aircraft saw him and dumped a full load on him, knocking him flat, but saving him from the fire. I am sure that both the Hon. John Gazzola and I would prefer to be knocked flat than cooked in a stubble fire. The honourable member is nodding, so I have his concurrence with that assumption. The man said that he was very wet, but very safe and very grateful.

Another vital role played by the Eyreial Ag Services planes was to provide a warning to locals on the approach of the fire. The local knowledge of Kevin Warren and his pilots cannot be replaced by pilots from outside the area. They seem to know every property and who owns it and where they are likely to be found. Margaret Warren was kept busy phoning people and warning them of the path of the fire, as reported by the aircraft. Eventually more than 30 locals flocked to the Warrens' home and hangar to help with the effort, helping service and reload the aircraft and keeping food and drinks up to the pilots.

Mr Gil Robertson, who is a local and has a property just out of Port Lincoln, sat on his hilltop farm with the station wagon filled with household treasures, as he told me, watching the next row of farms burn, including some where the owners were trapped by the fire. He told me:

> I sat there with the absolute conviction that nothing would save the farm, the stock and the house, waiting for the last possible safe moment to leave and make for the coast. Then by the grace of God, a wind shift and the Eyreial Ag aircraft (not necessarily in that order) the fire came no closer and my property was safe. I believe if it was not for the Warrens, not only would my place have burnt, but the fire would have raced down to and in all probability right through Port Lincoln.

A lot of people felt exactly as Gil Robertson expressed it, and that is why I feel convinced that the move to reward the Warrens with an ex gratia payment would be very strongly supported by many people.

On what I would call only a slightly sour note, there does seem to be a mentality of downgrading the value of the Warrens' effort by a limited number of persons in the upper echelons of the CFS command. I am sorry to have to say that, and I hope that in some way this can be counterbalanced by the CFS. This, however, is in strong contrast with the opinion of the CFS folk on the trucks, the landowners, who had first-hand experience, and the close observers on the site, who all applaud their efforts. Councillor Leon Murray pointed out that the Warrens still had access to water, which the CFS trucks did not, once the SA Water main failed, while millions of dollars of CFS infrastructure stood idle, often cut off from access to water by the fire and unable to do anything. I do not know whether all honourable members realise that the actual water delivery in the fire area failed. Meanwhile, the Warrens could reload in minutes and return to the required site.

I would also suggest the idea of giving one of the Warrens the dedicated task of overflying a major fire and feeding intelligence to the various emergency services as well through their own office to alert landowners, etc., of the changing circumstances. There definitely needs to be a means by which the Warrens can speak directly with fire units and roadblocks without going through any level of command. I know that reports coming forward, and one which I believe will come from the independent inquirer, Dr Bob Smith, will indicate that there were serious failures in communication, even simple communications, between the CFS, the SES and the police in quite close proximity to each other in the case of the fire.

In moving this motion, in my short contribution I want to emphasise a few examples of the practical reality of what the Warrens did. Bear in mind that the Warrens could not get permission from the CFS to undertake these activities. They believed—and no-one I think now challenges this—that their responsibility and care for the population in which they lived demanded that they give this service, and there is no doubt in my mind and that of many others that they saved lives as well as property. So, I urge support for this motion. The government did react admirably to the fire; it is important that it be given commendation for the way it dealt with and reacted to the Eyre Peninsula fire. With the stimulus of the success of this motion I hope and believe that the government will make a substantial ex gratia payment to the Warrens, much to the appreciation of the hundreds of people who benefited from the Warrens' contribution.

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

KANGAROO ISLAND, DOGS

The Hon. J. GAZZOLA: I move:

That Corporation of Kangaroo Island By-law No. 5, concerning dogs, made on 13 April 2005 and laid on the table of this council on 5 May 2005, be disallowed.

This by-law specifies dog ownership restrictions on Kangaroo Island and, specifically, in a small dwelling the limit is one dog and in other types of dwellings the limit is two dogs. The Legislative Review Committee noted that these restrictions are more suited to metropolitan areas as opposed to rural areas such as Kangaroo Island. It raised this issue with the district council, which indicated that it will amend the by-law to incorporate references to working dogs and to specify limits that are more suited to rural areas.

The Hon. IAN GILFILLAN: I would like to indicate support for the motion. I am a member of the committee, a resident of Kangaroo Island, and I indicate support for this disallowance.

Motion carried.

WORKCOVER, CLAIMS MANAGEMENT

Order of the Day, Private Business, No. 9: Hon. J. Gazzola to move:

That the regulations under the WorkCover Corporation Act 1994, concerning claims management, made on 28 April 2005 and laid on the table of this council on 3 May 2005, be disallowed.

The Hon. J. GAZZOLA: I move:

That this order of the day be discharged.

Motion carried.

MILLICENT, LONG-TERM DRY AREAS

Order of the Day, Private Business, No. 10: Hon. J. Gazzola to move:

That the Regulations under the Liquor Licensing Act 1997, concerning Long-Term Dry Areas—Millicent, made on 3 March 2005 and laid on the table of this council on 5 April 2005, be disallowed.

The Hon. J. GAZZOLA: I move:

That this order of the day be discharged.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: STATUTES AMENDMENT (RELATIONSHIPS) BILL

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

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

(Continued from 29 June. Page 2227.)

The Hon. J.M.A. LENSINK: I rise to address the council on the matter of the Social Development inquiry report into the government's relationships bill, and I would like to say at the outset that I was very pleased to be on that committee. As I stated in my address on the second reading of the actual bill yesterday, there has been some confusion and misinformation in relation to the effects of the bill, and I think I have come to a much better understanding of what it all means, having examined it in some detail, and that has been very useful.

I would like to thank the staff who have been involved in producing the report, and thank them for their forbearance in what has been quite a difficult time for us to get through and with some difficulties, which I will outline in my speech. But I would like to place on the record that we appreciate the work that they do and their professionalism in what can sometimes be difficult circumstances, because members might disagree on process, and disagree quite vehemently. I would also like to thank all of the people who came in as witnesses. Some people provided very personal stories of their own situations. The parliamentary process can possibly be quite intimidating, and the committee process as well, for people who are not familiar with it, and what they had to say I think added great depth to our understanding of the issues contained within the bill and the difficulties that they might be experiencing.

The report is a technical majority report, that is, it needed the casting vote of the chair in order to be passed. The two Liberal members, Joe Scalzi (member for Hartley) and myself disagreed with most of the content and, indeed, the recommendations of the majority report, and the Hon. Terry Cameron, who I think has put this on the record himself, disagreed with the entirety of the report.

From my point of view, as someone who, in many ways, is still a novice to this system, I had great difficulty with a number of the processes, in that there were times when we had some five sets of witnesses on the agenda, which made for very long hearings and to which I had to object and state that I thought it was unreasonable. I understand that for political reasons this government might want to get this bill through in a great hurry, but it is a complex piece of legislation. At the moment, the fact that four members of this chamber are speaking to parliamentary counsel trying to work out amendments and muddling through indicates that a great deal of complexity is involved. I also reject any statements or suppositions which people might have that we have done this for political reasons. I think that all legislation ought to be properly examined by both houses; and the Legislative Council, because the government does not have a majority (and nor did the previous government), is able to look at things more broadly and, in that sense, be more representative of the broader views.

We on this side of the chamber are allowing each of our members a conscience vote, which means that each member will make up their own mind rather than have their decision made for them by caucus and the faceless men who run it. Joe Scalzi (the member for Hartley) and I produced a minority report, and I will run through a few of the details in that report. We stated that we agree that there are people who are either members of a same sex couple or in a domestic co-dependant relationship and who are unable to access the benefits and conversely the duties applying to married and de facto couples, and this can cause unjustifiable hardship and expense in managing their personal affairs. We agree that this needs to be addressed, and we believe that there is broad community support. We also agree that a form of safety net or a presumptive model which recognises the status of such relationships would address these problems.

As I stated yesterday, the Attorney-General introduced the bill into the assembly and then it came to the Legislative Council. In his speech to the House of Assembly, he delivered some of his comments in what has been described as mock sadness. He said:

> Speaking for myself, as a Christian, I was saddened that many people felt constrained by their Christian faith to oppose legal equality for homosexual people.

In his speech, he referred to a number of people who had written things that he found offensive. I have also found some of the arguments particularly against recognising people in same sex relationships offensive, but I would not place them on the record because I think that that gives credit to those sorts of views. I believe that each of us who is elected to this place has a leadership role. We should not give credence to those sorts of comments by repeating them and therefore saying, 'If they are to the right, then we must be to the left.'

I think we need to be objective about these things and try to constrain ourselves from going down the path of delving into the emotional hubris that sometimes surrounds these debates. As we went through framing the report, it did become evident towards the end that it would be difficult to produce a unanimous report. However, I was pleased that during that process some similar sorts of offensive remarks were also removed, because, equally, I do not think that a parliamentary committee should be giving credence to that sort of nonsense, and I strongly reject those sorts of things being included for that reason.

I now turn to the committee process. Submission were called on 18 and 19 December. It had been proposed that submissions would close on 10 February, which clearly is after what is called the silly season. Half the members of the committee expressed some concern with this process, so it was extended to 18 February, but it was still a shorter consultation period than is ideal. We were also concerned that not enough effort was made to alert the multicultural community, because the publicity was limited to English language mainstream media.

Statistics are often quoted in these sorts of arguments to advance one side of the argument or another. There has been some discussion about this already. I have seen figures thrown around in publications in the community. When you add it up, it was closer to 50-50 than has been advanced, but these things are six of one and half a dozen of the other. It certainly shows that the community is divided. I do not think that necessarily quoting those statistics advances one argument or another.

More organisations were against the bill than for the bill. I think comments have already been made that a number of those organisations would have represented very large numbers of people. One example is the Greek Orthodox Church, which says that it represents some 50 000 to 70 000 people across 10 parishes in South Australia. That is significant, and we should recognise that a number of the people who did present to us are leaders in their communities and represent very large numbers of people. There was some, I think, under-representation of those organisations. In particular, the non-government members were very disappointed with the government's approach to the issue of domestic co-dependents because we felt rushed through the whole process. As I have stated, listening to five sets of

witnesses in one afternoon's sitting is certainly more than an average committee would sit through.

I for one did not have the time or the energy to have my entire workday taken over by one committee. We were also very concerned about the potential loophole that would have affected the independent schools. In evidence, government members gave advice to representatives of the independent schools which was later shown not to be correct. I commend the independent schools on getting their own advice and not taking things at face value.

I note that that clause has been replicated exactly as the independent schools had written it. Chapter 3, I thought, was rather objectionable. It comprised some 38 pages, and it was highly repetitive of arguments in favour of and against the bill. A lot of this sort of stuff in this debate was very circular; and, in my view, it contained a great deal of hubris which did not add to the discussion whatsoever. There is the issue of the terminology that has been used in the bill. A number of witnesses expressed concern about people who are married and people in other relationships all being classed under the one terminology, that is, domestic partners. That was made very clear to the committee throughout the evidence, and I am pleased that some effort has been made in that regard.

I would like to highlight to the council the chapter on financial implications. Chapter 4 of the majority report (which was only some six pages) allegedly went into the financial implications of the bill. I note that appendix 4.2 provides a bit of additional information. However, this was not dealt with in detail. The committee did seek some information from government departments about what the impacts would be. A letter signed by Jim Wright, Under Treasurer, Department of Treasury and Finance, states:

> I would note that, if the financial implications of the bill were judged to be small on average per couple (which we understand to be the assessment generally held), it is likely that consequences of extending the bill to cover domestic co-dependents would also be small if the number of domestic co-dependents plus same sex couples is not greatly larger than the number of same-sex couples. When the issue was considered in the context of removing discrimination as it relates to superannuation, Treasury employed an assumption that the category of domestic co-dependents was 5.4 per cent of the population compared with 2 per cent for same-sex couples.

That is pretty thin evidence on which to base any sort of assumptions; and, I think, some sort of modelling could be undertaken. We have been able to isolate which bills would have any financial impact. We can probably work out what the average would be, get a better idea of what the number of people are, do some scenario analysis and come up with some tougher figures than that. Also, I have some concern that Treasury is putting on the record that it believes that 5.4 per cent of our population are domestic co-dependents, because it all depends on your definition.

We did seek some sort of clarification about how it may have reached this proposal. Apparently, it has included in 'domestic co-dependents' sisters, siblings and people in the sorts of relationships that might be included under 'other categories'. That is the largest possible figure of anyone who might not be married or living in a single household and so forth. That 5.4 per cent includes the 2 per cent of same-sex couples, as well as a lot of other sorts of relationships. So, for those who are concerned about the possible impact of the cost of domestic co-dependents, I would like to give that reassurance.

Curiously, the major source of information about financial statements was not provided by Treasury but by the Attorney-General himself. We had a range of expressions, such as 'very minor rise', 'expected to be very small indeed', 'very minor cost implication', etc., which are all somewhat Sir Humphrey Appleby in terms of trying to pin anyone down.

The topic of domestic co-dependents was covered in chapter five of the report. The committee heard evidence from people who wished this group to be included in the bill. For those who say that these people do not exist, I have to inform them that we had some attend. Unfortunately, they did not want to give evidence, which I can understand: it would be quite an intimidating process. However, I believe their names are on the record under the committee section in *Hansard* if anyone wishes to read their comments. Mr Scalzi and I were concerned that the majority report did not apply much intellectual rigour to the recommendations, which would address the concerns of this group of people. So, we find that some crossbenchers and Liberal members are now having to do the work of the government and the work that should have been done at the committee stage.

There are trends, I think, in our community that indicate that this group of people is likely to increase, as we know that the number of people in our community who will never marry or who will divorce is increasing while, at the same time, the birth rate is decreasing. If that means that reliance on traditional family structures will decrease in the future, I think it should be expected that the number of people who rely on such domestic co-dependent arrangements is only likely to increase in the future. Unfortunately, chapter five really is devoted to describing the difficulties associated with defining the population, even though other states, such as New South Wales, Tasmania and the ACT, have been bold enough to tackle this issue. They have all examined the issue and been able to come up with some form of measure.

I have already discussed the conscience vote, and I repeat for the record that, on this side of the council, we do not rely on binding decisions of our party room to determine how we should vote. We are allowed to exercise our own minds and brains. A number of people who gave evidence said that all parties should provide a conscience vote, and I think that is significant. The last time I recall the Labor Party allowing its members to have a conscience vote was on the issue of euthanasia. I am not quite sure how it makes the distinction that this issue does not deserve a conscience vote, although perhaps it allows some members of caucus who do not necessarily support this legislation to be able to hide behind binding decisions.

People have said, in relation to this topic, 'Well, a number of instruments already exist, such as legal wills, powers of attorney and so forth.' One of the recommendations of the committee was that there should be greater education in this regard. I could not agree more. I stand here guilty of not having a last will and testament—I suppose because my only dependant is a rather fat cat and I have not really had the need—

The Hon. Caroline Schaefer: That's all right—if you live with her long enough!

The Hon. J.M.A. LENSINK: The Hon. Caroline Schaefer interjects, 'If you live with her long enough.' I might be able to declare her my domestic short-haired partner!

The Hon. D.W. Ridgway: It's a short-haired cat?

The Hon. J.M.A. LENSINK: Yes. And she is short: she is vertically challenged. Towards the end of our minority report, Joe Scalzi and I stated that we believe that, in seeking to address only perceived discrimination against same-sex

relationships, this bill discriminates against other long-term, caring relationships. We believe that the committee has given high priority to one group based on sexuality, even though it received evidence from other groups. We had some alternative recommendations, which included that some definition of 'putative spouse' remain and that the continuing discrimination resulting in unjustifiable hardship and expense for same-sex couples and domestic co-dependents be addressed. Also, rather than having the lame recommendation that was contained in the report, we stated that the bill should contain the exact wording of the recommendation of the Association of Independent Schools, and I am pleased to see that the government has taken up our recommendation.

The third recommendation relates to increased community education, with which we were entirely in agreement. The fourth recommendation—the majority report, which was again worded in a rather woolly way—asked the government to explore the implications of extending some legal entitlements to a limited category of non-couple dependent domestic relationships, which are weasel words if ever I read them. The next recommendations were that the government undertake some financial modelling of the bill, which should be quite feasible; that the amended bill be reintroduced into the House of Assembly; and that all members be permitted a conscience vote.

I think this was a missed opportunity for the government. Instead of just coming up with a report which, in many people's view, merely endorsed the government's position and which was a bit of a whitewash just to avoid any of its own problems with this bill, the committee should have been much braver and should have addressed the issues that witnesses brought before us. However, I am pleased that Joe Scalzi and I had the opportunity to hear from a number of people and to produce the minority report, which probably reflects the view of a number of other people in the community besides the Labor caucus.

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

SUPERANNUATION ACT

The Hon. J. GAZZOLA: As the Presiding Member of the Legislative Review Committee, it is my duty to move this motion—which I do not support. I move:

That the regulations under the Superannuation Act 1988, concerning commutation, made on 13 January 2005 and laid on the table of this council on 8 February 2005, be disallowed.

These regulations revise the formula for calculating superannuation entitlements for public sector employees who temporarily undertake work for other public sector entities. These arrangements are similar to what is commonly known as secondments. The Legislative Review Committee found that these regulations were inconsistent with its principles of scrutiny.

The Hon. IAN GILFILLAN: I indicate support for this disallowance. It is a matter that did exercise some quite extensive deliberation by the committee. It did apply, in our opinion, to a particular case. I will not go into all the argument about why we came to the conviction that the regulations should be disallowed, except to say that there were two factors. First, it appeared to be discriminatory against one individual and, secondly, there was some uncertainty about whether the regulations were needed in any case and whether the employment, which was in dispute, would be regarded as a secondment, as the individual continued to be employed and paid by the same entity that employed him originally. I am well satisfied that the committee made the right decision in moving this disallowance.

The Hon. R.I. LUCAS (Leader of the Opposition): I will speak briefly and then seek leave to conclude my remarks later. My colleague the Hon. Angus Redford—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, the government is supporting it.

The Hon. P. Holloway: No; we had to. As the Presiding Member said, we strongly oppose it.

The Hon. R.I. LUCAS: No; he did not.

Members interjecting:

The Hon. R.I. LUCAS: He did not say 'reluctantly'. He said it was his duty as the Presiding Member to move it. He did not indicate his view at all.

Members interjecting:

The Hon. R.I. LUCAS: No; he did not.

Members interjecting:

The PRESIDENT: The Hon. Mr Lucas would have to yield; he has the call. If he wants to continue, he has been called. The Hon. Mr Lucas has the call. He has started his speech.

The Hon. R.I. LUCAS: The record will show that the Hon. Mr Gazzola said that it was his duty as the Presiding Member to move the disallowance. He did not say 'reluctantly' and he did not indicate that he was opposed to it.

Members interjecting:

The Hon. R.I. LUCAS: If he said it at the end, I apologise; I did not hear it. I heard the introductory statement when he said it was his duty to move it. In my private discussions with the Hon. Mr Gazzola—which I will not reveal completely—

The Hon. G.E. Gago: Low life!

The Hon. R.I. LUCAS: Excuse me; I have not yet said anything. I was left wondering what the government's position was on it, because I did put the question: what is the position of the Treasurer on this particular issue? The Hon. Mr Gazzola, as chair of the committee, said that he did not know what the position of the Treasurer was. In relation to this issue, what I would like to have from government members on the committee—that is, the Hon. Mr Gazzola and the member for Torrens—is the government's position on the disallowance motion. I have not had a chance to speak to my colleague the Hon. Angus Redford, although I understand from the Presiding Member that he might not have been able to attend this particular section of the meeting. Nevertheless, I have been trying to contact him to ascertain his view in relation to this matter. At this stage no opposition position has been formally established in relation to this disallowance motion.

I do not know too much about the regulation, other than in general detail. As I understand it, a particular person stands to receive a windfall of $750 000 as a result of the operation of a provision of the superannuation legislation. I do not understand the procedures of the Legislative Review Committee. If the Hon. Mr Gazzola is saying to me that he was out-voted by a majority and he, as the Presiding Member, is required to put the majority position, with which he disagrees, then I understand his position.

The Hon. Ian Gilfillan: There was no vote against it.

The Hon. R.I. LUCAS: There must have been. The Hon. Mr Gazzola is indicating that he voted against it.

Members interjecting:

The Hon. R.I. LUCAS: I was told that there was no dissenting voice on the committee—that is, no-one voted against it—but the Hon. Mr Gazzola and the government seem to be indicating they did vote against it. I am not privy to the proceedings and, therefore, I cannot comment.

The Hon. J. Gazzola: We do not have the numbers on the committee.

The Hon. R.I. LUCAS: It doesn't matter. You can vote against things on a committee if you want to.

Members interjecting:

The Hon. R.I. LUCAS: I could offer some advice to the Hon. Mr Gazzola. There are many occasions when one is in a minority in the chamber and where one knows one will not win, but one calls for a division to have one's opposition recorded. He may not have yet learnt that device in parliamentary procedure (and I can only offer it to him as a slightly older and more experienced member),namely, that there is that capacity. He should write a little note to himself that, if he opposes something, he has the capacity to say 'I oppose it' and have that recorded. I assume that is the case, having never served on the Legislative Review Committee. The Hon. Mr Gilfillan indicates that no-one voted against it. I am not challenging him, as I am not a member of the committee.

I ask the chair of the committee, or indeed somebody else, to explain the arguments for the disallowance of the regulation. I want to know whether, potentially, there will be other individuals who stand to benefit from a windfall payment of up to three-quarters of a million dollars as a result of the peculiar operations of this part of the superannuation legislation and regulations. Again, I have only a very general understanding of this, but I believe that no-one is arguing that this is a long-established benefit. It is sort of manna falling from heaven—suddenly, someone gave legal advice that indicated that someone, as a result of a secondment, is mysteriously and magically entitled to an extra three-quarters of a million dollars in superannuation entitlements. That is wonderful if you happen to be the individual concerned but, if there are to be a number of others who similarly benefit, we ought to be aware of the ultimate total cost.

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: Well, I did not know this was happening and, as I am not a member of the committee, I am not in a position to provide too much of the detail. I understand that the Leader of the Government, who is also not a member of the committee, will put the formal position of the government. After he has spoken, we will be in a better position to know what the Treasurer and the government think of this. Certainly, from the opposition's point of view, after the Leader of the Government has spoken, we will move to adjourn the debate so that we can take advice. There may well be differing views within the Liberal Party on whether or not this disallowance motion ought to be supported. I would like to seek leave to conclude and get some advice informally from the Leader of the Government, perhaps, and the Treasurer as to the government's position. I understand that it may well be that the government does not support the disallowance. Is that a fair reflection?

The Hon. P. Holloway: That is my understanding, although I am also told that it might have gone through the other place.

The Hon. R.I. LUCAS: Well, we may need to have that clarified. I seek leave to conclude my remarks later. I will seek advice from the Leader of the Government and the Treasurer's officers as to what the position is.

Leave granted; debate adjourned.

TAXATION, PROPERTY

Adjourned debate on motion of Hon. R.I. Lucas:

1. That a select committee be appointed to inquire into all matters relating to the issue of collection of property taxes by state and local government, including sewerage charges by SA Water, and in particular—
   - (a) concerns about the current level of property taxes and options for moderating their impact and the impact of any future increases;
   - (b) concerns about inequities in the land tax collection system, including the impact on investment and the rental market;
   - (c) concerns about inequities in the current property valuation system and options to improve the efficiency and accuracy of the valuation process;
   - (d) consideration of alternative taxation options to taxes based on property valuations;
   - (e) concerns about the current level of council rates and options for moderating their impact and the impact on any future increases; and
   - (f) any other related matters.
2. That standing order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.
4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 2 March. Page 1286.)

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will respond very briefly on behalf of the government, as we have a significant amount of business we have to complete in the remaining day and a half of the parliament. I know that the Leader of the Opposition does not want to vote on this motion today. The government is opposed to the establishment of this select committee, as we do not believe that it is necessary. All members in this place would the aware that the government has recently introduced a suite of reforms, including massive reductions, in relation to land tax. In addition to those that have come about because of the rise in the levels at which land tax applies, a significant amount of action has also been taken by the government to clear up loopholes that had previously existed for many years in the land tax laws.

This government has already addressed the question of property taxes as far as they relate to land tax. I am aware of a number of studies that have been undertaken over the years in relation to matters such as sewerage charges and so on. The sad fact is that, under our parliamentary system, the states are unhealthily dependent on a very limited range of taxes. Unfortunately, of course, recent decisions by the commonwealth have made that increasingly so. The states have a very narrow tax base and are unhealthily dependent upon property taxes, payroll taxes, gambling taxes and the like, as nearly every other form of income has been removed. We know that the commonwealth has put conditions on the GST, which was the new tax, and has required the states to remove taxes in a whole lot of other areas of the commonwealth's preferred choice, not that of the states. So, that is all I think I need to say in relation to property taxes under the control of the state government.

We have initiated significant reforms. The other part of this motion is about local government rates. We believe that local government is an independent level of government and should be responsible for its own matters. We have before this parliament, in one form or another, some amendments, although I am not sure whether they have been accepted yet. However, we certainly have discussed a local government bill in relation to the reporting of rates, and that matter has already been considered by this parliament in very recent times.

In conclusion, I think all the opposition is seeking to do here is to write its policies for the next election. It does not have any ideas, and it wants this select committee to gather information and to get others to do the work for it in relation to its policy. We are realists. We oppose it because we believe it is unnecessary. We will wait to see what the Democrats and other parties say, but our position is to oppose it. We have a number of other important issues on the agenda, so I will not delay the council any further.

The Hon. IAN GILFILLAN: I would like to set the Leader of the Government's mind at rest: the Democrats support the motion for the setting up of a select committee. It is our continuing policy for openness and accountability, and select committees of this chamber are one of the most effective ways in which the spotlight can be put on issues which would otherwise be swept under the carpet by governments of the day—I say that because I have experienced the same reaction with both Liberal and Labor governments. The issues identified in the terms of reference are of real concern to the South Australian community, and I believe that this select committee will give people an opportunity to put their concerns to that committee. I would expect some detail which would be useful as far as collecting evidence to highlight what may or may not be shown to be inequities. I indicate that the Democrats support the establishment of a select committee.

The Hon. R.I. LUCAS (Leader of the Opposition): I thank honourable members for their indications of support—or lukewarm opposition—to the motion to establish a select committee, and we look forward to the work of the committee. Clearly, given the time available, how much of the work will be able to be concluded within the period will depend, I guess, to a large extent on the willingness of government members and ministers to participate in the committee. Certainly, for the opposition and the cross-benches, there is a willingness to explore genuinely the issues that have been of great concern to many South Australians. We will certainly be doing what we can to identify inequities and, more importantly, hopefully identifying possible solutions in relation to the vexed area of property taxes and the impact on South Australians.

Motion carried.

The council appointed a select committee consisting of the Hons G. Gago, J. Gazzola, R.I. Lucas, J.F. Stefani and N. Xenophon; the committee have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 30 November 2005.

SPECIAL COMMISSION OF INQUIRY (POWERS AND IMMUNITIES) BILL

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

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

That this bill be now read a second time.

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

Leave granted.

On 20 November 2002 the Premier was informed of certain allegations concerning the Attorney-General, (Member for Croydon), and Mr Randall Ashbourne, then a Senior Adviser to the Premier.

In a letter dated 20 November 2002 the Premier requested the Chief Executive of the Department of Premier and Cabinet, Mr Warren McCann, to undertake an urgent preliminary investigation into the matter to determine whether or not there were reasonable grounds for believing that there had been any improper conduct or breach of the Ministerial Code of Conduct or standards of honesty and accountability embraced by the Government.

At that time the Solicitor-General's position was vacant and the Government received advice that it would be inappropriate to refer the matter to the Crown Solicitor who has a direct reporting relationship to the Attorney-General. The Chief Executive of the Department of Premier and Cabinet sought the advice of Mr Ron Beazley, Special Counsel, Deacons, Solicitors, who in turn retained Mr James Judd QC, to assist the Chief Executive in responding to the Premier's request. In a report to the Premier dated 2 December 2002 entitled "Investigation into certain matters relating to the Attorney-General and Mr Randall Ashbourne" the Chief Executive of the Department of Premier and Cabinet found that:

1 *There are no reasonable grounds for believing that the Attorney-General's conduct was improper or that he breached the Ministerial Code of Conduct*.

2 *There are no reasonable grounds for believing that Mr Ashbourne's conduct was improper or that he breached the Code of Conduct for South Australia's Public Sector Employees although his actions may have been inappropriate*.

3 *Although there are some inconsistencies in evidence, further investigation would be most unlikely to change the findings. It would be expensive and is unwarranted*.

In relation to the finding concerning the conduct of Mr Ashbourne, the Premier issued Mr Ashbourne with a formal reprimand and warning. Furthermore, upon completion of the Report, the Premier referred it to the Auditor-General. The Auditor-General responded:

"In my opinion, the action that you have taken with respect to this matter is appropriate to address all of the issues that have arisen".

On 30 June 2003 after the matter was raised in Parliament, the allegations were referred by the Acting Premier to the Commissioner of Police and were investigated by the Anti-Corruption Branch. On 28 August 2003 the then Acting Director of Public Prosecutions announced that Mr Ashbourne would be charged with the offence of abuse of public office (section 251 *Criminal Law Consolidation Act 1935*). The Acting Director announced that no other persons would be charged with any criminal offences arising from the matter.

A trial before a jury in the District Court of South Australia commenced on 8 June 2005. On 17 June 2005 the jury returned a unanimous verdict of not guilty.

After Mr Ashbourne was charged the Premier informed the Parliament that the Government intended to establish an independent inquiry into the matter at the end of the criminal proceedings. The Premier informed the Parliament that the Terms of Reference would be established on motion by the House of Assembly and the inquiry would have the same statutory powers and immunities granted to the Clayton Inquiry in the Motorola matter.

In accordance with the Premier's statement a resolution concerning the establishment of an inquiry and its terms of reference has been presented to the House of Assembly.

The introduction of this Bill fulfils the Premier's commitment to ensure that the Inquiry has the same powers and immunities as the Clayton Inquiry.

The evidentiary powers and immunities proposed under this Bill are identical to those proposed by the former Liberal Government and granted to Mr Dean Clayton QC as he was then.

The Special Commissioner, consistent with the powers and immunities given to Mr Clayton, will have:

· The relevant powers of the Ombudsman which are drawn from the Royal Commissions Act.

- The power to issue a summons requiring a person to appear before the Inquiry to give evidence or to produce evidentiary material.
- The power to take evidence on oath.

The Special Commissioner undertaking the inquiry will have the same protection, privileges and immunities as a Judge of the Supreme Court. Similarly witnesses and legal practitioners appearing before the Inquiry will have the same protection, privileges and immunities as witnesses and legal practitioners appearing in proceedings before the Supreme Court.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

The clause contains definitions for the purpose of the Bill. An ***authorised person*** means the Special Commissioner or a person who is appointed by the Premier to assist the Special Commissioner in the conduct of the Inquiry. The ***Special Commissioner*** means a person who is appointed by the Governor to conduct the Inquiry. ***Evidentiary material*** means any document, object or substance of evidentiary value or possible evidentiary value to the Inquiry. ***Inquiry*** means an Inquiry that is established by the Government with terms of reference and conditions of inquiry the same as those proposed by the House of Assembly in a resolution of that House passed on 4 July 2005.

4—Application of certain provisions of *Ombudsman Act 1972* to Inquiry

Sections 18(2), 18(3), 18(6), 23 and 24 of the *Ombudsman Act 1972* apply to and in relation to the Inquiry, as if the Inquiry were the investigation of an administrative act by the Ombudsman under the *Ombudsman Act 1972*; and the Special Commissioner were the Ombudsman. Section 18 of the *Ombudsman Act 1972* sets out the procedures of the Ombudsman in relation to an investigation by the Ombudsman of an administrative act. Section 23 of the Act gives the Ombudsman the power to enter and inspect relevant premises or places and anything in those premises or places. Section 24 of that Act creates offences relating to the obstruction of the Ombudsman when acting under that Act.

5—Power to require attendance of witnesses etc

Clause 5 of the Bill states that an authorised person may issue a summons requiring a person to appear before the Inquiry at a specified time and place to give evidence or to produce evidentiary material or (both) and may administer an oath or affirmation to a person appearing before the Inquiry. A summons to produce evidentiary material may, instead of providing for production of evidentiary material before the Inquiry, provide for production of the evidentiary material to an authorised person nominated in the summons.

6—Obligation to give evidence

Clause 6 of the Bill concerns a person's obligation to give evidence. If a person refuses to comply with a summons, refuses to give evidence on oath or affirmation, or refuses to answer questions relevant to the Inquiry to the best of the person's knowledge, information and belief, the Supreme Court may, on the application of an authorised person, compel attendance of the person before the Court to give evidence or produce evidentiary material.

Subclause(2) provides that a person who, without reasonable excuse, refuses or fails to comply with a summons, refuses or fails to give evidence on oath or affirmation, or refuses or fails to answer questions relevant to the Inquiry to the best of the person's knowledge, information and belief, is guilty of an offence.

7—Privileges and immunities

The person appointed to conduct the Inquiry, and any person who appears before the Inquiry as a witness, will have the same protection, privileges and immunities as if the Inquiry were a proceeding in the Supreme Court before a Judge of that Court.

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

TRUSTEE COMPANIES (ELDERS TRUSTEES LIMITED) AMENDMENT BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

The purpose of the Bill is to amend Schedule 1 of the *Trustee Companies Act 1988* (the Act) to include Elders Trustees Limited.

Trustee companies evolved from the context of establishment of perpetual organisations to perform duties regarding trust and estate management, wills, probate and custodial services. This has expanded to include establishment of common funds, some of which are issued publicly, and undertaking corporate trustee activities enabled under the *Corporations Act 2001* of the Commonwealth.

A company must be authorised as a trustee company by inclusion in Schedule 1 of the Act. The following companies are currently included in Schedule 1:

- ANZ Executors & Trustee Company Limited;
- National Australia Trustees Limited;
- Perpetual Trustees Australia Limited;
- Perpetual Trustees S.A. Limited;
- Perpetual Trustees Consolidated Limited;
- Tower Trust Limited;
- Bagot's Executor and Trustee Company Limited;
- Executor Trustee Australia Limited;
- IOOF Australia Trustees Limited (change of name to Tower Trust (SA) Limited).

Elders Trustees Limited has:

- the capacity, expertise and commitment to provide to the public traditional trustee services such as wills, probate and estate administration; and
- adequate capital, insurance and risk management systems commensurate with proposed activities; and
- ownership and capacity to discharge duties.

The company is a wholly owned subsidiary of Futuris Corporation Limited, which is listed on the Australian Stock Exchange. Futuris Corporation is described in its last annual report as a leading Australian diversified industrial with interests in agribusiness, automotive component manufacture, hardwood plantations and property. Futuris has about 160 subsidiaries, four operating divisions and employs approximately 6 700 people.

The financial performance of Futuris for the year ended 30 June 2004 included net profit after tax and minority interests of $23.8m. The financial position as at the same date included total equity of $961m of which $518m was contributed by its shareholders.

The amendment will authorise Elders Trustees Limited as a trustee company to, for example. act as an executor of a will or administrator of an estate, or to establish common funds, by inclusion in Schedule 1 of the Act.

I commend the Bill to members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Trustee Companies Act 1988*

4—Schedule 1—Trustee companies

Elders Trustees Limited is added to the list of trustee companies.

The Hon. R.D. LAWSON: I indicate that the Liberal opposition supports the passage of this bill, and we welcome this new company, Elders Trustee Limited, to South Australia. It is a part of a strong and vibrant group, namely, the Futuris Group, which conducts a number of businesses in South Australia, employs a large number of people across a wide range of activities and is carrying on the torch of the former Elder Smith Limited, later Elder Smith Goldsbrough Mort, which has had a great history in our state.

There is only one issue about this bill which the parliament ought be aware of. Members may be aware that there was in South Australia a company called Elders Trustee's Limited, and it conducted business for wills, estates, superannuation funds and the like for a very long period in our state. That company was sold I believe to a member of the Tower Trust Group in about 1990. The company's name was changed to Austrust Limited and recently Tower Trust, and more recently the company has changed its name to Australian Executor Trustees Limited, although it still appears in the schedule to the Trustee Companies Act as Tower Trust Limited.

There is a possibility for some consumer confusion because of these changes of name and because we are now resuscitating under different ownership the name Elders Trustee's Limited. Take the hypothetical example of somebody who made a will 30 years ago before 1990 appointing Elders Trustee's Limited as their trustee. The will has never been changed or updated, contrary to all the good advice that people give to our community, so the will remains unchanged. It may be in somebody's deed box or a drawer in somebody's house and the will appoints Elders Trustee's as the executors.

When the testator dies, the will goes to Elders Trustee's to handle the estate. If they go along to the new Elders Trustee's, they are really going to a different company from the one that was originally appointed as trustee. So, there is that capacity for confusion. I know that the Tower Trust Company has raised that in connection with this proposal, and I should place on the record a letter of 27 February 2004 from the Chairman of Tower Trust, Mr Paul Teisseire, to the Chairman of Futuris Corporation and it indicates some concern on the part of Tower Trust. The letter reads:

I was very surprised to see the announcement made by Futuris to the Australian Stock Exchange on 17 February 2004 under the heading *Elders Trustee to be Re-launched*.

As you will be aware, Tower Trust Limited was formerly named Elders Trustee and Executor Company Limited (originally incorporated in 1910 as Elders Trustee and Executor Company Limited). On 14 November 1990 the company changed its name to Austrust Limited and on 13 March 1999 the name changed to Tower Trust Limited.

Although this Company, formerly Elders Trustee and Executor Company Limited, has changed its name, it is still the same company and this fact is well recognised both by clients of the company and generally in the community. The full name of Elders Trustee and Executor Company was often colloquially abbreviated simply to Elders Trustees and the name under which Futuris has announced that it will 're-launch' its wealth management and other businesses is substantially identical with the former name of this Company. This Company of course still carries on its trustee and wealth management and associated businesses.

I am sure that you will be aware of the very substantial recognition and goodwill which still attaches to the former name of this Company after some 80 continuous years of trading under the name Elders Trustee and Executor Company, prior to the change of name. You may not, however, be aware that because of the long-standing and continuing nature of trustee business carried on by this Company, it is often necessary for the Company to reconcile and reaffirm its identity as the same company as Elders Trustee and Executor Company in probate and similar documents.

It is clear that any attempt to use the name Elders Trustee by a company other than this Company will cause considerable confusion in the marketplace generally, and particularly with clients of this Company, who are very much aware of its origins and its former names. The suggestion that Elders Trustee is to 're-launched' clearly implies that this will be a continuation of the former business of this Company carried on under the name of Elders Trustee and Executor Company.

In making the announcement by Futuris, it may be that there has not been a proper understanding of the extent to which the name Elders Trustees, or variations of this name, are still identified with this Company. The matter is obviously of very great concern to the Company, and my Board and I would like the opportunity to discuss this with you as a matter of urgency before any further action is taken by either company.

That letter was forwarded to us yesterday, and I thought it appropriate to put it on the record because I believe the concerns there raised are serious concerns and a serious issue, but I think what is not stated in the letter but which should also be put on the record is the fact that, when Elders was sold in 1990, it was a condition of the sale that the name be changed so that the company that was then holding, as it were, the Elders franchise, was not agreeing to part with the name 'Elders'.

As a result of these concerns, I did take an opportunity to have a briefing, kindly offered by the government, on whether the government had addressed this particular issue, and I was advised in that briefing that these concerns of Tower Trust were in some way brought to the attention of the Attorney-General, I believe by the Office of Consumer and Business Affairs, and that in consequence of that the Attorney-General obtained an enforceable undertaking from Futuris Limited and Elders Securities Limited that any confused client would be duly referred by the new entity to Tower Trust. I think that was an entirely appropriate undertaking and I would ask the minister to indicate in his response that that undertaking has been received by the Attorney-General and that the Attorney will ensure that the undertaking is upheld.

This is a bill that is not designed to resolve any commercial dealings between these companies but is actually a bill which will allow a company which meets the appropriate criteria, has the necessary financial strength and integrity of its board, to ensure that it can discharge the duties that are imposed upon trustee companies which are registered under the South Australian legislation. So I indicate that we will be supporting the bill. It is a matter of some regret that the government has brought it on as quickly as it did and has urged upon us the necessity to get the bill through. No really satisfactory reason has been advanced for that, but we understand the commercial imperatives and we are certainly prepared to support an application of this kind, subject of course to the undertaking which I mentioned being duly acknowledged on the record by the government.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I thank the Hon. Robert Lawson for his indication of support. He did ask a question. The adviser, Mr Bodycoat, from the Office of Consumer and Business Affairs will be along after tea, so perhaps we could adjourn the committee stage until then, and I will provide the Deputy Leader of the Opposition with the advice he requested at that stage. I thank the deputy leader and I also thank the Democrats and other members for their indication of support, although they will not be speaking to the bill.

Bill read a second time.

CITRUS INDUSTRY BILL

Adjourned debate on second reading.

(Continued from 5 July. Page 2301.)

The Hon. IAN GILFILLAN: I indicate Democrat support for the bill. In our opinion, the bill appears to be prompted by the state government's desire to obtain the federal pay-outs or avoid the penalties for addressing

legislation in respect of the national competition policy principles. If that had not been the case, the citrus industry would have been left pretty much with the legislation it currently has. All along, the industry has been told that there is no way that it could keep that legislation, which, in the opinion of the industry, has provided stability. The industry does not fully understand or comprehend what will happen once the Citrus Industry Act 1991 is repealed. Legislation was originally provided to the industry in 1965 to stop growers dumping fruit into retail stores in an uncoordinated manner, and a system was requested by growers to allocate fruit evenly so that markets—that is, juice, domestic and export—could be supplied in an efficient manner.

The legislation also provided an avenue to build up packing conditions and quality standards to act as a minimum standard to supply fruit. Continuance of legislated minimum quality standards has been requested at most industry and public meetings, but it appears that they will all be lost. Internal maturity standards is one area close to the hearts of growers and packers, because they believe individuals who place immature fruit on the market do considerable damage to the industry, unless checked by an organisation such as the board, with legislation to back its actions. In respect of the proposed new bill, the removal of sections 24, 25 and 30 of the current Citrus Industry Act will have the biggest impact. These sections stipulate that growers must supply registered packers and/or processors, and only packers can supply registered wholesalers, and only registered wholesalers can supply retailers.

Under the new proposal, growers will be able to go direct to retail stores. While some of the 700-odd growers will be happy about that situation, the majority know and have said that it has the potential to drive prices down, particularly if growers supply substandard citrus, and could potentially send many of the 37 citrus packers broke. The packing sheds have been established to grade, wash, size and treat fruit so that the end product is a high quality fruit able to be supplied for our important domestic and export markets. Many growers will not be happy with the new proposed arrangements because they do not have the time, ability, etc. to supply individual retailers, and it may lead, in their view, to the bad old days before 1965 when all growers were suffering. Another area of major concern with the new bill is the new board's ability (or inability) to address rogue operators.

Under current arrangements, growers, packers, processors and wholesalers must register with the board. If a registered individual breaches the conditions of his registration, the board can prosecute, suspend or cancel their registration. These powers are very important, especially when dealing with growers or packers who, for example, refuse to implement food safety standards or provide important statistics crucial for trace back and biosecurity, etc. At present, the board advises that, if the individual does not comply, they will have their registration suspended or cancelled; and it has been proved to be a very effective measure of getting individuals to address very important issues without having to drag them through the courts.

In another area, it has been very useful, as has been the registration of growers. Packers will not take citrus from growers who are not registered with the board. They know that registered growers must have food safety standards in place at present, and to take product from unregistered growers risks their own registration. That is under the current regime. This system is very efficient because it avoids the courts and it is very effective at screening out growers trying to operate illegally. Without this system, it will be difficult to identify new growers. Under the proposed bill, the board can only apply a fine. This has several problems, I have been informed. First, there are no incentives for packers to advise the board about unregistered growers. We are certain that, under the new bill, some packers will be happy to take citrus from unregistered growers without letting the board know they even exist.

Secondly, some packers who do not have adequate food safety in place may continue to pack citrus without any fear of being stopped from trading. Instead, all the new board will be able to do is hit them with a fine. For some sheds a fine of $2 500 would be seen as a joke and they would continue to trade regardless. Thirdly, what incentive is there for the new board to prosecute, when it will need to use industry funds to mount a case and when the limited fines are likely to end up in general revenue and not back with the board? In summary, the industry has always requested a board and act with teeth, but the new proposed bill weakens the new board's ability to act; and so, at best, the fines in the current bill may act as a partial deterrent but are not substantial enough.

I do have some amendments on file, because the industry has indicated to me that it does have concerns about two matters in particular. The main concern is that this is National Competition Policy driven legislation pushing deregulation, which the Democrats have opposed in various industries with varying degrees of success. We believe that the regulated marketing of many of the primary industry products has been a great advantage to every sector of the industries involved, and it is tragic to see those structures demolished before the false god of so-called competition and deregulation.

I would like to share with the chamber some comments that came from an experienced grower from the Riverland, Mr Ted Angove. He had an opportunity to look at the bill, and I will quote a couple of his comments which he sent to me, as follows:

> The original act was brought in at the request of growers for protection from exploitation by packers and marketers in the citrus industry. The second act in 1991 refined what had gone before. It almost removed the power to set minimum prices, which did not really matter. It had growers, packers, processes, marketers all working together in a reasonably harmonious manner. The cynics are asking: the government is bowing to the feds under NCP to get dollars for the state; what is the benefit to South Australia and at what cost to the citrus industry?

In particular detail (which will be reflected in amendments that I have on file) and with reference to clause 5, Mr Angove states:

> This allows the board to perform a range of tasks for the citrus industry.

Further, he states:

> One of the grower challenges to the new act is the cost of running the new board and the manner in which it will be funded. We need a complementary clause added or an adjustment made to the word 'citrus' in these subsections where the board can perform other activities outside of the citrus industry on a fee for service basis.

I am pleased to say that I have an amendment on file to entitle the board to do just that. Mr Angove makes a couple of points reinforcing that position. As for clause 21, which deals more or less with the penalties, Mr Angove states:

> Recognising the tardiness of growers in the past to cooperate, this clause could do with some clout. The comments that I am getting suggest that the penalties should be much higher. The comment that keeps coming up all the time is that the NCP was designed to control large corporations and then the flow-on got out of hand and the citrus board of South Australia among others has been caught up in the wash.

That is the end of the quotes from Mr Angove. But, again, I indicate that another of my amendments on file increases the amount of cash fine but adds another dimension in which the board is entitled to use another form of discipline for the sections of the industry which just do not comply. I will go into more detail in committee but, suffice it to say, where an individual or an organisation involved constantly refuses to cooperate in giving the detail that is required (and quite often that detail is for health reasons, for pest control, for knowledge or for assessing the status of the industry), where there has clearly been a thumbing of the nose at the intention of this legislation (having given notice to the defaulting participant and that person continues to default), upon having receipt of a notice from the board, the board will be empowered to provide a $2 000 a day penalty for each day in which the participant fails to comply with the requirements.

I have sounded that out with other people in the industry who feel that it is definitely necessary to have that capacity if the industry is not to go down a path towards chaos, where there will be no real enforcement of the requirements of a properly organised market. I have indicated the amendments which I believe to be quite significant and which are accepted by the industry. They do not change the overall flavour or intent of the bill. I hope that, in committee, the chamber will support those amendments. I indicate that the Democrats will be supporting the second reading, and we hope that we will be able to support the third reading of the bill.

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

[Sitting suspended from 6.06 to 7.49 p.m.]

TRUSTEE COMPANIES (ELDERS TRUSTEES LIMITED) AMENDMENT BILL

In committee.

Clause 1.

The Hon. P. HOLLOWAY: During the second reading stage, the Hon. Robert Lawson referred to an enforceable undertaking from Futuris Corporation Ltd and Elders Security that any confused client would be duly referred by the new entity to Tower Trust. The Hon. Robert Lawson suggested that the Office of Consumer and Business Affairs had raised this matter and that, in consequence of that, the Attorney-General had obtained that enforceable undertaking. It is my advice that it is the intention of the government, through the Office of Consumer and Business Affairs, that that undertaking will be sought as soon as this bill is passed. That is simply because there is no point in obtaining that guarantee if the bill were to be unsuccessful. However, I can certainly reiterate that that is the intention of the government, and the Commissioner for Consumer Affairs has assured me that the office will seek that enforceable undertaking as soon as this bill is passed.

The Hon. R.D. LAWSON: I thank the minister for that answer. Can the minister indicate whether any indication has been given by Futuris Corporation Ltd and its associated company that the enforceable undertaking will, in fact, be given by it, or are we presently in the situation where we are simply going to seek the undertaking and hope that it is given?

The Hon. P. HOLLOWAY: There was some correspondence between the Office of Consumer and Business Affairs and Elders 12 months ago. The first letter was addressed from the Office of Consumer and Business Affairs to the general manager of Elders Securities. That was on 18 July. There is a response to the Office of Consumer and Business Affairs that it gives such an undertaking, and I am happy to table that document. As I said, it is correspondence from the Office of Consumer and Business Affairs and a response from Elders, which I think addresses the matter asked by the opposition.

The Hon. R.D. LAWSON: I thank the minister for tabling that document. I think it is appropriate that it be on the public record to show that the fears that were expressed in the correspondence, to which I referred, have been appropriately addressed. Will the minister indicate why the bill is being rushed through in such a short time, given the fact that the correspondence to which the minister is referring occurred last year? We have been happy to accommodate the government, but the parliament has not been given an explanation for the need for haste and why it has taken some time to produce the bill.

The Hon. P. HOLLOWAY: I am advised that the original application was some time around February last year, but the inquiry and assessment process has taken a very long time. It was the view of the Office of Consumer and Business Affairs that the matter should be resolved as quickly as possible, and that we should not wait for another two months, or so, for it to hang over the break, given that this matter has been around for a long time. Unfortunately, that inquiry and assessment process has taken longer than one would like, given it is now nearly 18 months since the time of the application.

Clause passed.

Remaining clauses (2 to 4) and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

CITRUS INDUSTRY BILL

Second reading debate (resumed on motion).

(Continued from page 2367.)

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank members for their contributions to the debate on this bill. The bill was generated following extensive consultation with the industry and moves the focus of legislation from marketing control (as evident in the current act) to industry development. Some issues were raised by the shadow minister during her a second reading contribution, and I now wish to address each of those points.

The shadow minister mentioned a transition period of three years. However, no transition period is specified in the bill. It is anticipated that, once the legislation comes into force and the new board is appointed, a transition period of several months, rather than years, will be required for the new board to be fully functional. On the question of the period before review of the act, the suggested period was based on the board's having two three-year terms. It was considered that a shorter period of time might not be sufficient to allow the new board to have all its programs fully operational and may lead to a shortened planning horizon for the board. Having said that, the government is happy to consider a reasonable alternative time frame.

The shadow minister also indicated that there appeared to be a misunderstanding in relation to extending the food safety requirements to both growers and packers. This matter was clarified at a special teleconference on Friday 24 June 2005, when it was agreed that, for the sake of simplicity and cost minimisation, the requirements would apply only to packers. I understand that the shadow minister recently received confirmation from the Citrus Board of South Australia to that effect.

On the matter of a poll of growers, there has been a long and comprehensive consultation process, dating back to 2002, with the citrus industry about the future services and legislation it requires. Key industry participants expressed the desire that new legislation be put in place as soon as possible. A comprehensive survey of growers was undertaken in late 2002. The survey was direct mailed to all citrus growers and sought information about the kinds of services they required in the future, the issues they believed constrained the development of their business and the type of industry organisation they thought might be needed in the future.

Subsequently, in March 2004, a draft bill was circulated throughout the industry that indicated the removal of marketing elements from the current act and the repeal of the act on 1 July 2005. The industry expressed considerable concern at its not having a board and an act that linked the growing, packing, processing and marketing sectors of the industry. As a consequence, a further bill was drafted under the ministerially appointed Citrus Industry Implementation Committee. The committee took account of information gathered in the survey and the responses from the initial 2004 draft bill.

The 2005 draft of the bill went to public consultation in January and February. The consultation process invited comments via direct mail notices to all growers, packers, processors and marketers; public notices in all Riverland newspapers and *The Advertiser*; public meetings at Berri and the Adelaide produce markets; a comprehensive package of information available for mailing and accessible via the PIRSA web site; and articles in the Citrus Board direct mail newsletters. The small number of responses came mostly from industry organisations.

The shadow minister also referred to the matter of fines for failure to notify. The levels of fines indicated in the bill are in line with those used in a number of other acts that require the licensing of industry participants. The fines set down the maximum penalties that would be expected to be applied in the more extreme cases. Knowledge of when and where plantings of citrus occur is vital for the purposes of biosecurity. An up-to-date database is critical in helping to protect the interests of South Australia's citrus industry. Salient lessons can be learnt from the citrus canker situation that arose in Queensland. Encouraging the timely collection of data assists the industry to effectively and efficiently manage itself. The bill provides an opportunity for the enhanced growth of this important South Australian industry.

The Hon. Ian Gilfillan flagged some amendments which we will consider at the committee stage, and my responses to those are best handled in that forum. I thank honourable members for agreeing to deal with this bill as expeditiously as possible, and I commend it to the council.

Bill read a second time.

In committee.

Clause 1.

The Hon. J.S.L. DAWKINS: In her speech concluding the debate, the minister mentioned a direct mailing to all citrus growers. Will the minister clarify whether that was sent to all registered citrus growers? Can she advise the committee of the number of citrus growers in South Australia? The minister may have to bring that information back to the committee.

The Hon. CARMEL ZOLLO: I am advised that it is approximately 740, but we would have to check as to who is currently registered. It sometimes varies from day to day. It also includes packers, processors and wholesalers.

The Hon. J.S.L. DAWKINS: Is the minister prepared to provide me with that information once it has been checked?

The Hon. CARMEL ZOLLO: Yes, we undertake to do that.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. IAN GILFILLAN: I move:

Page 5, after line 20—Insert:

(1a) The board may, in addition to carrying out its functions under subsection (1), provide any other services that the board thinks fit.

In my second reading contribution, I outlined the reasons for this amendment. Very simply, it is to enable the board to use the expertise and capacity it will have built up within its own application to the citrus industry to the benefit of other industries, probably most notably, but not exclusively, other areas of the horticultural industry. What should be attractive to the government, the opposition and all those involved is that it will provide an opportunity for the board to gather some fees from outside the citrus industry to help support the operation and running of the board, as well as making more efficient use of the board's expertise.

The Hon. CARMEL ZOLLO: I indicate that we accept this amendment. We understand the honourable member's reasoning in so far as it strengthens the functions of the board, and it is more explicit.

The Hon. CAROLINE SCHAEFER: The opposition accepts this amendment. It gives the board more flexibility in its ability to use its expertise, almost, as I understand it, in a private contractual fashion, if necessary. The opposition cannot see anything wrong with that, and we support the amendment.

Amendment carried; clause as amended passed.

Clauses 6 to 19 passed.

Clause 20.

The Hon. IAN GILFILLAN: I move:

Page 9, line 29—Delete '$5 000' and substitute '$7 500'

This amendment is in response to approaches I have had from the industry indicating that the penalties for noncompliance are not substantial enough, and this was the figure put forward by parliamentary counsel when I asked them to draft the amendment.

The Hon. CAROLINE SCHAEFER: The opposition supports these amendments. We have made it a practice not to support increases in fees and penalties because the government has had a tendency to increase them by 200 and 300 per cent in one go. Since I have been in this place, we have seen, for instance, with the heritage bill (which we will probably also deal with tonight), changes in fees from $30 000 to $75 000 and even $120 000. This seems to a reasonable increase and is probably in line with not much more than CPI. As it was explained to me, it is difficult to find similar industries, but it is probably realistic when compared with the system of fines and expiation fees for

similar industries. So, we will be supporting this series of amendments.

The Hon. CARMEL ZOLLO: I indicate that the government will also support a series of amendments to be moved by the Hon. Mr Gilfillan, and we can speak to them as one if the Hon. Ian Gilfillan is happy for that to happen. I put on the record that the existing penalties are in line with the penalties imposed in similar legislation. Nonetheless, we are prepared to accept these amendments.

Amendment carried.

The Hon. IAN GILFILLAN: I move:

Page 9, lines 37 and 38—Delete all words in these lines and substitute:

Maximum penalty: $5 000.

Expiation fee: $315.

Page 10, lines 4 and 5—Delete all words in these lines and substitute:

Maximum penalty: $5 000.

Expiation fee: $315.

The Hon. CARMEL ZOLLO: The government supports the amendments.

Amendments carried; clause as amended passed.

Clause 21.

The Hon. IAN GILFILLAN: I move:

Page 10, lines 35 and 36—Delete all words in these lines and substitute:

Maximum penalty: $5 000.

Expiation fee: $315.

This amendment is identical to previous amendments and is consequential.

Amendment carried; clause as amended passed.

New clause 21A.

The Hon. IAN GILFILLAN: I move:

After clause 21, insert new clause as follows:

21A—Enforcement notices

(1) If the Board believes, on reasonable grounds, that a citrus industry participant has contravened a provision of this Part, the Board may serve a written notice on the citrus industry participant requiring the citrus industry participant to take action specified in the notice, within a time specified in the notice (which must be reasonable), to remedy the contravention.

(2) A citrus industry participant who contravenes or fails to comply with a notice under this section is guilty of an offence.

Maximum penalty: $2 000 for each day on which the offence is committed.

(3) The Board must, if satisfied that a notice should not have been issued under this section, cancel the notice (in which case the notice is taken to be of no effect).

(4) A person to whom a notice is directed may, within 1 month after service of the notice, appeal to the Administrative and Disciplinary Division of the District Court against the issuing of the notice.

This amendment is a little more challenging than the earlier amendments, and I was prompted to ask parliamentary counsel to draft it after discussions with people involved in the industry and with the Citrus Board. The people I consulted faxed their opinions back to me, and I think it is reasonable to share with the committee a fax from Carol Walker, who is a board member. Underneath the text, which I have just read out to the committee, she says, 'Thanks Ian, I agree with those changes; looks good. Regards, Carol.'

I think it is important, in considering this amendment, that I also share with the committee an email I received from David Cain, the previous executive director of the Citrus Board of SA who is highly regarded—in fact, he was decorated with an award for his work for the industry—and who is, to a large extent, attributed with establishing citrus industry marketing in the US. His email to me reads:

> There are many factors that I don't like about the proposal, but I know I am dreaming if I think the legislation will require people to do things because it is in the industry's best interests. I am doubtful that they will do it voluntarily and if all don't do it then the information will be worthless. I am talking about some of the stats the board puts out now, ie, weekly distribution reports, how much fruit was harvested, the balance remaining based on seasonal estimate, and then the reports tell which markets it went to—domestic, interstate, export (only about 7 per cent of all citrus fruit grown in South Australia is sold as fresh fruit in SA, a lot goes to interstate markets and overseas and the remainder to juice). Planting stats are also valuable because it takes seven years for a new tree to reach a commercial yield and unless you are aware of what is in the nursery stage you could end up. . . responding to an increase in demand by planting new trees when there are already enough in the ground. The ability of the board to assist in monitoring the food chain and food safety issues under the existing system will also be lost with growers being able to sell direct to retailers using any sort of container. Who will monitor hygiene issues, how will trace back be achieved if there is another Nippy's type salmonella incident? These are but a few points. . .

This amendment, although I believe not too onerous, enables the board to properly discipline an industry to comply with what are basic and essential requirements of the legislation. It has been said to me that if we just rely on the fine capacity there will be those to whom this is not particularly significant. There will be no obligation to provide to the board detail which (as I have just indicated) is, in David Cain's opinion, essential for the proper management of the industry.

I recommend this amendment. It is a little more complicated than the others but the members I have spoken to, the chair of the board (I cannot say officially from the board because it has not sat and deliberated on it), Carol Walker (who I have mentioned), and Ted Angove from the Riverland, who has also been involved in the industry for many years, all endorse this initiative, and I hope it will be supported.

The Hon. CARMEL ZOLLO: I have to indicate that the government will not be supporting this amendment. Industry participants can already be fined under this section of the act. This does add additional penalty where someone continues to contravene the act on an ongoing basis, and we see it as being very draconian and heavy-handed. We will not be able to support the amendment.

The Hon. CAROLINE SCHAEFER: It somewhat saddens me to say that the opposition will not be supporting this amendment, either, and more because the Hon. Ian Gilfillan has put this amendment forward today. I have absolute respect for Carol Walker, Ted Angove and David Cain, all of whom I know—and I know Carol Walker and Ted Angove particularly well as I meet with the Citrus Board on a quarterly basis. At no time have they put this amendment forward to me and, again, I am quite attracted to the aims of the Hon. Ian Gilfillan's amendment, but the Citrus Board is not the only player in this particular game. The citrus growers association contacted me this afternoon. It believes that this amendment is too heavy handed. If the Hon. Ian Gilfillan wishes to alter his amendment to bring the fines and the expiation fee in line with the rest of the changes he has made in the bill, I am prepared to support that.

If my amendment, which is to reduce the time of the review of the act from six years to three years, is carried, I believe that gives people sufficient time to see whether there is recalcitrance and, if there is, for us to make these changes at that time. However, given that this piece of legislation has had an incubation period of some four years, or possibly longer, and has been very much a compromise, sometimes

willing, sometimes unwilling, by all the key players in the citrus industry, I find myself unable at this late stage to support this amendment. As I say, I am attracted to the board having some of the market information which is definitely necessary if we are to retain a competitive export market, and giving it the power to require that is very attractive, but the current bill allows for the requirement of many different pieces of information as it is, and I think perhaps I should read some of those into the record.

The board may require, for example—and it is not limited to these requirements—particulars of citrus trees planted or removed or otherwise lost or destroyed; particulars of citrus fruit by reference to type, variety, size, grade, quality, quantity, or any other factor, produced, delivered for sale, purchased, sold or processed within a specified period; an estimate of citrus fruit or citrus fruit product that a person expects to produce for marketing within a specified period; particulars relating to food safety, food safety arrangements and auditing food safety arrangements; particulars relating to citrus pests and diseases and prevention or control measures; and particulars required to determine the amount of a participant's contribution to the Citrus Industry Fund. The board may require, by written notice, a citrus industry participant to produce for inspection records or copies of records, and so the list goes on.

It seems to me, therefore, that there are quite substantial powers within the current bill and my view is, therefore, that we should at least give this bill the opportunity to settle and see whether it works before we bring in an even larger sledgehammer to crack what might turn out to be quite a small nut. So, with some reluctance, the opposition will not be supporting this amendment. However, as I said, if the Hon. Ian Gilfillan chooses to move an amendment to increase the penalties in line with his other amendments, I will happily support that.

The Hon. IAN GILFILLAN: I appreciate the contribution by the Hon. Caroline Schaefer. I must confess I am not quite clear what she means in suggesting that I move an amendment that matches previous amendments. Perhaps I can ask her to elucidate what she means in that respect.

The Hon. CAROLINE SCHAEFER: As I see it, at the end of clause 21, the maximum penalty is $2 500 and the expiation fee—

The Hon. Ian Gilfillan: No, that has been changed.

The Hon. CAROLINE SCHAEFER: You have changed that? Then I am happy with that then. I was not sure. I thought it was the previous one.

The Hon. IAN GILFILLAN: No, it has been done. I am very sorry at the position that the opposition, through its shadow minister, has taken in this respect. The problem is that, though there is a penalty listed in certain circumstances, the industry says that there is going to be a lot of opportunity for trading which will not be identified. Because the new bill offers the opportunity for growers to market direct to retailers, there is no obligation, and the penalties are not in the context we currently have in the bill, even with their monetary value lifted, of acting as an effective controller of the way the industry will operate.

I apologise that there was not more time for deliberation. That, however, was not deliberate, and I do not think for a moment that the Hon. Caroline Schaefer has alleged that. However, because of the significance and the importance of the observations I received, the Democrats felt it was important to put these amendments up. A big stick is being wielded over industry, saying, 'We are going to destroy all the stability and the security of the management of this industry because we are under pressure from the National Competition Policy and if we don't do that we are going to lose some monetary payment.' I am not quite sure how accurate that is. However, that is the pressure, and it is my belief, and reflected in the observations the industry made, that it suspects that the only motivation to this legislation was not because there was something wrong with the machinery which was working very well; it is because of this pressure of the National Competition Policy.

When an industry and its structures are threatened with total demolition, the people involved are inclined to be very timid in pushing for what they believe are absolute essentials, and that is why, in discussion, it was very clear to me that they were desperate for the board to have significance, so it had to have the power to enforce the requirements of this legislation. They were not asking for extra requirements.

They recognise that, with the penalties and the structure currently in the bill, there was not enough incentive or punitive power—they would not be complied with. We would expose the industry to the problems which have been foreshadowed in the material which I have already put forward. I have known the game long enough to know that it is unlikely that the Hon. Caroline Schaefer will change her position. I think it is important that we pass this amendment. I believe that the minister is looking at this whole issue constructively and I have no reason to doubt that he is prepared to think through this and discuss it further if he believes it is important for the industry to do so. But, if this is not going to get up, end of story. I think that is a very sorry reaction to what has been a call for help from the industry.

I do not intend to be the opposition's conscience, but I do respect the Hon. Caroline Schaefer's integrity in any of the areas she addresses. She may like to consider that, in this instance, it is worth passing the amendment so it can have further consideration in the final drafting of this bill.

The committee divided on the new clause:

AYES (5)

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

NOES (12)

Dawkins, J. S. L.	Gazzola, J.
Holloway, P.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Ridgway, D. W.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	Zollo, C. (teller)

Majority of 7 for the noes.

New clause thus negatived.

Clauses 22 to 26 passed.

Clause 27.

The Hon. CAROLINE SCHAEFER: I move:

Page 12, line 15—
Delete '6 years' and substitute:
3 years

As I indicated last night in my second reading contribution, it seems to me that this bill departs quite dramatically from the previous practices of the citrus industry. Therefore, a compulsory review is written into this bill, but six years seems to me to be an inordinately long time in which to operate before such a review is conducted. It was explained to me—and, indeed, the minister has explained again tonight—that the reason for opting for a six-year period was that it was two three-year periods for the new board. How-

ever, I have never seen anything particularly wrong in asking a board to get up and running quickly and prove its performance. Most of them will be experienced operators in the citrus industry. Most of them—all of them, in fact—have had, as I have said, some four years' notice that this was coming.

I have received assurances tonight (from the minister and in a briefing) that, in fact, the transition period should not take any more than nine months—at the absolute most 12 months. I think that shortening the period for the compulsory review to take place does in some way alleviate some of the concerns of the Hon. Mr Gilfillan in that, if this bill is not working, it gives us a much tighter time frame to make the necessary changes. I think that it may also alleviate some of the concerns of other people who are concerned about this whole process if they know that there is to be a much shorter review period. My amendment seeks to halve the time for the compulsory review from a six-year term to a three-year term.

The Hon. CARMEL ZOLLO: As the honourable member mentioned, the six-year term, as it appears in the act at the moment, represents two terms of the board. I indicate that we will accept the amendment. Of course, following that review it might be a necessary step to update the act.

Amendment carried; clause as amended passed.

Schedule and title passed.

Bill reported with amendments; committee's report adopted.

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

That this bill be now read a third time.

The Hon. IAN GILFILLAN: I indicate that I still regard the last and perhaps arguably the most significant amendment that I attempted to put in the committee stage as critical and important. I do want to encourage those who are interested in the industry, from both the government and the opposition, to keep immediate contact with the industry. We may not be able to have the luxury of waiting even the three years with respect to the amendment the shadow minister has put in place. If this system is not working and we have one more Nippy's-type scandal, the industry will take an extraordinarily cruel blow.

What about the canker threat from Queensland? The whole industry depends on its integrity to market to America, because it is properly supervised and regulated; and, to a large extent, the legislation scuttles that. To have not accepted the only measure the board had to police it, I believe, is a most regrettable step. It is long past the time that the Democrats can be successful in introducing that amendment in my contribution to the third reading. I hope that it does resonate around this parliament (both government and opposition) that we cannot afford to wait for three years to measure what is happening. The board should be consulted on a regular basis and, if need be, emergency legislation should be introduced to readdress the amendment which was defeated but which was moved by the Democrats to give the board proper regulatory power.

Bill read a third time and passed.

HERITAGE (HERITAGE DIRECTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 July. Page 2301.)

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank members for their interest in the protection of the state's built heritage. I note from the debate a strong focus on the need to improve the protection of local heritage places. In that regard, I would restate the government's significant commitment to addressing the appropriate protection of local heritage. For example, approximately $2 million has been allocated for the period 2004-05 to 2008-09 to support local heritage, including $777 000 for the expansion of the Heritage Advisers Scheme throughout the state.

There will also be additional support for local council heritage surveys and assessment programs as well as an extension to management programs, training, conservation guidelines and other initiatives that are being developed at present. Aside from these initiatives, the sustainable development bill specifically sets out to improve the planning protection provided to local heritage places and, by comparison with the Heritage (Heritage Directions) Amendment Bill, addresses matters of state heritage significance and, as such, the two bills are proposed to complement each other to provide more encompassing protection of our heritage.

The government will continue to support the renaming of the State Heritage Authority to the South Australian Heritage Council. The council has added responsibilities of a strategic nature, and the elevation of its role deserves recognition. The government is of the view that the name 'South Australian Heritage Council' conveys the strategic importance and high level of the role. I would expect, for example, that members of the Legislative Council would consider this place to be appropriately named to reflect our important role. Another example that comes to mind is the newly appointed Natural Resources Management Council under the Natural Resources Management Act 2004. This council is a high level body that is, for example, presently working on the development of the first state natural resources management plan for the consideration of the Minister for Environment and Heritage. Its key role is recognised through its name as opposed to being diminished by it.

I also draw the attention of members to the network of similar heritage bodies around Australia, which includes the Australian Heritage Council, the Heritage Council of New South Wales, the Heritage Council of Victoria, the Heritage Council of Queensland, the Heritage Council of Western Australia, the Tasmanian Heritage Council, the Heritage Council of the ACT and the Heritage Council of the Northern Territory. Accordingly, the government considers that there is a strong argument to support the proposals set down in the bill to refer to a South Australian Heritage Council.

I note the call for greater transparency in decisions by the State Heritage Authority (or, as it is proposed to be, the South Australian Heritage Council). In this regard, I advise that the minutes of the meetings of the State Heritage Authority must be made available for public inspection without charge as per section 7(7) of the Heritage Act 1993. I am informed that these minutes document the decision making process in relation to the listing of state heritage places. Where decisions are made under delegation, the reasoning is similarly set out in the files kept on each issue; and, again, this information is available.

In relation to the advice from an unnamed heritage consultant about delays in the state heritage listing process at present, I consider that this is a misunderstanding of the situation and offer some clarification. The term of the State Heritage Authority ended on 27 June 2005. A number of

delegations, including the capacity to provisionally list a place, enabled the officers of the state heritage branch to continue their work. The power to confirm a listing, however, cannot be delegated, so no new listings will be confirmed until the first meeting of the new South Australian Heritage Council. Subject to the timely passage of this bill, it is expected to happen before the end of October 2005. It needs to be made very clear that there is no intention to transfer the protection of state heritage places to local government under the provisions of the Development Act 1993.

The question has been raised as to the need for substantial increases to various penalty provisions of the bill from about $15 000 for former division 4 fines for, say, excavating a registered place of archaeological significance without a permit, to $75 000. I point out that, although the types of penalties referred to here have not been increased since the passage of the Heritage Act 1993, CPI indexation is clearly not the issue. The issue is to provide a maximum penalty that might pose a meaningful deterrent to deliberate acts. In this regard, the government has taken legal advice and calls on the members present to consider the gains that can be had from illegal behaviour. I also would reinforce here that penalties are applied only by the courts to those who do not obey the law. Those heritage owners setting about to do the right thing have little to fear from the proposals set out.

In respect of the proposed maximum penalty of $120 000 for non-compliance with a stop order, I invite the members present to compare this amount with current development property values and note that even this level of penalty may be insufficient to prevent those intent on damaging a state heritage place for commercial gain. During discussion of this issue I will set out some of the penalties applied in comparable legislation interstate so that members can assure themselves that South Australia is not proposing overly high penalties. In fact, members will have the opportunity to note that the proposed South Australian penalties could, in some instances, be considered modest.

It is noted that previously there have been some concerns from people who collect palaeontological and speleological specimens. Assurance is sought that clubs will be catered for under this act. I am advised that a person from such a club will be able to apply for a permit to undertake certain activities, such as excavation or removal of specimens, in places of state heritage significance. The main difference is that protection is being extended from geological and palaeontological specimens to include speleological specimens.

The Hon. Sandra Kanck: It means fossils.

The Hon. CARMEL ZOLLO: I know what it means: I am just having trouble pronouncing it. Again, I thank all honourable members for their contribution and I look forward to the speedy passage of this legislation.

In committee.

Clause 1 passed.

Clause 2.

The Hon. SANDRA KANCK: I have a question of idle interest in relation to the commencement date. This bill and the sustainable development bill are working in tandem. Given that the committee stage of the sustainable development bill has been put off until September, will it make any difference to the date of proclamation? Will they be proclaimed at the same time or can they be proclaimed separately?

The Hon. CARMEL ZOLLO: I am advised that they can be proclaimed separately, and both bills can stand alone.

Clause passed.

Clause 3 passed.

Clause 4.

The Hon. SANDRA KANCK: I move:

Page 4, line 14—
Delete 'council' and substitute:
authority

I addressed this issue in my second reading contribution; that is, the weightiness of the title 'authority' being changed to a mere 'council'. I think members should also consider, as well as that issue of the weightiness of the title, that it does downgrade it. For instance, we used to have the native vegetation authority and it became the Native Vegetation Council. It does not have that same weight in the title. It almost disappeared off the horizon as a body once the title was changed. I fear that it could happen here. I also stress that the heritage council will be interacting with local government councils. There is the opportunity for confusion. I do indicate, by the way, that, although my amendments total 21 pages, the bulk of them are consequential on this amendment being carried.

The Hon. CARMEL ZOLLO: I understood that I had addressed this issue in the concluding remarks.

The Hon. Sandra Kanck: It was not enough to stop my moving the amendment, though; it was not convincing enough.

The Hon. CARMEL ZOLLO: I can reiterate what I said in my concluding remarks, but I take it that it will not stop you. In that case, I will not try.

The Hon. CAROLINE SCHAEFER: The opposition will not be supporting these amendments. Frankly, I cannot see that there is much difference between a council and an authority. It is the same as the difference between a car and an automobile, or being the Hon. Caroline Schaefer or Mrs Caroline Schaefer. It is the same vehicle, whichever way you look at it. If there is a difference, I would think the council would have more of an advisory role and less of an authoritarian role, and that seems to me to be part of the principle of this bill. While I respect the Hon. Sandra Kanck's concerns, it is splitting hairs, so the opposition will not be supporting the amendment.

Amendment negatived; clause passed.

Clauses 5 to 22 passed.

Clause 23.

The Hon. SANDRA KANCK: I move:

Page 14, lines 8 and 9—Delete subclause (4) and substitute:
(4) Section 17(2)(b)—delete paragraph (b)

This amendment goes hand in hand with the next amendment and is, I guess, presequential. The amendment addresses the issue I raised in my second reading contribution, that is, what is happening at the present time. The heritage authority has been getting local councils to carry out heritage surveys. When they have been done, the authority has told the councils that it is too overloaded with the work it has to do to get them on to the state list and, instead, has told the councils to place them on the local list. Once the local council has done the work and decided that something needs to be on the state list, this amendment provides that it can be given interim protection.

The Hon. CARMEL ZOLLO: I indicate that we will not support this amendment. We believe that provisions already exist in the state Heritage Act 1993 to provisionally register a place of state heritage significance, and there is no need to duplicate the present process, which works well, by amending

clause 23. The following are two examples of the State Heritage Authority's using provisional entry in the register to provide interim protection—first, the bull ring at Pooraka stock markets. A development application had been lodged for its demolition. Provisional entry in the register was used to provide immediate protection and invoke section 53(4) of the Development Act, which retrospectively applied the heritage listing to precede the development application. Another example is Bragg House, the public schools club, which was provisionally entered to provide time for its heritage significance to be properly assessed. Subsequently, the State Heritage Authority found that it met the criteria for a state heritage place, and entry in the register was confirmed.

I am advised that the current process has the benefit of enabling the State Heritage Branch to engage with and explain the merits of listing to the owners of property before it is provisionally listed. This early engagement does not mean that listing will become optional, but it assists in bringing many owners on side and involving them in the decision making of the State Heritage Authority. Another important distinction is that the heritage consultants working with local government on local heritage matters are the expert source of advice to inform the decision making of the council. By comparison, this is not the case in respect of state heritage places. The State Heritage Branch is the primary expert source of advice informing the final decision making of the State Heritage Authority. Its advice may well differ from that of a consultant. Listing on the basis of a consultant's advice in such circumstances could lead to inappropriate and unnecessary interim listings.

The Hon. CAROLINE SCHAEFER: The opposition will not be supporting this amendment. I have listened to both arguments, and I think that the word 'may' allows for more flexibility. There is sufficient authority within the bill as it currently stands.

The Hon. NICK XENOPHON: I recognise the intent of what the Hon. Sandra Kanck is doing. However, my understanding, based on the minister's explanation, and my own research into this issue, is that a more appropriate vehicle to achieve what the Hon. Sandra Kanck is seeking would be through the sustainable development bill. If the Hon. Sandra Kanck wishes to disabuse me of that notion, I would be happy to hear from her. But my understanding is that what is being sought can be facilitated in the existing legislation; any expansion of that would be more appropriately dealt with under the auspices of the sustainable development bill.

Amendment negatived; clause passed.

Clauses 24 to 30 passed.

Clause 31.

The Hon. SANDRA KANCK: I move:

Page 19, lines 28 to 30—Delete paragraph (b) and substitute:
(b) if or when the amendment is made to the Development Plan, make any alteration to the register as it thinks fit.

This amendment is to make it clear that there can be no removal of an item from the state list where it has been reassessed as no longer worthy of state listing but should go to local listing until the item has been gazetted, as per section 29 of the Development Act.

The Hon. CARMEL ZOLLO: I indicate that the government supports this amendment. We believe that this amendment has merit, as it ensures that a state heritage place that is to become a local heritage place is not removed from the register as a state heritage place until it is recognised as a local heritage place in the Development Plan. We believe this amendment reflects the current process.

The Hon. CAROLINE SCHAEFER: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clause 32 passed.

Clause 33.

The Hon. CAROLINE SCHAEFER: I move:

Page 20, line 7—Delete '$75 000' and substitute '$15 000'

This is a test amendment. As I said in my second reading speech, the opposition does not believe that the government's consistent changing and increasing of penalties is, in many cases, appropriate. It has nothing to do with CPI. As I have done many times in this chamber, I will give some examples. This clause will change the fine from $15 000 to $75 000 and, in some more extreme cases, it changes the fine from $7 500 to $25 000. This amendment is consistent with our principle. In many different bills, we are seeking to retain the current system of penalties.

The Hon. CARMEL ZOLLO: As stated earlier, the government is of the view that the increases to the penalties in the bill are not inappropriate. One has only to refer to some of the penalties applied interstate with respect to heritage matters to see that this is the case. For example, the comparable Victorian offence for disturbing a place of archaeological significance (as per section 27 of the act) is $65 000 and/or one year imprisonment for a person and $130 000 for a corporation. This bill proposes increasing the penalty from a mere $15 000 to $75 000. If we do not increase the penalties in the legislation, there must be serious questions about the intent of the Legislative Council to protect our heritage. If the Hon. Caroline Schaefer so wishes, I can provide her with a table of comparable penalties applied interstate.

The Hon. CAROLINE SCHAEFER: With respect, I would hate to think that South Australia will go down the same path as Victoria. I think the minister has chosen a particularly bad example of how a government should and can behave. In my view, the Victorian government makes no attempt to engage its populace to bring them on side and to have them value anything. I believe they have simply continually upped fines until the population of Victoria have had enough. This is the state that now charges grandparents a $50 licence fee to allow their grandchildren to collect eggs on a farm. I think the minister has used a bad example.

The CHAIRMAN: I do not think the honourable member is convinced, minister.

The Hon. CARMEL ZOLLO: I am advised that we have a smorgasbord here of all states I could be reading from. Victoria is just one example, and it was chosen at random. There are plenty of other examples, if the honourable member indicates that she wants to listen to them.

The Hon. SANDRA KANCK: I oppose this amendment on behalf of the South Australian Democrats. We are talking about places of geological, palaeontological or archaeological significance. These are things, by their definition, that are going to be hundreds, if not millions, of years old. I think of the Ediacaran fossil exhibition down at the Museum last year—imagine if someone went to the site they came from and took some of that away. In that particular case a $75 000 fine would not be enough to impose on someone who stole that. Something like that is heritage to all of us and if the people who go into a site and take this material can be apprehended, I think they should have the book thrown at them. This is only a maximum fine, as well; when it gets to a court it may not be $75 000 that is actually imposed, it could be anything less than that. The thought of taking it

down to $15 000 just does not compute when you are talking about things which could be millions of years old.

The Hon. NICK XENOPHON: I do not support the opposition's amendments.

The Hon. Caroline Schaefer interjecting:

The Hon. NICK XENOPHON: In response to the Hon. Caroline Schaefer, there are plenty of times when I support the opposition's amendments on a range of other bills. In this case I understand that these penalties were last in place in 1994, and since that time I believe the CPI has gone up in the order of 35 per cent and property values have gone up much more than that. I think it is appropriate that there be higher maximum penalties, and it is a point that has been made by the Hon. Sandra Kanck, to provide a deterrence to those who flout these orders.

I do not think what the government is proposing is unreasonable, in all the circumstances. Again, it is a maximum penalty and there have been substantial increases in the value of property. I think you need to have a disincentive, a deterrent, to those who wish to flout heritage orders and this seems to be an appropriate set of penalties.

The Hon. CAROLINE SCHAEFER: Mr Chairman, I can count; however, I would like to ask the minister: how many fines have been applied for disturbance of such objects in recent years, and how many times has the maximum penalty been applied?

The Hon. CARMEL ZOLLO: I am advised that there have been none in recent years; that is our belief at this time.

The Hon. CAROLINE SCHAEFER: As I said, I can count, but I want to make the point that there does not therefore appear to be any great need for a $75 000 maximum fine given that even at $15 000 people are generally respecting these items of state heritage and not deliberately removing or defacing them. I have been around long enough to know that I am not going to change anyone's mind, but I cannot help but make the point that we could make it $5 or $5 000 or $50 000 and it may not make any difference.

The Hon. SANDRA KANCK: The Hon. Caroline Schaefer's contribution has caused me to rise to my feet to ask the minister whether the fact that there have been no fines against anyone over the last few years is an indication that no-one is breaking the law.

The Hon. CARMEL ZOLLO: Logically, I think that would follow.

Amendment negatived; clause passed.

Clauses 34 to 39 passed.

Clause 40.

The Hon. CARMEL ZOLLO: I move:

Page 25, after line 3-Insert:

(5) The minister must take reasonable steps to ensure that the occupier of the land is consulted before a heritage agreement is entered into or varied so as to bind the occupier in the manner contemplated by subsection (2)(b).

In debate on the bill in the House of Assembly on Tuesday, 24 June, the member for Davenport raised an issue concerning consultation requirements in clause 40. It concerns the rights of the occupier of a place at the time a heritage agreement is drawn up. The heritage agreement is entered into between the minister and owner but may place obligations on the occupier inconsistent with any lease agreement between owner and occupier. It is possible that a heritage agreement could place obligations upon an occupier to which that person had not agreed or on which they had not been consulted. Because the signing of a heritage agreement between minister and owner can place obligations on the occupier, and because the current act and bill do not expressly require consultation about such obligations with the occupier at the time the heritage agreement is drawn up, we have proposed an amendment to clause 40(6) to provide for appropriate consultation and I read out before what the intent of that amendment is.

The Hon. CAROLINE SCHAEFER: The opposition supports this amendment. As the minister said, this is as a result of concerns raised in another place, and the only thing that perhaps concerns me is the minister saying that consultation must take place. I think it is essential that notification take place.

The Hon. CARMEL ZOLLO: I apologise. I should explain what the reasonable steps are. It requires the minister to take reasonable steps to ensure that the occupier has been consulted prior to signing a heritage agreement with the owner of the land. Reasonable steps might be interpreted to include, for instance, the minister writing to the occupier requesting written confirmation that they had been consulted by the owner and were satisfied with the draft agreement, or the minister being provided by the owner with written consent to the heritage agreement signed by the occupier.

Amendment carried; clause as amended passed.

Remaining clauses (41 to 55) passed.

Schedule 1.

The Hon. SANDRA KANCK: I move:

Clause 3, page 33, lines 20 to 23—

Delete subsection (4aa) and substitute:

(4aa) For the purposes of subsection (4):

(a) a place will be taken to be any place within the meaning of the Heritage Places Act 1993; and

(b) a designation of a place as a place of local heritage value may include any component or other item, feature or attribute that is assessed as forming part of, or contributing to, the heritage significance of the place; and

(c) the Minister may, after seeking the advice of the South Australian Heritage Council, develop or adopt guidelines that are to be used in the interpretation or application of the criteria set out in that subsection.

There are two versions of my amendments. I tabled one last week and another version was tabled yesterday. The difference is that the version last week referred to the South Australian Heritage Council and then I put the amendments on file that changed it to authority. I am moving the version that came in last week. This arose out of my considerations on the Sustainable Development Bill. Resident groups have claimed to me that the Sustainable Development Bill prevents listing of streetscapes. I have therefore had this amendment drafted to make it clear that councils can list streetscapes.

The Hon. CARMEL ZOLLO: This amendment to section 23 of the Development Act 1993 has merit and is supported by the government. I note that the current provision in the bill has now become (4aa)(c). In addition, the intention is to apply the same definition of 'place' to both local heritage and state heritage places. The amendment would also allow a local listing to include similar attributes to those that a state listing may include.

The Hon. CAROLINE SCHAEFER: The opposition supports this amendment. We believe it gives some flexibility. It provides that such listings may take place, not that they must. It allows flexibility within the council, and I think is more appropriately dealt with in this bill than in the Sustainable Development Bill, where there are similar amendments. We support the amendment.

Amendment carried.

The Hon. SANDRA KANCK: I move:

After line 21—Insert new clause:

8A—Insertion of section 104A.

After section 104 insert:

104A—Emergency protection—heritage.

(1) If a council is of the opinion—

(a) that a place has sufficient local heritage value to justify its protection under this Act, or that a place should be evaluated in order to determine whether its heritage value justifies its protection under this Act; and

(b) that an order under this section is necessary to protect the place,

the council may make an order requiring a person to stop any work or activity, or prohibiting a person from starting any work or activity, that may destroy or reduce the heritage value of that place.

(2) An order under subsection (1) takes effect on service of notice of the order on the person and ceases to have effect 12 business days after that service unless confirmed by the Court under this section.

(3) If a council makes an order under subsection (1), the council must immediately apply to the Court for an order under this section.

(4) On application under subsection (3) the Court may—

(a)—

(i) confirm the council's order; or

(ii) make, in substitution for the council's order, any other order that the Court thinks necessary to protect the place; or

(iii) revoke the council's order; and

(b) make any consequential or ancillary order.

(5) The Court may, on subsequent application under this section, vary or revoke an order that has been made under this section.

(6) A council may, at any time, vary or revoke an order that the council has made under this section.

(7) A person who contravenes or fails to comply with an order under this section is guilty of an offence.

Maximum penalty: Division 2 fine.

This is about emergency stop orders. At the moment local councils have no power to stop a demolition if a building is not already on a heritage list. This amendment gives the power to stop the activities for no more than 12 days. I am sure that anyone who has been lobbied on the sustainable development bill will know that this is something for which local resident groups have been screaming. However, I thought that the sustainable development bill was probably not the right place to put this amendment.

The Hon. CARMEL ZOLLO: I indicate that we believe this amendment is not related to this bill. This substantial proposal should be put and debated in the context of the protection of local heritage under the sustainable development bill, and we will not be able to support the amendment.

The Hon. CAROLINE SCHAEFER: The opposition opposes the amendment.

Amendment negatived; schedule as amended passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

The Hon. CAROLINE SCHAEFER: Mr Acting President, I draw your attention to the state of the council.

A quorum having been formed:

PARLIAMENTARY SUPERANNUATION (SCHEME FOR NEW MEMBERS) AMENDMENT BILL

In committee.

(Continued from 13 April. Page 1639.)

Clause 4.

The Hon. P. HOLLOWAY: Just to recap briefly, the last time we debated this bill the government announced that it would oppose the amendment moved by the Leader of the Opposition. We indicated at that time, if I recall correctly, that the government had not chosen to provide a choice of scheme in relation to the Public Service. We believe that should apply also for the parliamentary scheme. Also, we indicated that we believed that the benefits that would come from the new public scheme would be superior to those in any private scheme. We have had the arguments. We will keep to our position but accept the outcome of the committee.

The Hon. SANDRA KANCK: I indicate that the Democrats will not be supporting the opposition's amendments.

The Hon. NICK XENOPHON: I reiterate that I will support the opposition's amendments. This is about choice of super, in a sense. I have already said that I think that the state superannuation scheme is particularly well run. I would have thought that new members would not want to opt out of it into a private scheme, but that is their choice. Just as the opposition initiated this amendment that gives some degree of choice to new members of the scheme, I hope that it will not deny me the choice to opt out of the current scheme when I move my amendments in that regard.

The Hon. R.I. LUCAS: I think that we have just established where the numbers lay in relation to this issue. I outlined the opposition's position whenever we last discussed this, which, I think, was back in about April. I will not repeat the arguments. The Hon. Mr Cameron has indicated support for the amendments. So, too, has the Hon. Mr Xenophon. My advice is that this first amendment is a test clause. Should this amendment pass, the remaining amendments would be consequential on it. It is just one issue to be determined.

The committee divided on the amendment:

AYES (9)

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

NOES (6)

Gazzola, J.	Holloway, P. (teller)
Kanck, S. M.	Reynolds, K.
Sneath, R. K.	Zollo, C.

PAIR(S)

Cameron, T. G.	Roberts, T. G.
Lawson, R. D.	Gago, G. E.
Schaefer, C. V.	Gilfillan, I.

Majority of 3 for the ayes.

Amendment thus carried.

The Hon. SANDRA KANCK: Members would be aware that, over the past couple of months, I have not been willing to progress this piece of legislation. The reason is as follows—and this is, to some extent, a sub judice issue, so I have to tread very carefully. I think most MPs are aware of a situation where a person who was in a same-sex relationship with an MP who served in this parliament and who has subsequently died is attempting to gain access to his partner's superannuation. He lived with that partner for 13 years. He has gone to the District Court, and the matter has now been referred to the full Supreme Court.

The Hon. Nick Xenophon interjecting:

The Hon. SANDRA KANCK: It is next Monday. So, it is only a matter of days. I think that, under the circumstances,

it is very reasonable to put this bill on hold and deal with it when we resume in September. The purpose of this bill is to prepare the way, with respect to the next lot of MPs who are elected in March next year, to give them a new superannuation scheme. If the bill were to be passed in September, I do not believe there would be any real impediment to the administrative processes to get the new scheme set up in time for new MPs arriving at the end of March next year.

It is my intention to shortly move that we report progress in the interests of justice. I think it is most unfair that we are effectively singling out one person to ensure that he cannot have access to his partner's superannuation. However, before I move to report progress (because if I do that I know it has to be put straight away), I would like other members in this place to be given the opportunity to put their position on this matter.

The Hon. NICK XENOPHON: Whilst I do not believe it is appropriate in any way to comment on the merits or otherwise of matters before the court, I understand the Hon. Sandra Kanck's argument. My understanding is that, if this legislation is passed in the spring session of parliament (I think the government has advised today that parliament will not be prorogued; that we will just be rolling on with the existing bills before us, so there will not be any prejudice to the government in that regard), there would still be more than enough time for any administrative arrangements to be made for the new scheme to be put into place.

It may be that the position of the government is that any claim currently before the courts is being strenuously defended and is being denied. However, as I understand it, the legal argument to the contrary may be that this bill would take away any potential legal rights with respect to the matters raised by the Hon. Sandra Kanck. That is why I think there is some merit in progress being reported—

The Hon. Sandra Kanck: The issue of justice, surely.

The Hon. NICK XENOPHON: I agree that it would be most unfortunate if, by the passage of this bill, the court says that its hands are totally tied, and that it loses any discretion to make a determination with respect to the matters before it. I would like to hear from the government in relation to that. I would hate to think we are taking away, in any way whatsoever, anyone's rights currently before the court. So, for the reasons set out by the Hon. Sandra Kanck, I indicate that I will support a reporting of progress whenever the Hon. Sandra Kanck so moves.

The Hon. P. HOLLOWAY: The government will not support that course of action. I remind members that this bill was first mooted last year. It has been around for almost a year already—late 2004. Who is to say that other reasons will not be raised to block it? We have a number of bills, such as the Statutes Amendment (Relationships) Bill, that have been around for over a year; we cannot get anyone to talk on them. If we started to push off all these bills into the remaining few sitting weeks of 2005, we will not be able to deal with the government's legislative program. In any case, that is a procedural reason for not doing it.

There are other, more important, reasons for not doing it. Clause 2 provides that, as a general provision, the amendments will come into operation on a day to be fixed by proclamation. This clause also provides that section 47 will be taken to have come into operation on 3 July 2003 in order to make it clear that the Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Act 2003 does not have retrospective application. Clause 47 will insert a new schedule into the principal act to ensure that the Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Act 2003 does not have retrospective application. That act came into operation on 3 July 2003.

The proposed amendment under clause 47 does not remove any existing rights or entitlements to a benefit under the existing provisions of the Parliamentary Superannuation Act. The provision is simply being inserted into the act to avoid any doubt that the provision only applies from the commencement date of the 2003 amending act. The same clarification provisions have already been inserted in the acts that establish the schemes for public servants, teachers and police officers.

The amendment that is being proposed in this bill will simply make the provisions in this area under the Parliamentary Superannuation Act consistent with the provisions under the Superannuation Act, the Southern State Superannuation Act and the Police Superannuation Act. All we are doing, in short, is ensuring that the bill, which was introduced in 2003 and which came into operation on 3 July 2003, has no retrospective application.

The Hon. KATE REYNOLDS: I have not been following the detail of this closely because my colleague the Hon. Sandra Kanck has it all in hand. It strikes me that it is absolutely extraordinary that a government can seek to legislate in order to target a particular individual, which is what I understand these amendments are doing.

The Hon. P. Holloway: We have done it in three other acts to ensure that it does not have unintended consequences.

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! The Hon. Kate Reynolds is on her feet and has the call.

The Hon. KATE REYNOLDS: It seems to me this is an act of discrimination. I am also aware, because of the complexities spoken about before, that it would be foolish of me to attempt to speak further on this matter, but I find it extraordinary that such an action can be attempted.

The Hon. SANDRA KANCK: The minister, as part of his argument to justify an unjust measure, has suggested this legislation was first mooted last year. It does not matter how far back the legislation is mooted: if a measure is unjust, a measure is unjust. This parliament and this council has the power to put off debate on this matter until after next Monday when the Supreme Court considers the matter, in order to allow justice to be done. I received an email today from someone who has been supporting this man. I responded to her and said, 'I do not understand the inconsistency of this government when it has come to same-sex issues.' We have the Statutes Amendment (Relationships) Bill before us at the present time, and the government is doing this because it is saying that same-sex relationships need to be treated in the same way as heterosexual relationships. Here is an example of it, and when it comes to the hurdle the government has baulked at it. This woman responded that this should not be about a specific person but, rather, about a principle. I cannot see that what the government is doing is about a principle. The principle here is that someone has an action before the court, which will be considered on Monday, and we are going to say, 'Well, we don't care if there is an injustice at this point. We will push through here because it suits us.'

The Hon. P. HOLLOWAY: It would be an injustice if legislation that was introduced into parliament had a retrospective effect that was not specifically envisaged by parliament. The normal or proper convention is that all legislation is prospective unless parliament specifically says otherwise. Occasionally, we have introduced retrospective

legislation in rare cases, but in relation to the Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Act 2003 it was never the intention of anyone who passed that bill in this parliament that it should operate retrospectively; that is, prior to the date of operation.

This is the same amendment that has been put into the Police Superannuation Act, the Southern State Superannuation Act and the Superannuation Act. It is to ensure that that act does not operate retrospectively. It is not a question of an injustice. It would be a loophole and an unintended consequence of this parliament if that act were considered to be retrospective. I point out that the Statutes Amendment (Equal Superannuation Entitlements for Same Sex Couples) Act 2003 does not affect the Parliamentary Superannuation Act in any way.

The Hon. NICK XENOPHON: I indicate that I am not suggesting in any way that the government is acting capriciously or seeking to target a particular individual, but it is acting out of an abundance of caution. A case is currently before the courts using the current legislation, and the safest course would be to allow the court to hand down a decision based on the current legislation. I am not sure what the impact and the consequences would be on this particular case if the bill were passed. I presume that any action on behalf of the applicant would have been undertaken in good faith and based on the current legislative framework. I am not privy to the specific advice or the grounds of the claim in relation to the case. I have not seen the pleadings, nor have I seen any advice. I am not suggesting that the government is behaving capriciously, but I think that, out of an abundance of caution, it would not hurt for us to hear the outcome of the case before passing this legislation.

The Hon. P. HOLLOWAY: I indicate that, if this bill passes tonight, it has to go back to the other place for the amendments to be dealt with. It is not the government's intention to proclaim the bill for at least another month anyway because, obviously, a lot of work needs to be done. I assure honourable members that the bill will not take effect for some time. No-one will go rushing around proclaiming it tomorrow morning. As I said, a certain number of procedures must be gone through.

The Hon. R.I. LUCAS: Others can speak for their particular views, and the Leader of the Government has indicated his view and that of his colleagues but, when the original legislation went through this place in 2003, certainly my view was that we were talking about legislation that operated from July 2003. That was my understanding of what parliament was seeking to do. My original advice in relation to the bill was that the government's legal advice was that this provision was being inserted out of 'an excess of caution'. I think that is the phrase used sometimes by parliamentary counsel to ensure that the intention is clear. I know what my understanding was at the time. For reasons similar to those of the Leader of the Government, and as I have indicated to the Hon. Sandra Kanck, we do not propose to support a motion to report progress.

If we were to move down the path of not having a start-up date of 3 July 2003, we would be, potentially, in a position of a series of claims being made, and one has been referred to at the moment. The legal advice given to me is that, if you do not have a start-up date, there is the potential for people to go back for an unlimited period and seek access to superannuation. I understand that people have firm views in relation to one particular case, but the legal advice given to me—and I am not a lawyer—is that, if you do not have a start-up date, you open up the potential for a number of other cases.

I do not think anyone is suggesting that there will be hundreds of cases, as that would be ludicrous. However, it certainly opens up the prospect for other claims to be made on the basis that this is retrospective to the commencement of superannuation arrangements for members. I can speak only in terms of what I understood the case to be in July 2003. For the reasons the Leader of the Government has given, and for others I will not repeat, we will not support the motion to report progress.

The Hon. A.J. REDFORD: If you open up today's newspaper, you will see that the cause list comprises literally hundreds of cases. If we were to adopt the argument of the Hon. Nick Xenophon and the Hon. Sandra Kanck, we would not pass any laws in this place. Unless you can clearly identify some retrospective aspect to this, as the Leader of the Government said, courts do not interpret legislation as having a retrospective effect unless that is the clear intention of parliament. We would never pass anything. We would not pass any industrial relations legislation, and there are hundreds of cases relating to industrial relations. We would not pass workers' compensation changes, and there are hundreds of cases relating to that. If we put this off simply for that reason and say that we cannot legislate because there are cases before the court, we would never legislate. There is a whole world going on out there, and it is moving and shifting. As a matter of principle, I just do not get it.

The Hon. SANDRA KANCK: I move:

That progress be reported.

The committee divided on the motion:

AYES (4)

Gilfillan, I.	Kanck, S. M. (teller)
Reynolds, K.	Xenophon, N.

NOES (14)

Dawkins, J. S. L.	Evans, A.L.
Gazzola, J.	Holloway, P. (teller)
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	Zollo, C.

Majority of 10 for the noes.

Motion thus negatived.

The Hon. R.I. LUCAS: Mr Acting Chairman, I would like to move as many of my amendments as you and the table staff will allow me to move, because the remainder of my amendments, with a couple of technical amendments suggested by parliamentary counsel, are now consequential on the test clause.

The Hon. P. HOLLOWAY: I am happy to comply with that request, Mr Acting Chairman.

The ACTING CHAIRMAN: Thank you, minister. At this stage, I indicate to the Leader of the Opposition that he can only move amendment No. 2.

The Hon. R.I. LUCAS: I move:

Page 5, line 9—After 'delete the definitions' insert:
and substitute:
non-participating member means a member of either House of Parliament who has made an election under section 7DA;

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 5, line 24—Delete 'and 7E' and substitute:
, 7E and 7F

I have already heard the hisses in the chamber; this is the amendment that some members have been waiting for!

Members interjecting:

The Hon. NICK XENOPHON: I just heard some more hisses; let that be recorded. This amendment is a test clause with respect to the subsequent amendments in my amendment No. 2, to allow members of PSS1, the current superannuation scheme, or PSS2 to transfer to the new superannuation scheme.

I have already made my contribution clear in the private member's bill that this amendment has been based on, and also in the second reading contribution to this bill. I do not begrudge whatsoever any member who wants to stay in this current scheme but I think it is important that members have a choice to opt out of the scheme if they wish—I for one wish to opt out of that scheme and into the new scheme that is being proposed for members. Just as millions of Australian workers will have a true choice of super from 1 July, I am simply seeking to extend that true choice with this particular amendment. I have set out my position previously and I have set out the views of Peter Andren, the Independent member for Calare in the federal parliament, which largely accord with mine in terms of the rationale for choice of super and to opt out of the scheme. I simply ask members to give me a choice.

I will say again that I do not begrudge any honourable member seeking to stay in the scheme. I understand that many members may have made long-term financial plans based on their superannuation entitlements, and that is perfectly understandable. I simply seek choice, and this amendment is a test clause with respect to that.

The Hon. P. HOLLOWAY: The government does not support this amendment. It is all very well for the Hon. Nick Xenophon to reach for the high moral ground and say that he is going to opt out—maybe he is guilt-ridden and will feel a whole lot better, or something, as a result of doing that—but with benefits such as superannuation there is a generally accepted principle that there is a certain standard across a profession which you do not reduce retrospectively. People who come into this place know that we are changing this scheme, but it will be for members who are elected at the next election and everyone who stands at that election will know what benefits they will get in the future. I think they have every right to expect that those standards will remain unless, of course, as a group they agree to alter them. However, I can think of only one reason why one would seek to do that, and that is for political advantage.

It is all very well for us in the upper house who do not have to worry about consequences, I do not think it is going to affect too many members here, but it is going to put a lot of pressure on lower house members, particularly those in marginal seats, if it becomes a political issue. Is that really what we want to elect our governments on; that they are decided in marginal seats on the basis of who can claim the highest moral ground by opting out? I think it is a bad principle and we oppose the amendment.

The Hon. SANDRA KANCK: I came into parliament at the end of 1993 on the old scheme, as it was called. I am not sure what the one after that was called, but legislation was passed a couple of years after that—

The Hon. R.I. Lucas interjecting:

The Hon. SANDRA KANCK: It was called PSS2, thank you. At that point I then opted into PSS2, so it is possible to do something like this without any fanfare because I did not announce it to anyone. However, I do not recall there being anything in that legislation that specifically allowed transfers, although perhaps there was something. What I would like to know is—

The Hon. R.I. Lucas interjecting:

The Hon. SANDRA KANCK: There was? So in order for that to happen we do need a clause, and at present there is no way that a current member of parliament can opt into this PSS3 scheme without a clause like that. Is that the case?

The Hon. R.I. LUCAS: I am happy to try to assist the Hon. Mr Xenophon achieve his purpose, but perhaps in a slightly different way—

The Hon. Nick Xenophon: Always helpful.

The Hon. R.I. LUCAS: Exactly, a little bit of lateral thinking. I am happy to try to assist the Hon. Mr Xenophon so that he can achieve his purposes without necessarily causing some of the problems that the Leader of the Government has highlighted.

The Hon. Mr Xenophon can enter into a legal arrangement or can make a public commitment himself, should his amendment fail, that when he receives the additional benefit that he may have been able to hand up from whenever the start date is (let us say 1 July of this year) for the remainder of his parliamentary career—whether that is nine months or eight years and nine months—he will provide that additional benefit to the anti-gambling organisation or association of his choice. I am sure the government would provide assistance, through the advice of Mr Prior and others, regarding the extent of the commitment and the additional benefit that the Hon. Mr Xenophon would accrue. He would be able to achieve his purpose: that is, he himself will only receive the extent of the benefit that he wants (that is, under the PSS3 scheme) and the additional benefit he will be able to put to good purpose.

We have some lawyers on our side and, if the member was interested in this, I would be happy to ask them to draft an appropriate legal document and commitment from the Hon. Mr Xenophon to help him achieve his aim that this particular benefit can be put to good purpose. It would actually not go back into consolidated revenue, where the greedy and avaricious Treasurer could get his hands on it and do what he wants with it—

Members interjecting:

The Hon. R.I. LUCAS: Well, greedy and avaricious treasurers in the future could not get their hands on it. The honourable member would be able to dictate where this particular additional benefit went, that is, to an appropriate counselling or anti-gambling association. So if the Hon. Mr Xenophon is interested in pursuing that, I am happy to prevail upon my legal colleagues to help draft an appropriate document, free of charge, and I am sure they would be happy to do that, and we could get an appropriate commitment. I am sure the government would be happy to assist in terms of the appropriate level of the benefit for the Hon. Mr Xenophon to give a commitment, and he could get the publicity on Leon Byner next week. He could have a booking on Leon Byner's program and next week he would be able to publicly announce the extent of the benefit—depending on whether he lasts for eight years or 16 years in the parliament—to the particular gambling association.

I think it would be a wonderfully lateral way of achieving what the Hon. Mr Xenophon truly wants to achieve. I am sure he does not want just to move this amendment, get the publicity, have it defeated and not be able to achieve his aim. I would be happy to share with Leon Byner and other talk-show hosts this wonderfully lateral way of achieving the

Hon. Mr Xenophon's purpose in this particular amendment. I have not had a discussion with the Leader of the Government.

The Hon. P. Holloway: I will be happy to help you.

The Hon. R.I. LUCAS: By way of interjection, the Leader of the Government is happy to assist, so we are interested in the Hon. Mr Xenophon's response. If he is prepared to give that commitment, I am sure my legal colleagues and the government are happy to work together cooperatively with the member so there will be a win-win situation in relation to this particular proposed amendment.

The Hon. NICK XENOPHON: I know I am in trouble when the Leader of the Government and the Leader of the Opposition are brought so close together in such instant unanimity. You all want to help me. I see it not, as the Hon. Mr Lucas says, as a win-win situation: I think it is more of a spin-spin situation on the part of the government and the opposition. The fact is I do not want to fall into the Hon. Mr Lucas's trap.

The Hon. R.I. Lucas: It is not a trap.

The Hon. NICK XENOPHON: It is a trap. I wasn't born yesterday. My views have been consistent on this issue. If I go down the path that the Hon. Mr Lucas has suggested, then it is a concession of defeat in relation to this.

The Hon. R.I. Lucas: Not at all.

The Hon. NICK XENOPHON: It is, because there would be nothing to stop me from proceeding with my private member's bill in relation to this issue and put it to a vote down the track, but I can say that I believe that any action—

The Hon. R.I. Lucas: You can sign a legal document.

The Hon. NICK XENOPHON: I suppose one step is that, if I do not run as a candidate for the next election, that might solve the problem in terms of any legal documents.

The Hon. R.I. Lucas: Highly unlikely.

The Hon. NICK XENOPHON: I do not know that and you do not know that.

The Hon. R.I. Lucas interjecting:

The ACTING CHAIRMAN: Order! The leader is out of order.

The Hon. NICK XENOPHON: The Hon. Mr Ridgway says he is just starting to get me to know me, he does not want me to leave, but there is that saying 'Familiarity breeds contempt.' I am not going to go down that path and fall into that trap.

The Hon. R.I. Lucas: Why not?

The Hon. NICK XENOPHON: At the end of the day, I believe that, if whatever entitlements I have are above community standards, I will do something that is appropriate and consistent with my views, and it could be, for instance, setting up a trust of some sort for community projects, whether gambling related or otherwise.

The Hon. R.I. Lucas: We will draft you something.

The ACTING CHAIRMAN: Order!

The Hon. NICK XENOPHON: To me this is a cop-out on the part of the government and the opposition. If the Leader of the Government says it is going to cause problems in relation to marginal seats with respect to the lower house, then I will cop an amendment to restrict it to the upper house in that regard. I think we will revisit this again, and no doubt the Hon. Mr Lucas will make his very helpful, as he sees it, suggestions in relation to the private member's bill, but I do see that as something that will not save the taxpayers' money in terms of the proposal that he has made.

The Hon. R.I. Lucas: Yes, it will. It will help.

The Hon. NICK XENOPHON: No, it will still be a burden on taxpayers in terms of the suggestion made by the Hon. Mr Lucas. I know he is bending over backwards to be helpful.

The Hon. R.I. Lucas: Help gambling associations.

The Hon. NICK XENOPHON: Anti-gambling associations. I do not think the Hon. Mr Lucas is suggesting I help the Australian Hotels Association. I think it has enough money, because that is a gambling association, in a sense. So, I will be accountable in terms of whatever entitlements I have with respect to parliamentary super, and I am on the record that I believe that I will be doing the right thing consistent with my views, but to accept the offer of the Hon. Mr Lucas, I believe, would be accepting defeat on this very important principle. Again, I do not begrudge honourable members wanting to stay within this scheme. I understand that. I simply ask for the choice to opt out.

The Hon. SANDRA KANCK: What I would be interested to know from the minister is why was it that with PSS2 there was that opportunity to transfer and why was it not included in the bill for PSS3?

The Hon. P. HOLLOWAY: I can only answer that question from memory. The Leader of the Opposition might have a better memory than I do because he was in government at the time. I do recall that the benefits were not that different but, arguably, some people would have benefited by going from scheme 2 to scheme 3. I think there was a lump sum component, and a few other reasons. I do not remember the details of it because I was not involved in that debate, but it was certainly not a clear-cut case of benefits in one scheme versus the other, as would be the case here.

The Hon. R.I. LUCAS: I do not have perfect recall, but I certainly remember enough of the detail to know that there were some improved benefits for certain members in certain positions, particularly those who might be only short-term members. One of the criticisms of the PSS1 (the older scheme) was that, if you lasted a long time, you received a very generous benefit. However, if you did not last a long time (the short-term members), it was not an attractive benefit at all. The criticism of those one termers (as they might have been called) was that they did not get much of a benefit at all. PSS2 did see some reductions in benefits. I cannot remember the exact nature of those and the extent of the taxpayer-funded commitment, etc., and I think there was some change to the amount of money that you could earn from other jobs in certain circumstances under a certain age. There were certainly some reductions.

In relation to the short-term members, there was an improved benefit for some members. Some people were given a choice, particularly, as I understood it, some people who thought they might have been short termers and only in marginal seats—

The Hon. Sandra Kanck: Like Joe Scalzi.

The Hon. R.I. LUCAS: Yes. They opted for PSS2 and, in the end, they may well have turned marginal seats into safe seats, and so with hindsight they might have preferred to stay with PSS1. I think they were the reasons why the offer was made at the time. I must say, I am distraught that the Hon. Mr Xenophon has not taken up the very generous offer that has been made to him. Nevertheless, I will not be deterred. I will persist with some discussions informally with legal colleagues and others to see whether we might be able to construct an appropriate legal document for him to look at when he next approaches this issue on the Leon Byner show or, indeed, any other show—

The Hon. Nick Xenophon: Or in the parliament.

The Hon. R.I. LUCAS: We might be able to share an appropriate document which would give the Hon. Mr Xenophon the opportunity that I outlined.

The Hon. SANDRA KANCK: I indicate that the Democrats will be supporting the Hon. Nick Xenophon. I will not be taking advantage of the opportunity to go into the PSS3 scheme. I have lowered my superannuation payout once; I am not going to do it again. When I retire in a little over 4½ years, my intention is to work full-time in the conservation movement on a voluntary basis. The money that I get from my superannuation will allow me the freedom to do that, and I really look forward to using that money in that way. Therefore, I will not opt into a scheme with a lower payout, but I do believe that the freedom should be there for any MP who does want to accept a lower payout.

The Hon. NICK XENOPHON: I am distraught that the Leader of the Opposition is distraught. My position remains the same. I think it is curious that the Liberal Party, which supported freedom of choice for members under the new scheme, is not supporting freedom of choice for members under the existing scheme. I believe it is inconsistent with the Howard government's choice of super legislation under which millions of Australian workers now have some real choice in relation to their superannuation schemes.

The Hon. R.I. LUCAS: I have one last point in relation to that substantive issue. The Leader of the Government has touched on this issue. The decision of our party room is essentially covered by the point made by the Leader of the Government; that is, for members particularly in marginal seats, one can see that what will occur during an election campaign is that media outlets (or others) will campaign on the basis of 'Support this particular member because he or she is prepared to give up their entitlement to superannuation.' They may be running against a candidate who is independently wealthy and who may well have a second income—whether he or she be a lawyer, a farmer, an investment banker, or whatever—and you have a hard-working lower house member with a young family—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: The reality is that you are in a position in a marginal seat where someone says, 'Hey, I will not cost you as much; I will not have my snout in the trough.' They might pull the stunt that the Hon. Mr Xenophon used—I think it was a gravy train, or whatever. You will have the Hon. Mr Xenophon's clones saying, 'We will not be on the gravy train, but so and so (marginal seat candidate) is on the gravy train.' You will have a situation where independently wealthy people, or people with second incomes, will have the capacity to gain an advantage in an electoral sense against a person—whether they be Liberal, Labor or Independent—with a young family who does not have that same capacity. Of course, that is more pointed in a marginal seat with 20 000 electors.

Potentially, the Hon. Mr Xenophon might have a competitive advantage over the Hon. Kate Reynolds in an upcoming Legislative Council election. It may well be—and I do not know the Hon. Kate Reynolds' position on superannuation—that the Hon. Mr Xenophon will campaign on the basis that he will stop the rorts of politicians. In fact, he is the only one who has ever voluntarily wanted to give up the gravy train of superannuation. However, the Hon. Kate Reynolds for the Democrats, the Family First candidate and the candidate for the third seat are not prepared to give that same commitment to get off the gravy train, so it is another reason to vote for the Hon. Mr Xenophon.

I would be the last person to suggest that the Hon. Mr Xenophon might go down that path in terms of the next election—I might be the last person, but I certainly would not be the first one. Those issues were discussed in my party room and we had a good healthy debate about it, because there is the attractive notion of choice. However, the point the party room made to me is that, in some cases, there might not be a choice for some people because, in the end, if they are in a marginal seat, they may well be confronted with the fact that they will lose their seat because someone else is wealthy enough to be able to run on this particular issue and they do not have a choice. It is a cute point to say that the Liberal Party is for choice and the Prime Minister is for choice—and certainly we agree—but it may well be that, in the case that I have given, there might not be a choice for a particular candidate if he or she wants to continue to win a marginal seat.

They then have to make a decision, 'Okay, I have been in for four years. I have accrued some superannuation entitlement. This is what we thought. But the person running against me is running on a very attractive bandwagon of getting off the gravy train. The media has got right behind them in relation to this issue, and the only way of preventing an electoral loss is to give a commitment on this issue.' In that case, it is not an issue of free choice for that marginal seat candidate. I understand the point; and, certainly, it was debated in our party room. However, in the end, our party room's decision was the same as, I would assume, the party room decision for the government.

The Hon. NICK XENOPHON: I make the point to the Leader of the Opposition that any candidate challenging an incumbent at the next state election can make the argument any way by virtue of this bill, because they will be in a community standard scheme, for the want of a better phrase. What I highlighted in my second reading contribution and what the Independent member for Calare (Peter Andren) in federal parliament highlighted is that we will have a two-tiered system, and there will be those fundamental inconsistencies—like tectonic plates scraping against each other.

The Hon. R.I. Lucas: What about you versus the Hon. Kate Reynolds?

The Hon. NICK XENOPHON: I do not think that the Hon. Kate Reynolds and I regard each other as competitors. If I was running again, I think that the competition would be to get the vote of the major parties down. That would be the challenge for the crossbench, Independent and minor party candidates. I take on board what the Leader of the Opposition is saying, but this argument will arise any way with this bill. As I understand it, the Howard government has been looking at this two-tier system, and representations by backbenchers have been made to the Howard government with respect to that. Who knows what the commonwealth will come up with next—whether there will be any further changes and whether that will prompt further changes in the states. It is an observation. I think that it will be interesting to see what arises out of it at the next state election.

Amendment negatived; clause as amended passed.

Clauses 5 and 6 passed.

Clause 7.

The Hon. P. HOLLOWAY: I move:

Page 8—

Line 6— After 'a member' insert:

or by virtue of a resignation

Line 8—Delete 'or expiry' and substitute:
, resignation or expiry, or any case where a member is returned at a joint sitting in prescribed circumstances

After line 9—Insert:

(4a) For the purposes of the cases described in subsection (4)(b)—

(a) a member may be taken to be returned at an election even if the member, at the relevant election, is returned as a member of the house that is the other house to the house of which he or she was a member before the election; and

(b) a member is returned at a joint sitting in prescribed circumstances if (and only if) the member is a person who was a member of the parliament (and a member of PSS1 or PSS2) and who is then chosen under section 13 of the Constitution Act 1934 to be a member of the Legislative Council within three months after the date of an election (for either house of parliament) so that his or her period of not being a member of parliament does not exceed six months.

These amendments are a code of continued membership of PSS1 or PSS2 in circumstances where a member contests a seat at an election which may not be his or her own current seat, is not successful in being elected to that seat but is returned as a member of the Legislative Council pursuant to a joint sitting of the parliament. These amendments to the bill will more adequately deal with all the scenarios where a member is essentially returned to parliament without missing a parliamentary term.

The Hon. R.I. LUCAS: The Liberal Party supports the amendments.

Amendments carried.

The Hon. R.I. LUCAS: I move:

Page 10, after line 5—

Insert:

7DA—PSS3 member may elect to participate in other schemes

(1) In this section—

eligible member means a PSS3 member, other than a person who is a member of PSS3 by virtue of section 7D(4)(b) or 7E;

fund includes a scheme or account;

prescribed period, in relation to an eligible member, means the period of 3 months from the date on which the person became a PSS3 member;

RSA has the same meaning as in the *Retirement Savings Accounts Act 1997* of the Commonwealth;

self managed superannuation fund has the same meaning as in the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

specified fund means a fund specified in a notice under subsection (4)(a) or (10)(a).

(2) An eligible member may, by notice in writing furnished to the Board during the prescribed period, elect to transfer his or her superannuation arrangements under this Act to a fund that complies with subsection (3).

(3) A fund (a *complying fund*) complies with this subsection if it is—

(a) a complying superannuation fund, other than a self managed superannuation fund; or

(b) an RSA.

(4) A notice under subsection (2) must—

(a) specify the name of, and contact details for, the relevant fund; and

(b) specify the date from which the election is to take effect, being a date—

(i) that is at least 14 days but not more than 2 months from the date on which the notice is furnished to the Board; and

(ii) that coincides with a date on which salary is due to be paid to the member; and

(c) be accompanied by evidence that the fund will accept contributions under this section; and

(d) contain or be accompanied by such other information (if any) as may be required by the Board.

(5) If a person makes an election under subsection (2)—

(a)the person will cease to be a member of PSS3; and

(b) the Board will cease to maintain (or, if relevant, will not be required to establish) an account in the name of the person under this Act (and Part 2B will cease to apply in relation to the person); and

(c) any amount standing to the credit of the person's contribution account or Government contribution account (if any) must be carried over to the specified fund; and

(d) the person will cease to be liable to make contributions under this Act; and

(e) no entitlement or benefit will be payable to the person, or to any other person in respect of the person, under this Act (other than as provided by paragraph (f)); and

(f) the Treasurer must, while the person is a member of either House of Parliament, make contributions to the specified fund for that person's benefit, in accordance with subsection (6).

(6) For the purposes of subsection (5)(f), the contributions must be made in accordance with the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth as if the person were an employee of the State (see section 12(5) of that Act) and in order to avoid having an individual superannuation guarantee shortfall in respect of the person within the meaning of that Act.

(7) An eligible member cannot make an election under this section if the Board has ben served with a splitting instrument within the meaning of Part 4A in respect of the member's superannuation interest under this Act.

(8) An election under subsection (2) is irrevocable.

(9) However, a person may, by notice in writing furnished to the Board, vary an election under this section so as to select another complying fund for the purposes of this section.

(10) A notice under subsection (9) must—

(a) specify the name of, and contact details for, the new fund; and

(b) be accompanied by evidence that the new fund will accept contributions under this section; and

(c) contain or be accompanied by such other information (if any) as may be required by the Board.

(11) A notice under subsection (9) will take effect on a date determined by the Board after consultation with the person who has furnished the notice.

(12) A person who makes an election under this section does not become, by virtue of any liability under this section, a member of the Southern State Superannuation Scheme.

(13) There can only be 1 fund that applies in relation to a member under this section at any particular time.

(14) If—

(a) a person makes an election under this section; and

(b) the specified fund applying for the purposes of the election—

(i) ceases to exist; or

(ii) ceases to accept contributions under this section; or

(iii) ceases to be a complying fund; and

(c) the person does not, within the prescribed period, vary the election to specify another complying fund for the purposes of this section,

then the Treasurer may, after consultation with the Board, specify another complying fund (which will then be taken to be a fund specified by the person for the purposes of this section).

The Hon. P. HOLLOWAY: This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 8 to 23 passed.

Clause 24.

The Hon. P. HOLLOWAY: I move:

Page 23, line 32—Delete 'section 14C(3)' and substitute:
section 14C(2)

This amendment corrects a drafting error in the definition of GCA. The reference should be to section 14C(2) as there is no subsection (3). It is simply a technical correction.

Amendment carried; clause as amended passed.

Clauses 25 to 47 passed.

Clause 48.

The Hon. R.I. LUCAS: I move:

Page 33, after line 24—
Insert:
eligible member means—
(a) a PSS3 member; or
(b) a non-participating member;
non-participating member means a member of either house of parliament who has made an election under section 7DA of the Parliamentary Superannuation Act 1974;

The Hon. P. HOLLOWAY: It is consequential. We accept it.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 33, lines 32 to 34—
Delete subsection (2) and substitute:
(2) An eligible member may elect to forego a percentage or amount of salary that would otherwise be paid to the member and instead have contributions made—
(a) in the case of a PSS 3 member—to PSS 3;
(b) in the case of a non-participating member—to the complying fund that applies in relation to the member under section 7DA of the Parliamentary Superannuation Act 1974,
for superannuation purposes.

The Hon. P. HOLLOWAY: It is consequential.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 34, lines 24 to 27—
Delete paragraph (b) and substitute:
(b) the Treasurer must make contributions of amounts representing the amount of reduction for the benefit of the member—
(a) in the case of a PSS 3 member—in accordance with section 14 C(2) of the Parliamentary Superannuation Act 1974;
(b) in the case of a non-participating member—to the complying fund that applies in relation to the member under section 7DA of the Parliamentary Superannuation Act 1974.

The Hon. P. HOLLOWAY: It is consequential.

Amendment carried; clause as amended passed.

Schedule and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

FIRE AND EMERGENCY SERVICES BILL

The House of Assembly agreed to amendments Nos 1, 3 to 11, 18, 19, 21 to 23 and 26 made by the Legislative Council without any amendment and disagreed to amendments Nos 12, 13, 16, 17, 20 and 24 and disagreed to amendments Nos 2, 14, 15 and 25, and has made alternative amendments as indicated in the following schedule in lieu thereof, to which it desires the concurrence of the Legislative Council:

No. 12—Clause 14, page 17, line 29—
Delete '(and voting)'
No. 13—Clause 14, page 17, line 31—
Delete subclause (2) and substitute:
(2) 5 members of the Board constitute a quorum of the Board.
No. 16—Clause 14, page 18, line 7—
Delete '*ex officio*'
No. 17—Clause 18, page 20, lines 13 to 23—
Delete subclause (3) and substitute:
(3) The Advisory Board consists of the following members appointed by the Minister:
(a) 1 member appointed to be the presiding member of the Advisory Board; and
(b) 2 members appointed on the nomination of the South Australian Volunteers Fire-Brigade Association; and
(c) 2 members appointed on the nomination of S.A.S.E.S. Volunteers' Association Incorporated; and
(d) 1 member appointed on the nomination of the LGA.
No. 20—Clause 18, page 21, line 13 and 14—
Delete subclause (10)
No. 24—Clause 85, page 56, after line 19—
Insert:
(4) If, in the opinion of the Chief Officer, a Minister, agency or instrumentality of the Crown has failed to comply with a preceding subsection, the Chief Officer may refer the matter to the Minister.
(5) If a matter is referred to the Minister under subsection (4), the Minister must ensure that a written response, setting out the action that the Minister has taken or proposes to take, is provided to the Chief Officer within 28 days after the referral of the matter to the Minister.
(6) The Minister must—
(a) at the same time as the Minister provides a response under subsection (5)—provide a copy of the initial correspondence from the Chief Officer, and of the Minister's response to the Chief Officer, to any member of the House of Assembly whose electoral district includes any part of the land in question; and
(b) within 3 sitting days after the Minister provides a response under subsection (5)—cause a report on the matter to be provided to both Houses of Parliament.
No. 2—Clause 11, page 15, lines 31 to 36—
Delete paragraphs (e) and (f) and substitute:
(e) 4 members appointed by the Governor of whom—
(i) 1 must be a person appointed on the nomination of the South Australian Volunteer Fire-Brigades Association; and
(ii) 1 must be a person appointed on the nomination of S.A.S.E.S. Volunteers Association Incorporated; and
(iii) 2 must be persons appointed on the nomination of the Minister, each being a person who, in the opinion of the Minister, is qualified for appointment to the board because of his or her knowledge of, or experience in, one or more of the fields of commerce, economics, finance, accounting, law or public administration and each being a person who has suitable volunteer experience as determined under regulations made for the purposes of this provision.
No. 14—Clause 14, page 17, line 34—
Delete 'may exercise a casting vote' and substitute:
does not have a second or casting vote
No. 15—Clause 14, page 17, line 35—
Delete 'associate' and substitute:
appointed
No. 25—Clause 149, page 82, lines 22 to 25—
Delete subclause (3) and substitute:
(3) The review must include—
(a) an assessment of the extent to which the enactment of this Act has led to improvements in the management and administration of organisations within the emergency services sector and to increased efficiencies and effectiveness in the provision of fire and emergency services within the community; and
(b) an assessment of the extent to which owners of land. and other persons who are not directly involved in an emergency services organisation, should be able to take action to protect life or property from a fire that is burning out of control,
and may address other matters determined by the Minister, or by the person conducting the review, to be relevant to a review of the operation of this Act.

Consideration in committee.

Amendment No. 2:

The Hon. CARMEL ZOLLO: I move:

That the Legislative Council does not insist on its amendment No. 2 and agrees to the alternative amendment made by the House of Assembly.

Given that time is pressing and we have all arrived at a working compromise, I will not give a long speech. I am pleased that, after all this time, after the bill left this place, the stakeholders were able to get together and reach this compromise. I also want to place on the record my thanks to the Hon. Angus Redford for his commitment to achieving the working compromise that has been arrived at. I think that, in the end, we had only two areas that we needed to fine tune. One related to membership of the governance board, and what we now see before us is, essentially, three CEs and the chair of SAFECOM, who will no longer have a casting vote, and we see representation from both the volunteer associations and the two non-voting ministerial professional appointments, which have now been spelt out in that clause, who need to be people with some experience in volunteering. They will be determined under regulations made for the purposes of that provision. They were the only two areas which needed to be fine-tuned. I understand that we have consensus from all parties. I thank all those people, particularly the stakeholders, who enabled us to reach that consensus.

The Hon. A.J. REDFORD: I indicate on behalf of the opposition that I support the motion moved by the minister. There is a lot I could say about what has gone on over the past few weeks, but I think enough has been said. I thank the minister's staff, the leadership of the South Australian Volunteer Fire Brigade Association and the South Australian SES Volunteers Association Incorporated for their measured submissions to me in relation to what might be appropriate in terms of a compromise. I look forward to working with those two organisations for at least some reasonable period of time.

This bill has been a long time coming. There has been involvement going back quite some considerable time. Strong views are held by a range of different stakeholders and a range of different people; and, as is appropriate, legislation is sometimes a compromise between what the various people involved might want. Also, I thank the Hon. Ian Gilfillan. I know he has some misgivings, and certainly he correctly identified that the current system, which was introduced by the former government, is not working. It was not one of our shining successes. He also pointed out that at the time he warned the former government—in which I was a backbencher—against some of the problems that would occur. I acknowledge his wise counsel in that respect. The opposition was confronted with what the Hon. Ian Gilfillan correctly identified; that is, a system that was not working adequately. It would have been disappointing, to say the least, if this whole process had fallen over.

I thank Mr Vince Monterola, who came to see me at the first instance. He was frank and candid in his advice and assistance. He made himself available to me in a very open way. I wish him and his board all the best in what I have no doubt will be a very difficult task. They have some extremely challenging decisions ahead of them in terms of how we take our emergency services into the 21st century. Probably the biggest challenge he will face is how we can, at the very worst, maintain our volunteer levels in the emergency services sector. Volunteerism in a formal sense is not a big growth industry in Australia today. It is certainly growing in an informal sense. They are serious challenges. I know, as a former national leader of a volunteer organisation, how hard it is. If there is anything we in the opposition can do to assist the board in that respect, we will endeavour to do so. I commend the motion to the committee.

The Hon. IAN GILFILLAN: I indicate my best wishes. I believe some very genuine, constructive and cooperative work has been done in order to come to the final draft of this legislation. It is not what I believe to be the perfect formula, but that is a minor issue now. I do not want to be ungracious about it. I believe there have been substantial improvements. Really, it is the sense of goodwill by all parties to try to give South Australia the very best from the emergency services that is the overriding motive of all the people with whom I have discussed the issue. I do have confidence that there will be the right approach by those people involved—both the ministerial involvement and the people who are involved in the new structures. I speak for myself and the Democrats in saying that it is very significant legislation in a critical area. Although we may believe there are some areas that could have been improved, we wish it well.

The Hon. A.J. REDFORD: I forgot to thank the minister.

Motion carried.

Amendment No. 14:

The Hon. CARMEL ZOLLO: I move:

That the council do not insist on its amendment No. 14 and agrees to the alternative amendment made by the House of Assembly.

Motion carried.

Amendment No. 15:

The Hon. CARMEL ZOLLO: I move:

That the council do not insist on its amendment No. 15 and agrees to the alternative amendment made by the House of Assembly.

Motion carried.

Amendment No. 25:

The Hon. CARMEL ZOLLO: I move:

That the council do not insist on its amendment No. 25 and agrees to the alternative amendment made by the House of Assembly.

Motion carried.

Amendment No. 12:

The Hon. CARMEL ZOLLO: I move:

That the council do not insist on its amendment No. 12.

Motion carried.

Amendment No. 13:

The Hon. CARMEL ZOLLO: I move:

That the council do not insist on its amendment No. 13.

Motion carried.

Amendment No. 16:

The Hon. CARMEL ZOLLO: I move:

That the council do not insist on its amendment No. 16.

Motion carried.

Amendment No. 17:

The Hon. CARMEL ZOLLO: I move:

That the council do not insist on its amendment No. 17.

Motion carried.

Amendment No. 20:

The Hon. CARMEL ZOLLO: I move:

That the council do not insist on its amendment No. 20.

Motion carried.

Amendment No. 24:

The Hon. CARMEL ZOLLO: I move:

That the council do not insist on its amendment No. 24.

Motion carried.

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

A quorum having been formed:

SPECIAL COMMISSION OF INQUIRY (POWERS AND IMMUNITIES) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2364.)

The Hon. R.D. LAWSON: I rise to indicate that the opposition supports the second reading of the bill and, during the committee stage, we will propose amendments. As it stands, the bill is deficient in very many respects. I propose to refer the council to some, but not all, of the background history to the bill, which arises out of a promise made by the Premier—a promise which has, in fact, not been fulfilled in the bill presented to the council. I will not go through the history of the matters that gave rise to the McCann report, which has now been tabled, as no doubt there will be an opportunity during the committee stage to refer to many elements of it.

On 14 July 2003, in a ministerial statement, the Premier referred to the fact that Mr McCann had undertaken a report into allegations that Mr Randall Ashbourne had acted improperly in offering board positions to the former Labor member Ralph Clarke. On 14 July, the Premier said:

> Mr McCann's report concluded that no further investigation was warranted.

Mr McCann had concluded that no further report was warranted. The Premier claimed that Mr McCann's report was subjected to independent scrutiny by the Auditor-General. However, the Premier went on to say:

> Once the police inquiries are completed, the government will establish an independent review.

He went on to say:

> Until the police inquiry is completed and its findings are known, we cannot determine the nature or scope of the review. It would not be appropriate to do so while police inquiries are still under way. To formulate terms of reference now may be seen to be pre-emptive of any findings by the police.

The Premier made a similar statement in a media release issued on 1 September 2003. He said then:

> In July, I announced that I would order an independent review into the initial process undertaken to inquire into allegations, etc.

So, it is clear that at that stage (in September) the Premier was trying to suggest that there would be a fairly narrow review into the initial processes undertaken to inquire into allegations. Shortly thereafter, on 11 September, a number of members of this parliament, including the Leader of the Opposition (Hon. Rob Kerin), the Hon. Sandra Kanck, Mr Chris Hanna (the member for Mitchell), the Hon. Terry Cameron, the Hon. Nick Xenophon and the Hon. Andrew Evans signed, and the Hon. Karlene Maywald, as she now is, apparently approved by telephone, a letter to the Premier seeking the establishment of an inquiry-

The Hon. Nick Xenophon: Subsequent to the Ashbourne trial.

The Hon. R.D. LAWSON: Subsequent to the Ashbourne trial. Those signatories then sought a formal undertaking that an inquiry would be established within 21 days of the disposition of the criminal charges; that it would be conducted by an independent senior counsel or retired judge, appointed after consultation with the leaders of all political parties and Independent members of parliament; the terms of reference would be agreed between the Premier and the leaders of the other parties and Independent members; the inquiry would be given far-reaching powers; the person appointed to conduct the inquiry would be adequately resourced, including counsel assisting, if required; a senior ex-public servant of high standing would be appointed to assist the inquiry; and the time line for tabling the report would be agreed at the time of the terms of reference.

That was the position at that stage. So, the government knew that the Legislative Council, as indicated by the signatories of that letter, would be supporting and was demanding a wide-ranging inquiry. In response to that, on the very same day, the Hon. Paul Holloway issued a statement welcoming the call by the opposition and certain Independent members for an independent inquiry into the Ashbourne-Atkinson matter—not, mind you, into any processes or some preliminary investigations, but an inquiry into the Ashbourne-Atkinson matter. He said:

> We are happy to hold an inquiry so long as it is conducted at the conclusion of the court proceedings into the charge against Randall Ashbourne.

The leader said on that occasion:

> I believe an inquiry of this nature will put this whole matter to rest. We, too, believe that it will reinforce public faith in the integrity of executive government in South Australia. I remind those members of parliament that Labor initiated the inquiry the moment the matter was brought to the government's attention by a Labor staffer.

The minister went on to say:

> Premier Mike Rann intends to make a full statement to the parliament on Monday about this matter to assure all South Australians that a full independent inquiry with 'far-reaching' powers will be conducted into the matter at the conclusion of the court proceedings. In the meantime, I will be assuming ministerial responsibility for this matter for its duration.

That statement was issued on Thursday 11 September 2003, at a time when the government realised that the majority of the members of the Legislative Council were prepared to take decisive action to establish such an inquiry. So, the government gave the assurance that a full independent inquiry with far-reaching powers would be conducted into the matter, and the government has been back-pedalling ever since that commitment was given to the people of South Australia.

Parliament resumed the following Monday, and the Premier issued a long ministerial statement justifying the government's position in this matter and trying to assure everybody that the government had acted entirely appropriately. Frankly, if you read the ministerial statement issued by the Premier on that day, you would wonder why it was ever necessary to have any inquiry at all. He gave the government a clean bill of health. On that occasion, he said:

> I said that to formulate terms of reference at that time may have been seen as pre-emptive of any findings by the police.

He was saying, 'We couldn't formulate the terms of reference because that would be pre-emptive of any findings by the police.' Mr President, if you look at the inquiry that is to be established under the bill presently before us, it could not possibly have pre-empted any findings by the police. It had nothing to do with anything the police were investigating or could possibly investigate. It is a very limited, process-driven inquiry. The Premier, as is his wont, went on to say:

> While it is not possible to determine the terms of reference of the inquiry at this stage, it will be sufficiently broad to consider the matters that were brought to my attention in November 2002 and related to allegations made on radio that a Liberal member of this parliament sought to influence a federal Liberal government member to offer Mr Clarke a paid position to enable him to continue to fund his civil action against the Attorney-General.

So, the Premier was there saying that this would not only look into the actions of this government but it would be so wide-ranging that it would look into the activities of Liberal members. One might say that that was all political bluster by the Premier, as indeed it was, but the indication that he was then giving to the community in South Australia was that this would be a very wide-ranging inquiry—

An honourable member: Australia-wide.

The Hon. R.D. LAWSON: Australia-wide, and that they would be looking not only at what has been happening within their own camp but that they would be looking at the Liberal opposition as well. Do we see any of that in this bill: the commitment that it will be sufficiently broad to consider the matters that were brought to his attention? No, there has been a sudden back down by the Premier on that issue.

He went on with further bluster. The inquiry will also be protected from legal proceedings that will prevent it from running smoothly or in any way impeding its deliberations, and I have in mind the sort of provisions that were enacted by the parliament in the Hindmarsh Soccer Stadium (Auditor-Generals Report) Act 2001. More bluster, more threats, more suggestions that this would be a very wide-ranging inquiry, that it would be high level and that it would be protected from any legal challenge. Have we seen any of that now? No, it is not necessary because the inquiry that is to be established under this bill is very narrow indeed.

The Hon. Caroline Schaefer interjecting:

The Hon. R.D. LAWSON: As my colleague, the Hon. Caroline Schaefer, says, it is hardly an inquiry at all on the terms of reference. They are the promises that this government made, and they are the promises which one would expect to see fulfilled in the bill now before the parliament, but we do not see that at all.

I turn now to the process that has been adopted in this bill to honour the promise the Premier made. A good example of how one would establish an inquiry by legislation would be to follow the example we set here in 2004 when this parliament established the Commission of Inquiry into Children in State Care, which is now presided over by former Justice Mullighan. It was a short, simple act, which set out the commission's powers, the procedures to be followed and how the identity of people were to be protected. It is fashioned to meet the exigencies of a particular situation, and it sets out the terms of reference in the legislation itself. What could be more logical than doing precisely that on this particular occasion?

This government, in seeking to squirm in the way it is, believes that it can gain some political foothold by saying, 'Well, we will have exactly the same sort of inquiry as was established into the Motorola affair by the previous Liberal government. So we will not include the terms of reference in the legislation, we will bury them elsewhere (and I will come to the tortured process that has been adopted). We will make sure that these things cannot be debated or considered in the Legislative Council, because we will take them out of legislation altogether and we will give them a take it or leave it system.'

The Motorola situation was entirely different. The situation there was that, against the wishes of the government of the day, the House of Assembly passed a resolution that the government establish an inquiry—

The Hon. J.F. Stefani: With the help of Rory McEwen and Karlene Maywald.

The Hon. R.D. LAWSON: Yes. On that occasion the government accepted the fact, as it had to, that the House of Assembly had passed a resolution. That resolution was passed on 31 March 2001, and then came the question of what powers were to be given to the inquiry. It was announced that Mr Clayton QC would undertake the inquiry, and the government subsequently introduced legislation to provide those necessary powers. Not only did the government introduce legislation but the then opposition—through the agency of the member for Elder, the Hon. Patrick Conlon—itself introduced a bill to provide for the powers and privileges in connection with the inquiry. However, the Labor opposition at the time said that it would not proceed with its bill and was happy to proceed with the bill that the government introduced. As I said, on that occasion the government did not have to refer to the terms of reference in the bill—it could have, but it did not—because, in fact, the terms of reference had already been established by a resolution that had been passed a month before at the insistence of the opposition and the Independents.

What is the mechanism that has been followed here in this parliament this week? First, on Monday 4 July the government tabled a document headed 'Special commission of inquiry: Terms of reference and conditions'. This document was just dumped on the table in the House of Assembly. On the following day the government moved a motion in the House of Assembly as follows:

> That this house—
>
> (a) supports a decision by the government to establish an independent inquiry into the handling of allegations concerning the Attorney-General and Mr Randall Ashbourne, which was first communicated to the Premier on 20 November 2002:
>
> (b) Supports the inquiry proceeding on the terms of reference contained in a document entitled Special Commission. . .

tabled the previous day.

> (c) Recognises that an inquiry, police investigation and criminal trial have already taken place in relation to the allegations and that the inquiry contemplated by the terms of reference referred to should not proceed if any alternative inquiry into the same matter is commissioned or established by the parliament, the Legislative Council—

fancy them thinking of us!—

> or any committee of the parliament.

So here is the government threatening the Legislative Council that, if it establishes any form of inquiry, the government's inquiry would not proceed. Where do we see in that this government honouring the promise that it solemnly made? It made those promises to get itself out of some political embarrassment at the time and now we get this motion being put in another place and then, after the motion has been passed, the government introduces the bill which is presently before us, and what do we find are the terms of reference of this inquiry that we are being asked to consider? It is in the definition of inquiry:

> The inquiry means an inquiry that is established by the government with the terms of reference and conditions of inquiry the same as those proposed to the house in a resolution passed on 4 July.

That is perhaps a mistake, because one motion was passed on 4 July and a document tabled but then another passed on 5 July, but there is no skerrick of evidence of what the terms of reference are here for this house of parliament to consider.

The Hon. J.F. Stefani: So, the phantom inquiry.

The Hon. R.D. LAWSON: Indeed, as the Hon. Julian Stefani says, the phantom inquiry. That is actually a very complimentary term to describe it. If one goes then to the terms of reference that are set out in a document that has been

tabled in another place, the terms of reference are stated to be as follows:

The special commissioner—

and we have not yet heard who the special commissioner is; there has been no discussion about who the person might be—

will consider the McCann report and the material considered for the purposes of that report and conduct a review of the processes of inquiry adopted—

conduct a review of the process of inquiry adopted—

and provide a report.

The expression, 'the process of inquiry', which these terms of reference are supposed to look at are themselves defined, as follows:

The process of inquiry is defined to mean all processes referred to in the preamble of this document up to and including the provision of the report—

that is the McCann report—

to the Auditor-General.

So that is in December of 2002.

The Hon. Caroline Schaefer: Nothing since.

The Hon. R.D. LAWSON: Nothing since. No examination of what has occurred, of the very many serious things that have occurred in relation to this matter.

The Hon. P. Holloway: Things like whether the Attorney spoke to a journalist or not. This is really serious stuff.

The Hon. R.D. LAWSON: There would not be a journalist in South Australia the Attorney has not spoken to, many of them during the course of his evidence during the Ashbourne trial.

The Hon. P. Holloway: Move for a privileges committee. That is what happens. There are procedures for that.

The Hon. R.D. LAWSON: The narrowness of the inquiry is evident when one examines the five paragraphs that are to be reported upon, as follows:

(1) Whether that process—

that is the very limited process I have described that ended with the handing of the McCann report to the Auditor-General—

was reasonable and appropriate in the circumstances.

(2) Whether there were material deficiencies in the manner in which the preliminary investigations were conducted.

Not, what were those deficiencies, but whether there were any material deficiencies. Then there is an excuse built into this clause by saying 'whether', and I interpose, having regard to the urgency and the limited purposes of the preliminary investigations, 'there were material deficiencies'. So already the language is being phrased and framed in a very limiting fashion.

(3) Whether, notwithstanding the findings of the McCann report that there was no improper conduct, and notwithstanding the conclusions of the Auditor-General, it would have been appropriate to have made the report public.

So a question about whether or not it would have been appropriate to make the McCann report public at that time. We have now seen it. It has been tabled this week. The next term of reference is a very important one—ho! ho! It says:

(4) Whether it would be appropriate in future—

it does not look to the past at all and what has happened in the past—

to refer credible allegations of improper conduct on the part of a minister to the Solicitor-General in the first instance for investigation and advice.

It is not to whom reports of credible allegations of improper conduct should be made. One would have expected that the government would now know that the appropriate response to allegations of improper conduct of the kind that happened here would be to refer it to the police. The Anti-Corruption Branch is the arm of the police, for example, designated in the Whistleblowers Protection Act as the appropriate body to report allegations of corruption to. Is there any suggestion that the government is seeking the imprimatur to report issues of this kind to the Solicitor-General, to the government's own legal adviser, rather than to report them to the appropriate authorities?

That is not a terribly significant term of reference, in any event. It is: how do we handle these things in the future? Likewise, this next term of reference which occupies five lines, the longest of them all, simply says: 'If a reference to the Solicitor-General would not be appropriate, who else should we refer it to?' These are the mickey mouse terms of reference that this government has come up with to honour the promise that it made. Clearly, it has failed to deliver. Accordingly, during the committee stage of this bill, we will be seeking to hold the government to its promise and we will be moving amendments in a number of respects. One amendment will give the commissioner power to hold his hearings in public or in private, a provision that applies under the Royal Commissions Act, and we will be seeking to have included in the bill a similar provision—

The Hon. Nick Xenophon: At the commissioner's discretion.

The Hon. R.D. LAWSON: At the commissioner's discretion. We are not saying that every part of the hearing has to be in public. We accept that, for example, in the Mullighan bill it was appropriate to say that that should not be conducted in public because of the very nature of the investigation and the inquiry. That is because, in that situation, one has members of the public, vulnerable people, many of whom have been abused and who value anonymity and, in that respect, should be respected—and we supported it then. However, an inquiry of this kind is looking at matters as to how public officials, virtually all of them on the public payroll—or at least some of them trying to get on the public payroll—ought to be able to present their evidence. We will also be seeking to include in the legislation a protection for witnesses to ensure that all witnesses are able to come to the inquiry and give evidence without fear or favour.

The Royal Commissions Act provides that, if evidence is given under compulsion by a witness in a royal commission, that evidence cannot be used against a person in collateral proceedings. That is the provision that applies entirely appropriately in the Royal Commissions Act and it is one that this government cannot complain about because I notice with interest that, when the Hon. Patrick Conlon introduced his Motorola Inquiry (Powers and Privileges) Bill 2001, it was good enough for him to include in that bill precisely this provision, because he then recognised that it was entirely appropriate to have that encouragement to witnesses to attend so that they can attend and give their evidence without fear or favour. The government is steadfastly opposed to that because it wants to threaten, as it threatened the Liberal opposition with exposure in the course of this particular issue because of some alleged act of one of our members. However, the opposition will not buy that. We will certainly be moving that and seeking support from the committee for it.

I turn next to the terms of reference, which I have illustrated are far too narrow and do not investigate a number

of very significant issues. I will not go through all the significant issues which cannot be investigated by this inquiry established under this bill as it presently stands. Those terms of reference, for example, would not allow Mr Ralph Clarke, who obviously is an important player in this matter, to give his version of events. These terms of reference are designed to freeze out Ralph Clarke and to ensure that he will not give evidence to this inquiry, that what he has to say will not reach the light of day and the public of South Australia will not hear what he has to say. That is the very purpose of these terms of reference.

These terms of reference will not allow the commissioner to examine, let alone determine, whether the Premier, the Attorney-General, or any minister or adviser breached the ministerial code of conduct.

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: I do not understand what the minister is saying. Is he saying that Mr Clarke had some option about it? Mr Clarke's evidence could not possibly be relevant to any of these terms of reference about the processes which were followed in the adoption of the McCann report.

The Hon. P. Holloway: The same with your inquiry—he may not turn up either.

The Hon. R.D. LAWSON: Indeed, he may not. The commissioner may decide that he does not want him, but at the moment he cannot turn up. These terms of reference will not allow any determination of whether any person breached the ministerial code of conduct or any other code of conduct relating to persons—this code of conduct which the Premier has loudly trumpeted as his government's being a champion of accountability and openness—yet this closed inquiry will not allow the Premier or his ministers to be subjected to the scrutiny which they ought to be. Thirdly, this inquiry will not possibly resolve the contradictions which are clear on the evidence given in the trial and elsewhere between Mr Atkinson the Attorney-General, on the one hand, who says that he never spoke to Mr Ashbourne about board positions for Mr Ralph Clarke, and, on the other hand, Mr George Karzis, the Attorney-General's political adviser, and Mr Ashbourne, both of whom say that that topic was discussed.

Effectively, the crucial issue of whether or not the Attorney-General misled the parliament has been swept under the carpet. To suggest that these terms of reference are based upon the terms of reference that were adopted in the Motorola case is a sick joke because those terms of reference specifically allow the commissioner to examine the culpability of ministers.

Fifth, the inquiry to be established under this bill as it presently stands will not allow the commission to determine whether or not there was any attempt by advisers to interfere in the Ashbourne trial, as was alleged by the Director of Public Prosecutions last week. These are serious deficiencies. It is for these reasons that we oppose the bill in its current form, and we will move amendments that will seek to overcome these deficiencies. The bill in its current form will establish an inquiry which will be an absolute waste of public money. It would be a farce and a smoke screen.

The way in which it is designed in this bill as it presently stands is a formal process to justify a preordained outcome. It is a whitewash, as some would say. It is probably more like a brown-out than a whitewash! It will serve absolutely no useful purpose. It is a dishonest device, a confidence trick and it is an unprincipled retreat by this government from the promises that the Premier made. It is designed to camouflage what happened. It is designed to protect members of the government.

At the time of the introduction of the Commission of Inquiry (Children in State Care) Bill, I seem to recall Matt Abraham on ABC Radio giving an interesting insight into Premier Rann's views on commissions of inquiry. The only source, one would imagine, for Mr Abraham to have this information was the Premier himself. He said then that the Premier, as a media adviser to the then premier Don Dunstan, had arrived in South Australia at about the time a royal commission had been established into the dismissal by the Dunstan government of the then police commissioner, Harold Salisbury.

The Premier revealed that he considered the calling of that inquiry a serious error of political judgment; and, according to Mr Abraham, the Premier said that his principle was never to agree to any inquiry unless you can be absolutely sure of the result. This bill is a reflection of that cynical and unprincipled approach—a revealing observation by Matt Abraham. This is an inquiry—

Members interjecting:

The Hon. R.D. LAWSON: As I say, it is a pre-ordained outcome. We look forward to the committee stage of the bill when we will seek from the minister how he can possibly justify these narrow terms of reference, and how he can oppose the very reasonable terms which are reflected in the amendment and which I have put on file.

The Hon. NICK XENOPHON: I indicate my support for the second reading of this bill. I thank members who have, in a sense, given me an opportunity to speak at this stage rather than later. At the outset, I indicate for those members who do not know that I gave character evidence for Mr Ashbourne at his trial, as did my colleague the Hon. Julian Stefani, as well as the member for Unley, Mark Brindal. That does not in any way constrain my setting out the view that I believe the powers of this inquiry ought to be broader and that there ought to be an opportunity for the commissioner to hear evidence in public should the commissioner decide to do so.

In other words, the amendment proposed by the opposition is that section 18(2) of the Ombudsman Act, which essentially states that an investigation must be conducted in private, be removed. That is, I believe, worthy of support, and that is something to be discussed in committee. I am attracted to the principle that witnesses have immunity from any prosecution, similar, as I understand it, to provisions in the Royal Commissions Act so that people can attend before an inquiry without fear or favour.

I am grateful to the parliamentary library research service for providing me with *Hansard* from the Clayton inquiry motion of 2001. It is important that that be a benchmark of sorts with respect to this inquiry. I also take into account the letter of support that I gave to the opposition, the crossbenches and the Premier requesting a full inquiry into this matter once the trial of Mr Ashbourne had been concluded. I will refer to some of the terms of reference which go way beyond that and which, I believe, would fetter the focus of the inquiry; but that is something that can be dealt with in committee.

The principle that there be an option for the commissioner to hold the inquiry in public and also that witnesses have immunity from prosecution are matters that, I believe, have considerable merit. I want to conclude my remarks in respect of the second reading—and I expect that there will be a very

robust debate in committee—with some remarks made by Alex Kennedy, a senior journalist with *The Independent Weekly* in an article dated 26 June 2005. I have previously referred to other excerpts. She has been very critical of having a further inquiry. In fact, the heading of the article is 'A pointless inquiry while real rorts escape scrutiny.' I have previously briefly referred to excerpts from her article.

I think that Alex Kennedy, as a former senior adviser to the former premier Mr Olsen (someone who was caught up in the Motorola inquiry), is someone who can write with a fair bit of authority in terms of some of the personal costs involved. I just want to put this on the record so we know that we are dealing with real people here. Alex Kennedy said as follows:

> The judicial inquiry announced last Thursday into the Randall Ashbourne affair is in fact the fourth inquiry into whether Ashbourne, as senior adviser to the Premier, offered outcast former Labor MP Ralph Clarke board positions in return for dropping a defamation action against Attorney-General Michael Atkinson. How many inquiries do we need before someone leaves this guy alone? He's been acquitted by a jury, yet he's lost his career and his life in Adelaide, not to mention being dumped with legal bills to defend himself. . . what more does politics in SA seek to do with him?
>
> It's fine to say that the political inquiry will be into what surrounded Ashbourne, not Ashbourne himself. That's just ludicrous. He will be dragged into it with every sentence uttered. How can he not be?

They are the views of Alex Kennedy, and I have some sympathy with those views. However, I believe that there ought to be a further inquiry. It is something that the government has agreed to. The debate will be as to how extensive that inquiry should be. I have already indicated that I believe there are some aspects of the amendments of the opposition and the Democrats that are deserving of support. However, I believe that Mr Ashbourne has already paid a very high personal price, and I would not want this to be seen as something that would further persecute him when he has been acquitted by a jury of his peers. I look forward to the committee stage and the very robust debate that I expect we will have.

The Hon. SANDRA KANCK: Last week I made the observation that Randall Ashbourne had been acquitted but this government had not, and that is still the case. The way in which allegations of official corruption are handled by the government of the day are of the utmost importance to the health of our democracy. We rightly pride ourselves on the integrity of our institutions. Our independent judiciary, our professional police force and our representative parliament are the cornerstones of our democratic system. Official corruption is a cancer of the system and must be given no succour from any quarter. The Rann government has in this instance failed in the fight against official corruption. It failed at the first hurdle—

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. SANDRA KANCK: —when it originally opted for a secret in-house inquiry into allegations that Randall Ashbourne had offered board positions to Ralph Clarke in return for Clarke's dropping defamation proceedings against the Attorney-General, Michael Atkinson. That is fact. Seven months after the original allegations were made, the government's deception was exposed in parliament. Without the internal rivalries that infest the ALP we would probably never have known of the original allegations. And had this matter been immediately referred to the Anti-Corruption Branch of the South Australian police force, the matter would never have reached the whispering stage, either. When it finally made its way to SAPOL, the DPP decided that there was sufficient evidence for criminal charges. A magistrate then ruled that there was a case to answer, and the trial judge also decided that there was a case to answer at the conclusion of the prosecution case.

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Order! The minister will have the chance to sum up the debate.

The Hon. SANDRA KANCK: Yet only yesterday minister Conlon was still defending the Rann government's decision to not refer the matter to the police and still trying to spin the line that there was nothing remiss about this, or the behaviour of the Premier, the Deputy Premier or the Attorney-General. Clearly, the Minister for Transport does not let the facts get in the way of a political argument. The Minister for Transport should recognise that the facts have a habit of wriggling out in the long run. Truth is difficult to suppress forever, and that is what we should be debating.

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Order! The minister is out of order.

The Hon. SANDRA KANCK: How do we ensure that the essential truth of this matter is examined in an appropriate manner? One fundamental requirement is that Ralph Clarke be finally required to detail his version of events. It is staggering that, 2½ years since the alleged offer of a board position to Ralph Clarke, we are still to hear from the alleged principal beneficiary. Clarke was not interviewed in the McCann inquiry. He refused to cooperate with the police and the DPP and, as a consequence, neither the prosecution nor the defence called him as a witness during the Ashbourne trial.

Despite the fact that the public is still in the dark concerning Clarke's evidence, the Rann government has not made the need for Ralph Clarke to appear before the inquiry one of its terms of reference. Indeed, on radio the Leader of the Government in this council could not say whether the terms of reference would result in Ralph Clarke appearing. I suspect that means that Ralph Clarke will not be called to give evidence before the inquiry. This is reminiscent of how a tin-pot dictatorship operates, not a mature parliamentary democracy. It is totally unacceptable to the South Australian Democrats that the public may never hear Clarke's version of events. In the search for truth, this is the place to begin. We will not get to the essential truth of the matter with the terms of reference that the government has proposed. In fact, its very narrow terms of reference are unlikely to shed any more light on the matter.

I am also privy to a little bit of inside Labor Party information, which I am determined to see investigated. Whilst I have to be careful at this point about what I say for fear of revealing the source of the information, there is no doubting its relevance.

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Order!

The Hon. SANDRA KANCK: Let us go through a chronology of what I believe happened.

The Hon. R.K. Sneath: What you believe happened?

The ACTING PRESIDENT: Order!

The Hon. SANDRA KANCK: This is pretty reliable information.

The Hon. R.K. Sneath interjecting:

The Hon. SANDRA KANCK: How reliable is it? I can tell members that, on 28 October 2002—not around about but on 28 October 2002—Randall Ashbourne made the proposition to Ralph Clarke that, in return for dropping his legal action against Michael Atkinson, Ashbourne would be able to secure Clarke's return to the ALP. Clarke was already considering that option. He had advice that his case was unlikely to succeed, but he had decided to let Atkinson stew for a while before doing it. Somewhere along the way in the next week or two (and I do not have the dates with respect to this), Clarke asked the question: 'What about my $43 000 in legal costs?' Messages and counter-messages were ferried backwards and forwards for about a fortnight between the two camps—that is, the Clarke camp and the Atkinson camp—with Ashbourne playing a role as the messenger. The clear message coming back—

Members interjecting:

The ACTING PRESIDENT: Order! Members on my right are out of order.

The Hon. SANDRA KANCK: —from the Attorney-General was that Mr Atkinson would not even begin to consider any recompense from his own pocket. I have to conjecture what happened next, and I do not know the chronology of what occurred, but what I do know is that someone came up with the idea of a couple of board positions as recompense. The expectation was that two board positions would be found for Clarke to a value of $60 000—and I assume that means per annum—one being to cover Clarke's costs and the other for compensation.

Early in November, Ashbourne reported back to Clarke that things were going well. A few weeks later he telephoned Clarke to tell him that they no longer were and that he (Ashbourne) might be in the position of having to look for another job. Ashbourne met with Clarke—

The Hon. R.K. Sneath interjecting:

The ACTING PRESIDENT: Order!

The Hon. SANDRA KANCK: —on 13 November 2002, and I am told that Ashbourne said:

> There is a lot of trust in this matter and the government of South Australia does not welsh on its promises.

Many questions arise out of that statement. Was he saying that if members of government gave an undertaking in the future it would be followed through? Was he saying that an undertaking had already been given? If so, who gave it? Was it Michael Atkinson? We certainly know that there were quite a number of conversations, either by phone or in person, between Ashbourne and Atkinson during this two to three week period. Whichever it was—

The ACTING PRESIDENT: Order! The Hon. Ms Kanck, I have given you some leniency but we are talking about a minister of the Crown. You ought to be referring to him as the Hon. Mr Atkinson or by his title.

The Hon. SANDRA KANCK: Thank you, Mr Acting President. Whichever it was, on 15 November Clarke advised that he would drop his case against the Attorney-General. All the above information is in the hands of the Anti-Corruption Branch. This information was not used in the Ashbourne trial because it is hearsay evidence. That would not, and should not, preclude this inquiry from conducting a forensic examination of this evidence: getting to the truth of the matter demands it. It is therefore—

The Hon. R.K. Sneath interjecting:

The ACTING PRESIDENT: Order! The Hon. Mr Sneath will get an opportunity to make a contribution.

The Hon. SANDRA KANCK: Thank you for your protection, Mr Acting President. Therefore, it is vital that the extra term of reference in regard to the Anti-Corruption Branch material be included. Today I wrote to the Premier offering to negotiate with the state government on the terms of reference for this inquiry. We asked to be consulted two years ago—and consultation is still the best means of achieving an appropriate outcome. The Premier's response states:

> . . . It is not my usual practice to embark upon genuine and bona fide negotiations over important matters such as this through the media. It would appear to me that your approach, having also come via the media, is little more than an attempt to grab a headline. I am also informed that you have already held a press conference in relation to your approach to me.

This occurred 3½ hours after I had faxed this letter to the Premier; and I had no response from him at that point. It is an interesting observation about the way in which to do business. The opposition might like to take note of this the next time the Premier puts out a media release saying that he will do something. It continues:

> Notwithstanding this, if you have some constructive suggestions for changes to the terms of reference approved by the House of Assembly you of course may refer them to the minister responsible for the legislation, the Hon. Patrick Conlon MP, for his consideration.

I have already mentioned tonight the way in which the Hon. Patrick Conlon is saying that what the government did two years ago was of no consequence; that there was nothing underhand about it and nothing hidden about it. Why would one bother talking to a minister who is taking this position? If this government has nothing to hide, it has nothing to fear from ensuring that Ralph Clarke fronts this inquiry and that the Anti-Corruption Branch evidence is examined.

Those two issues aside—that is, Clarke appearing and the Anti-Corruption Branch material—the South Australian Democrats were willing to discuss the other terms of reference with the Premier; but it is not done on his terms so he does not want to speak to us. We have been rebuffed. The public deserves nothing less than the truth—and we should seek nothing less than the truth. The opposition has tabled extensive and detailed terms of reference, to which it will be moving amendments, and I, too, have amendments.

I say to the Rann government: have a rethink; be seen to negotiate terms of reference that will enable the truth of this matter to emerge. I assure the council that, if the Rann government insists on the totally inadequate inquiry it is currently proposing, the South Australian Democrats will support the opposition's terms of reference for an upper house inquiry—and adding some of our own. The ball is in the Premier's court. The Democrats support the second reading.

The Hon. KATE REYNOLDS: I rise to speak on the bill to express my dismay that we are presented yet again with an attempt to narrowly confine an investigation to areas that cannot harm this government. Time and again, we see a government that is uncomfortable with operating in an open and accountable way. This is exactly why the South Australian Democrats remain active and alert, despite the obstacles the government has attempted to put in their way. Mr Acting President, you and other members of this place would be aware that my colleague the Hon. Ian Gilfillan has been championing an independent body to investigate crime and corruption, and he has been doing so ever since he was first elected to this august chamber. How different would the

circumstances be now had the original complaint been referred to an independent commission against crime and corruption, instead of the situation we now confront!

Someone makes a mistake—perhaps a mistake of zeal—that has very serious consequences, and what is the government's response? 'Let's have a secret inquiry to see whether we can get away with it. If that doesn't work, let's have another secret inquiry and, if that doesn't work, let's have a court case with the surprising omission of the key player giving evidence. If that doesn't work, let's have another secret inquiry.' Clearly, the right thing to do would be to refer the entire matter to an ICAC, staffed by people who are at arm's length from government, to be dealt with in an open and accountable manner. The issue would have been exposed to the light of day and handled in a transparent fashion, with the usual public scrutiny. People would have learnt their lesson, and we could have moved on to more pressing affairs of state. The South Australian Democrats believe in open and accountable government, and we will not be satisfied with any number of secret inquiries. The bill is clearly wide of the mark and may well be beyond redemption. However, as my colleague the Hon. Sandra Kanck pointed out, we were still willing to work with the government to find a solution if one could be found.

Today, South Australia is at a crossroads. We are making history, and history will judge us. Tonight in the Legislative Council, we are seeking the truth. We are seeking a way to let the truth out. We are debating how to get to the truth behind a sordid episode in our state's political life. There have been allegations of official corruption. There have been allegations that the state's chief law officer, the Attorney-General, may have bullied reporters who were covering aspects of the affair. There are allegations that a senior legal adviser to the Premier, with or without the Premier's instructions, may have acted improperly and perhaps, more seriously, may have tried to influence the proceedings in a criminal trial.

We need to know what really happened. We need an inquiry, and that inquiry must hear from Ralph Clarke. The business of government is not just annual budgets, building a road here or there, or dashing overseas to make a happy announcement for a quick media hit. The first and most important business of government is trust—trust in public officials, in ministers and in the leader of the South Australian government, that is, the Premier of the day, because without trust our democratic system collapses. But trust must be earned, and it should not and cannot be taken for granted. This inquiry must get to the heart of the Ashbourne, Atkinson, Clarke, Rann, Foley and Conlon affair. The terms of reference must allow the inquiry to get to the truth so that confidence and trust in this government can be restored. Of course, if the inquiry finds that the Premier, any ministers, ministerial staff, or anyone else associated with this sorry mess, have acted improperly, immorally or, at its worst, illegally, they must be held accountable.

I urge everyone in this chamber to support the amendments that will be put forward. Naturally, strengthening the terms of reference is our duty, but we should today put politics to one side. To those members opposite, the representatives here who are members of the Labor Party, we ask that you put your duty to your electors first and your loyalty to the Labor Party second. Support the amendments to properly widen and give strength to the inquiry. History will judge that you have made the right choice.

The Hon. A.J. REDFORD: This was a government that was elected to office, albeit through the back door, on the basis of promises that it would be better than the previous government. Unlike the previous government, it has had to have the police investigate its conduct almost on a monthly basis since the last election. Indeed, it claimed that it would operate on the basis of higher standards. What strikes me about this whole matter is the utter, complete and stunning hypocrisy of this government. One only needs to look at what it has done in relation to an investigation into itself when compared with an investigation into others.

The Hon. P. Holloway: Please tell us—because it is exemplary compared with your record.

The Hon. A.J. REDFORD: I am glad that the minister said that it is exemplary, because—

The ACTING PRESIDENT: I am not glad that the minister said it, as he is out of order.

The Hon. A.J. REDFORD: I would like to see the minister explain himself out of this one. When this government set up a royal commission into the Kapunda Road incident, it said that it would be an open royal commission, where the media and the public could observe what was happening. However, in relation to the series of events following the acquittal of someone as high up as Mr Randall Ashbourne, it wants a closed royal commission.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: Here he comes. I just wish more rabbits were like this minister, Mr Acting President.

The Hon. P. Holloway: An acquittal; not guilty.

The Hon. A.J. REDFORD: So was Mr Ashbourne acquitted.

The Hon. P. Holloway: Yes, he was.

The Hon. A.J. REDFORD: Just as Mr McGee was acquitted.

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Order! Interjections are out of order.

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Order! The minister is out of order.

The Hon. A.J. REDFORD: So, there we have one piece of hypocrisy. But it does not end there. What they also said is that the lawyers, psychiatrists and other experts involved and, most importantly, the police involved—those people who go out there and put their life on the line for you, Mr Acting President, me and all our constituents—had to parade themselves in an open and public inquiry and be reported on on a daily basis. The hypocrisy of this government is that, when it comes to themselves, their staff and their people, it is going to be done behind closed doors. It is hypocrisy. It just keeps going.

Then we go on and talk about the terms of reference. In the case of the Kapunda Royal Commission, they said to the Royal Commissioner, 'Look, if you want to change your terms of reference say so and we will give it to you.' But, when it comes to an investigation into themselves and their own conduct—and anyone might assume it is criminal conduct, because they want to keep it a secret—they say, 'No, these are the terms of reference, and it is only process.'

The Hon. P. Holloway: Don't let the facts get in the way of your argument.

The Hon. A.J. REDFORD: The fact is that you want an inquiry into process, and in relation to the Kapunda Royal Commission, you said that, if the Royal Commissioner at any time wants to change the terms of reference, you would agree.

That is what they said. Hypocrisy! It just keeps going. They talk about witnesses. In the Kapunda Royal Commission, witnesses are cross-examined publicly in front of the media, they are seen going in and out of court in the media, and everything they say is in the media, but, when it comes to an inquiry into themselves, it is totally different. There is only one word for that, and that is hypocrisy.

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Order! The minister will get a chance to sum up with a vote.

The Hon. A.J. REDFORD: The final act of self-interested hypocrisy—and we all know Labor members are interested in their pockets—was the funding issue. When the Premier stood up, he said, 'This is not going to be a lawyers' picnic. I'm not going to pay anyone's legal fees.' He said, after a couple of bad headlines—we have noted that members on their side are slightly driven by headlines—'I'll fund the victims.' But, other than the victims, it is an unfunded royal commission, as far as I understand it. Not on one single occasion, when it comes to this mob helping themselves to Treasury money, have they stood up and said, 'And by the way, minister Holloway, minister Atkinson, the Premier and minister Zollo will have to pay for their own legal advice.' Again, there is only one word for that and that is 'hypocrisy'.

This government stands condemned by its own breathtaking hypocrisy. It has the nerve to come in here and say that it is open and accountable. All I can say is that, from where I sit—and I have not said anything publicly before—I am taken aback by the sheer audacity and the sheer hypocrisy of this government. There is one standard for our police officers, who have to go out there and investigate accident cases and who have to take our maimed, injured and dead out of police cars, and another standard for these people, whose only risk of physical injury is if the Premier should get out of his car on the wrong side. This government is a disgrace!

The ACTING PRESIDENT: I call the Leader of the Opposition.

Members interjecting:

The ACTING PRESIDENT: Order! I have called the Leader of the Opposition. If the Hon. Mr Sneath wishes to speak, he will get an opportunity when the Leader of the Opposition has concluded.

The Hon. R.I. LUCAS (Leader of the Opposition): I congratulate my colleagues the Hon. Robert Lawson and the Hon. Angus Redford for their contributions to the debate, as well as the contributions from the Hon. Sandra Kanck and the Hon. Kate Reynolds. In particular, the Hon. Robert Lawson has comprehensively covered the issues, and I do not intend to address the breadth of issues that he has raised. However, there are a handful of issues I want to put on the public record, the first being the issue of secrecy in relation to all of this, which was addressed by the Hon. Robert Lawson and briefly by the Hon. Angus Redford.

The Leader of the Government has bleated, and I am sure will bleat again at the conclusion of the second reading, that they and he have been open and accountable in relation to this issue. The simple reality is that, if it had not been for the Liberal Party in the middle of 2003 asking questions about this issue, no-one would ever have known that this issue existed. The Leader of the Government, the Premier, the Treasurer, senior ministerial advisers—a small and tight cabal of ministers and ministerial advisers and factional heavies—made decisions to keep secret from the parliament, the media and the people of South Australia a sordid and dirty little series of events, but they got caught out.

The Hon. J.F. Stefani: A cover-up.

The Hon. R.I. LUCAS: The Hon. Mr Stefani says, 'A cover-up.' They were caught out. If it had not been for the Liberal Party raising the issues, no-one would have ever known about this issue. This is not the only example in relation to this case where the government has been caught out, because the government has again been caught out in what has become known as the Alexandrides affair or scandal. If the Liberal Party had not asked questions on this issue that soiled, dirty, little affair would never have been revealed to the parliament, the media or the people of South Australia. The Leader of the Government in this chamber and the Minister for Emergency Services were again part of a small group of government ministers and advisers who made the decision to keep that secret from the people of South Australia.

In the middle of the first political corruption trial in South Australia, where the most senior political adviser to the Premier of the state was on trial, the Director of Public Prosecutions was so concerned about the Alexandrides scandal that he wanted to see the Attorney-General urgently. Ultimately, he sent a private and confidential memo expressing considerable concern about the activities of Mr Alexandrides. Mr Alexandrides has come to public attention on a number of previous occasions—and now is not the time for those details to be shared with the chamber but, if I can put it this way, he has form in relation to some of these issues.

The Hon. P. Holloway: Go outside and say it and show your courage. You are one of the most gutless creeps that has ever been in parliament.

The Hon. R.I. LUCAS: I am happy to say it outside.

The ACTING PRESIDENT: The minister is out of order; he will get the opportunity to respond shortly.

The Hon. R.I. LUCAS: I was outside on the day that I revealed this—

The Hon. R.K. Sneath interjecting:

The ACTING PRESIDENT: Mr Sneath is out of order.

The Hon. R.I. LUCAS: —doing a full press conference on this particular issue and I answered questions openly to the media, so I am happy to respond to those issues.

The Hon. P. Holloway: Who is your source of information?

The Hon. R.I. LUCAS: A very senior source, and a very accurate source—and wouldn't the minister like to know?

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Order!

The Hon. P. Holloway: So you are going to keep it secret. You are going to make allegations and leave the smear over the DPP's office.

The Hon. R.I. LUCAS: Not allegations: fact.

The Hon. P. Holloway interjecting:

The ACTING PRESIDENT: Order! This is not a conversation. The minister is out of order.

The Hon. R.I. LUCAS: The minister says that it is an allegation. It is not an allegation: it is fact. Straight after I went outside and made the statements—I did not just make these statements in the council—

The Hon. R.K. Sneath interjecting:

The Hon. R.I. LUCAS: Well, I still went outside. I cannot do it outside; if you make the statements outside they are not privileged. When I then went—

Members interjecting:

The ACTING PRESIDENT: Ignore the interjections.

The Hon. R.I. LUCAS: Straight afterwards the Director of Public Prosecutions issued a statement confirming the accuracy of the issue that I had raised and indicating, in his words, that it was an issue of considerable concern to the DPP that the Alexandrides affair (as I would term it; that was not the DPP's phrase) had occurred in the middle of this sensitive political corruption trial involving the Rann government. The Leader of the Government is on very shaky ground when he seeks to attack me over this issue. The very senior source is a very accurate source, and I can indicate—

The Hon. R.K. Sneath: There is no source. You do not have any source.

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS: As members will know, I have a number of people who provide very confidential information to me and to the Liberal Party—

The Hon. R.K. Sneath: It is not accurate, though.

The Hon. R.I. LUCAS: It was accurate, and the Director of Public Prosecutions confirmed it. There are some courageous—

The Hon. R.K. Sneath interjecting:

The ACTING PRESIDENT: Order! The Hon. Bob Sneath will come to order.

The Hon. R.I. LUCAS: There are still some courageous people who will not be cowed by the abuse, intimidation and aggression of government ministers and ministerial advisers. This government has gotten away with this for years, and I have highlighted the verbal abuse and intimidation before from people who are now ministers.

Sadly, what has happened is that their advisers think, 'Well, if it is good enough for the bosses, we can do the same thing. We can treat people in the same way, and we can try to intimidate them in the same way'. They see their bosses doing it; they see the Treasurer, they see the Premier of the state, and they see others engaging in verbal abuse and intimidation of respected people and organisations in the community—so they learn the lessons from their masters and mistresses. They think, the pumped up little ministerial advisers that they are, that 'Okay, I am going to follow my idol, the Premier (or the Treasurer), and I am going to treat people in exactly the same way.'

What happened was that, for the first time, we actually had someone prepared to stand up to this government and its advisers. The Director of Public Prosecutions said, 'I am not going to tolerate my staff being treated this way by either ministers or ministerial advisers'. Thank goodness for that; at last, someone was prepared to stand up to the verbal abuse, intimidation and aggression of the ministers and ministerial advisers of this government. I have heard of so many leading business people, so many associations and organisations, who have been attacked and abused by ministers and ministerial advisers. The vast majority of them are not prepared, as Mr Pallaras was, to stand up and say, 'Enough is enough. I'm going to blow the whistle on this lot and this is an issue of considerable concern to me and the independence of my office, and I'm not going to tolerate it. I'm blowing the whistle on you lot and whether it's a minister or whether it's a ministerial adviser who thinks he's a deputy chief of staff and a senior legal adviser now, then I'm going to blow the whistle and make sure people know we are not going to tolerate this.'

As I said, this would never have come out unless the Liberal Party in the parliament had the courage, the facts and the information—from someone courageous enough to give it to us, to stand up and be prepared to provide the information to somebody who could put it on the public record.

Members interjecting:

The Hon. R.I. LUCAS: You are making assumptions as to where it is coming from.

Members interjecting:

The Hon. R.I. LUCAS: There is the whistleblowers act. Have you ever heard of it? If there is something that is rotten in a government and somebody is prepared to provide information in relation to that and reveal it, then this government, this Leader of the Government, is prepared to attack the person who reveals the truth and the facts. At least there might be some people still with courage who are prepared to provide that sort of information.

A number of other pieces of information have been provided to me and to other members of the Liberal Party, and of course we do not reveal information until we have been able to confirm it absolutely, and more work is being done in confirming some of the further information that is starting to flow into the opposition, into the Liberal Party, in relation to these issues. In the spirit of not putting on the public record material until we are convinced of its accuracy, we will refrain from doing so at least at this stage. There is more information being made available on secret deals that this government is still trying to keep secret from the people of South Australia, not in relation to any other issues, but in relation to this particular issue as well.

As my colleague the Hon. Robert Lawson has highlighted, there are significant discrepancies in the stories that we hear, and we continue to hear the interjection from the Leader of the Government, out of order, that Randall Ashbourne was acquitted. As the Hon. Sandra Kanck has indicated, this inquiry is not to revisit the guilt or innocence of Mr Ashbourne—that issue has been determined—what still remains is what will be the implications of claims for unfair dismissal in relation to Mr Ashbourne's position, and we will watch that with interest. One thing that would be interesting to explore through either this inquiry or others is whether the government (through its ministers) was given advice as to what the impact of their evidence might be on unfair dismissal claims that might eventuate as a result of the potential outcomes of the particular trial that we have.

The Hon. P. Holloway: So, what are you suggesting? That they should have tailored their evidence?

The Hon. R.I. LUCAS: No. We are suggesting that they should tell the truth—that is all we want. That is all we have ever wanted. All we have ever wanted was the truth. The Leader of the Government might want something different, but all that the Liberal Party and the Democrats want is the truth. That is all we want in relation to this issue but, sadly, we have not got it so far. If it had not been for the Liberal Party some of these sordid and dirty little deals would never have been revealed to the public, the parliament and the media.

When we start looking at some of the discrepancies, I want to refer members to attachment G of what is known as the McCann report, which is the legal view or advice from Deacons to Mr McCann dated 29 November. Let me quote the outstanding issues. It states:

> The investigation [the McCann investigation] has been conducted with urgency and expedition. A much more thorough (and time-consuming) investigation would no doubt resolve some outstanding issues which emerge from a reading of the material. For example, there is a difference between the evidence given by the Attorney-General and that of Ashbourne on the extent to which the Attorney-General knew that Clarke wanted or expected or should have a

Government appointment as part of the 'rehabilitation' process or in response to withdrawing defamation proceedings. On the one hand, Ashbourne gives a detailed account of some conversations with the Attorney-General in which there is discussion about the Attorney-General's attitude to Board appointments for Clarke and his willingness or otherwise to participate in achieving an appointment for Clarke.

What we have here is the legal advice indicating that there are outstanding issues and differences between the evidence of the Attorney-General and Ashbourne. It is clearly open to argument—I have a particular view in relation to this issue—that the evidence that the Attorney-General has given is wrong. It is either misleading, dishonest or inaccurate.

The Leader of the Government bleats, 'What is this going to look at; Randall Ashbourne has already been acquitted.' That is not the issue in relation to this inquiry. We have legal advice to the McCann inquiry saying that there are differences in the evidence given by the Attorney-General and Ashbourne. One of them has not told the truth or has got it wrong or perhaps both—that is possible—but, given there is a discrepancy, one of them either has not told the truth or has got it wrong or both of them have.

This is critical for the senior law officer of the state in relation to whether or not he has given misleading, inaccurate or dishonest evidence in relation to the McCann inquiry or, indeed, to the parliament on this issue. None of that was explored in the Ashbourne court case. It was not the subject of the Ashbourne court case. I challenge the Leader of the Government in his response (and we will obviously get a chance to directly question him at the committee stage) to address that issue. He can bleat as often as he wants that the Ashbourne case has been resolved, and therefore that has resolved everything, but the Ashbourne case has nothing to do with the potential culpability of Rann government ministers and advisers and, in particular, the Attorney-General. The legal advice from Deacons to the McCann inquiry says:

The McCann inquiry has been conducted with urgency and expedition. A much more thorough and time consuming investigation would no doubt resolve some outstanding issues, eg the difference in evidence between the Attorney-General and that of Mr Ashbourne.

The legal advice also raises other issues that potentially could be resolved by further inquiry, but I will not go through all those.

As my colleague the Hon. Robert Lawson said in relation to these discrepancies, we have one of the Attorney-General's loyal ministerial advisers—Mr Karzis—giving sworn evidence that is in conflict with the Attorney-General. We have the Deacons legal advice which refers to discrepancies in evidence between the Attorney-General and Randall Ashbourne. We have a former ministerial adviser with a very close association with the Treasurer who has given evidence in relation to what Ashbourne told her. I do not have the direct quote in front of me but, in terms of the subsequent meetings, at one stage she said, I think to the Treasurer, that she believed that this amounted to corruption. They are the words of the ministerial adviser or the chief of staff to the Treasurer.

I think it was Ms Sally Glover who took the notes of the meetings of the Premier, the Treasurer and others records, including the statements from Cressida Wall. Admittedly that is now one step removed from direct discussions with Randall Ashbourne or the Attorney-General, but all those pieces of evidence point to the fact that there are significant problems with the Attorney-General's story. You do not have to be a Rhodes scholar to see that there are significant problems with the Attorney-General's story. Members only have to look at the statements he has made to the house to know that there are significant problems with the Attorney-General's story. Members only need to compare some of the statements in the house with the evidence that he has given to know that there are significant problems with the Attorney-General's story.

I add another element to this; that is, one or two people have indicated that they had direct conversations with Randall Ashbourne and they might be prepared to indicate to the inquiry what Mr Ashbourne told them in relation to the discussions with the Attorney-General and Mr Clarke during that period. As I said, I am not sure—it will depend on the shape or the nature of the inquiry as to whether those people are prepared to come forward and say, 'Hey, I had a conversation with Mr Randall Ashbourne. I am prepared to swear that this is what he told me at that particular time.' There are many other discrepancies. I referred to one today in relation to the McCann report where a report written on 2 December purporting to be the McCann report actually refers to a prior discussion that Mr McCann had with the Premier when, I assume, the Premier was told of the potential findings before the final signing of that document on 2 December.

There are some serious questions that need to be raised with Mr McCann and the Premier in relation to this previously confidential report. Some of the questions that the Leader of the Opposition in another place has raised that have not been answered by the Attorney-General deserve close consideration. One question in particular he asked on 4 July, when he said:

If the Attorney-General never spoke to Randall Ashbourne about a board position for Ralph Clarke, how is it that he made clear to Randall Ashbourne that he would never give him a board position?

Mr Atkinson's answer in the parliament is that the evidence speaks for itself, a non-answer if one has ever seen one. We can compare that with one earlier on the same day, which obviously prompted the Leader of the Opposition's question, when the Attorney-General claimed:

Indeed, the McCann report is very clear on this. It states 'the Attorney-General's view was that he would never give Ralph Clarke anything.'

So, there are discrepancies right through. There are significant discrepancies in relation to the Alexandrides affair that we have been exploring in this place between statements made by the Minister for Emergency Services and, in particular, the Leader of the Government in relation to this issue which, frankly, do not stand up to scrutiny in terms of accuracy. Without listing all of them, there are significant discrepancies in the story of the government ministers, and many of them are involved now, because we actually have the Premier, the Treasurer, the Attorney-General, the Leader of the Government in this place and we now have the Minister for Emergency Services: all five of them embroiled in this sordid affair and all of them with significant discrepancies in the stories that they have put on the public record.

The Hon. Robert Lawson has highlighted all the issues that would not be covered, and I am not going to go through all of those. The only point I want to make in relation to the issue of Mr Clarke, and this has been covered by a number of my colleagues, is that I agree with the statement of other members that so far Mr Clarke has not, for a number of reasons, provided evidence in relation to his knowledge of what has occurred. Put simply, for another inquiry to be conducted without Mr Clarke being able to give evidence is obviously in the government's interests (because otherwise

I am sure it would have constructed the terms of reference and the powers differently) but it is not in the interests of openness, honesty and accountability.

Whatever Mr Clarke's evidence might be—and I do not know—it is important that we at least hear from Mr Clarke before the conclusion of the next inquiry or inquiries into this issue. The reason why that power of the royal commission is required in relation to ensuring that witnesses like Mr Clarke can feel free to give evidence to an inquiry and why it might not have been in some previous inquiries is simple. In relation to the Clayton inquiry, there was not anyone who was saying, 'I am not coming along to give evidence.' Everyone who was required in the Clayton inquiry went along and gave evidence, whether they were ministers, ministerial staff, advisers, or whatever it was. There was not an issue of a key player not actually providing evidence.

What we have here is a key player so far, for whatever reasons, not providing his evidence to get to the truth of the whole matter. Therefore, the power that the Hon. Robert Lawson has flagged that he will be putting into this bill is critical for this issue to be resolved but, importantly, that is the reason why it is required in this issue and might not have been for some previous inquiries. The fourth broad issue I want to raise, very briefly, is that the Hon. Sandra Kanck raised some issues in relation to the period of October/November 2002, and we are indebted to her for sharing the information that she has been provided with.

The Hon. R.K. Sneath: Just like you, she dreamt the source up, too.

The Hon. R.I. LUCAS: We have already acknowledged that my source was very accurate, and I am sure that the Hon. Sandra Kanck's will prove to be also. I am also aware that, within an appropriate inquiry, a statutory declaration is prepared to be sworn by an individual which will recount the details of a conversation this person had with Attorney-General Atkinson about this case in this critical period of October and November 2002. Certainly, if that person provides that evidence by way of statutory declaration or sworn testimony, it will open a number of eyes in relation to the accuracy or otherwise of the Attorney-General's position and evidence on this issue.

The last issue I want to address relates to the position of the two lower house Independents, the members for Chaffey and Mount Gambier. I think that in a radio interview I referred to them on this issue as being 'rusted on' to the Rann government, and certainly not giving any indication of being prepared to be moved on any issue. Certainly, their approach on this issue is in marked contrast to the approach they adopted with the former government. I highlight that this difference in approach by those two members will be an issue on which the Liberal Party will campaign assiduously in its conservative constituencies between now and March next year.

We will highlight to the conservatives of Chaffey and Mount Gambier that the two rusted-on members of the Rann Labor government have applied a different standard to investigations of the former Liberal government than they are prepared to apply to the Rann Labor government. What is the difference? At the moment they are ministers with white cars and significantly increased salaries, superannuation and benefits. That is the difference in relation to these issues. I put that on the record, because the attitude and the actions of those two members really leaves the Liberal Party with no alternative.

Their constituents need to know that they have been prepared to participate with the Rann government in a massive cover-up on this issue, a massive cover-up to prevent the truth from being revealed in relation to all these issues. I put the challenge to the members for Chaffey and Mount Gambier: why are they assisting the Rann Labor government in not putting in a simple term of reference which existed in the Clayton inquiry and which related to the former government? I will read it in greater detail in a moment, but that term of reference states:

> To determine whether or not any statements given to the parliament and the McCann inquiry were misleading, inaccurate or dishonest in any material particulars.

Why are the Independents, the rusted-on Independent members of the Rann government, not prepared to put that same standard and test on the Rann government when they were prepared to put it on the former Liberal government? Let me read the full terms of reference that ought to or could apply if the position of the Liberal Party, as indicated by the Hon. Mr Lawson and the Hon. Sandra Kanck on behalf of the Democrats, is adopted. We believe that there is a need for much wider terms of reference covering a range of issues.

Clearly, at the moment, the Independents have said, 'Well, we're not going to move away from our new friends in the Rann Labor government, and we're not going to widen the terms of reference,' in relation to looking at all these issues like the Alexandrides affair (or scandal, as it is becoming known) and other issues. They have determined a position in relation to that. However, why will they not support a term of reference which they supported—

The Hon. J.F. Stefani: Insisted.

The Hon. R.I. LUCAS: —which they insisted on, as the Hon. Mr Stefani said, in relation to whether or not ministers, or others, have provided any statement to the parliament or the McCann inquiry which was misleading, inaccurate or dishonest in any material particulars. The other provisions in that motion moved by Mr Conlon were supported by the two Independents, and I have amended it to suit this particular circumstance. Three simple dot points could be added to the Rann government's narrow terms of reference. That is:

- to determine whether material evidence, written or oral, was not supplied to Mr McCann, and the reasons it was not supplied.
- to determine whether any statement given to the parliament and the McCann inquiry was misleading, inaccurate or dishonest in any material particulars.
- to determine whether any person or persons did or failed to do anything which caused relevant evidence not to be presented to the McCann inquiry, or cause inaccurate, misleading or dishonest evidence to be given to the McCann inquiry.

It is exactly the same test that they applied to the former Liberal government in relation to the Clayton inquiry. It is critical that it must refer to misleading, inaccurate or dishonest statements to the parliament and McCann, because it is certainly the contention of a number of members of parliament in both houses that statements made by some ministers, in particular the Attorney-General, to the parliament, are either misleading, inaccurate or dishonest. That ought to be tested.

The same test that Mr Clayton used—which might not have been perhaps the ordinary, everyday working definition of dishonest—the dictionary definition of dishonest, ought to be applied to Rann government ministers and ministerial advisers. Exactly the same test and exactly the same defini-

tions should be used for those particular words that were applied to Liberal ministers. I can understand that we do not agree with them, and if they do not accept the wider terms of reference from the Hon. Mr Lawson and the Hon. Sandra Kanck, that is one issue, and we will be critical of that. However, if they will not support this simple three dot point additional test, which is the test that they applied to the Liberal government, between now and March of next year, we will be assiduous in ensuring that the people of their electorates know that they were prepared to participate in a cover-up of these particular issues with the Rann Labor government, and that they would not apply the same test to a Rann Labor government as they were prepared to enforce on a former Liberal government.

I think that the good people of Chaffey and Mount Gambier—and I certainly know the good people of Mount Gambier better than the good people of Chaffey—will be interested to know why Mr McEwen in Mount Gambier, in particular, was unprepared to apply the same test to Rann Labor government ministers as he applied to the former Liberal government ministers.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): Let us begin with the last first. There has been so much that is dishonest spoken by members opposite in this place, that it will take a long time to dispatch much of it. First of all, let us take the nonsense that we just heard from the Leader of the Opposition in relation to Mr McEwen and Mrs Maywald. He said that their approach was different. Why were they not looking at the accuracy of the parliamentary statements? Obviously, the Motorola inquiry was all about whether former premier Olsen misled parliament. It was all about the statements that were made. That is exactly the core issue. So, of course, the terms of reference had to look at what was the core issue. But this is not about what happened in parliament. One would think, from listening to this debate tonight, that there had not been three reports into an allegation that came—

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

The Hon. P. HOLLOWAY: I will tell the member what is secret. We had a staff member. Another Labor staff member was concerned about what she had heard and reported it, and the Premier immediately took action. So, it was the Labor government that heard something and dealt with it. This is the opposition that had Premier Olsen sacked. It had a Deputy Premier sacked—Mr Ingerson. It had Dale Baker, another minister, sacked. That is what happened, all in just eight years. It was all because of dishonesty. That was real corruption and dishonesty. Here the Premier took action as soon as he became aware of an allegation about a staff member and immediately had a full investigation.

The Hon. R.I. LUCAS: Sir, I rise on a point of order. I ask the minister, in relation to his claim that there was corruption in relation to those four ministers, to withdraw and apologise. There was no proof of corruption—and I cannot remember all the names that he mentioned but, certainly, Olsen and Ingerson were the first two.

An honourable member: What about Dale Baker?

The Hon. R.I. LUCAS: And Dale Baker as well.

The Hon. P. HOLLOWAY: Certainly, three ministers were forced to resign. The Leader of the Opposition has been talking about corruption. He likes to talk about the Rann corruption inquiry, but the only person who was found guilty—

The Hon. R.I. LUCAS: Sir, I rise on a point of order. I ask the minister to withdraw in relation to the allegation of corruption.

The Hon. P. HOLLOWAY: Most certainly not. This Leader of the Opposition has been talking about what he calls the Rann corruption inquiry when, in fact, Randall Ashbourne was found not guilty. Four of his ministers had to go because of findings; they were all found guilty of various types of improper behaviour. Certainly, in relation to the former premier, it was a question about whether he had misled the house—

The Hon. R.I. Lucas: That's not corruption.

The Hon. P. HOLLOWAY: —which is not corruption but, certainly, in relation to at least one of those other ministers—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes, that is right, but I will not be diverted. The fact is that it is just nonsense to suggest that ministers McEwen and Maywald have not adopted exactly the same approach. The previous government had to be dragged kicking and screaming to have that inquiry. The conditions of the inquiry are exactly the same. This government has said, 'We will have an inquiry. It will be exactly the same terms of reference as we had previously in relation to the Motorola inquiry', which the previous government rejected, and had to be dragged kicking and screaming by those two Independent members who are now ministers. They have insisted on exactly the same conditions in relation to an investigation here.

Of course, the situation we have here is completely different. Here we have a member of the Premier's staff who was found not guilty just recently of any offence. Members opposite keep saying that no-one would have known if it had not been for the opposition. What—no-one would have known that a crime was not committed? Because we now know from the jury that a crime was not committed. So, the member is saying that we kept secret the fact that nothing happened; that a crime was not committed. What nonsense is that?

There was a significant amount of inaccuracy in what we have just heard tonight. The Leader of the Opposition referred to the Deacons report and tried to draw this argument somehow or other into there being some problems with the story, as he put it, with respect to the Attorney-General. He quoted part of the Deacons report, but of course if one is going to be fair, one has to read the whole lot. The end of that section of the Deacons report that he read states:

> Thus, while further investigation may assist an understanding of the extent to which Ashbourne has compromised the office of the Premier, or indeed any other minister in his mission to rehabilitate former party members, it is unlikely to assist, in any practical sense, in your response to the Premier.

This is the important part:

> While the outcome of investigation is more likely than not to further compromise Ashbourne, it is unlikely to inculpate the Attorney-General into Ashbourne's designs.

Of course the Leader of the Opposition did not read that. He used the part of it which suggested there was some difference but he did not read the conclusion which, of course, totally negates any point that he was trying to make from that Deacons document.

One could go on about a lot of the other points he makes. He talked about his senior source with an intimate knowledge of the DPP's office. Of course, he used the same thing today: it was a senior source with an intimate knowledge of the

Premier's office. I think it is worth pointing out that the information in relation to that matter that was in the DPP's office was marked private and confidential. If documents of the DPP are leaked, for whatever reason, that is a criminal offence.

This Leader of the Opposition systematically defends people who have broken the law—he has done it through the select committee into the allegations arising from the stashed cash. This opposition continually protects the people who have broken the law and continually stands up for people who break the law. They are the protectors of people who are corrupt—that is the reality—but, if you leak confidential information, it is a criminal offence.

The Hon. R.I. Lucas: You leaked DPP stuff this morning.

The Hon. P. HOLLOWAY: I have not leaked any DPP stuff. If a government has a document, it can release it at any time it likes, but a person breaches the Public Sector Management Act if they leak documents. So the people that the Leader of the Opposition was defending earlier have committed a criminal offence, but of course he totally ignores that because that is just politics.

Let us face it, when it boils down to it, this motion is all about politics. Why do members opposite want Ralph Clarke to appear? Because they know that Ralph Clarke is angry and hostile towards the Labor Party. So if you think he might do some damage it has to be in open court. If it was not in an open court, of course, it would be submerged but, if he is going to say something juicy, you need to have it public. However, if he is going to say something hostile, he would not want to incriminate himself, so you better make sure he has immunity so he can say whatever he likes, whether it is right or wrong, to get a bit of revenge and get away with it.

Of course, that is what this is all about. Let us not kid ourselves what this is all about and what they are doing. Let us not hide it. It is not about getting to the truth. It is nothing to do with the truth. The fact is that if Mr Ashbourne was innocent—and a jury found him innocent—and if he was the go-between and did not commit any offence, how could there have been an offence committed? A number of other comments were made today. The Hon. Sandra Kanck made some unsubstantiated allegations which she claimed are in the possession of the police Anti-Corruption Branch.

The Hon. Sandra Kanck: They are.

The Hon. P. HOLLOWAY: So what? If the police Anti-Corruption Branch have had them and they decide at the end of the day to give them to the DPP and there is a trial, the matter has been dealt with. So what? If they have had these unsubstantiated allegations, presumably they are just that. Unsubstantiated allegations are not worth anything at all.

The Hon. Sandra Kanck: They have not yet been substantiated. That is the difference.

The Hon. P. HOLLOWAY: I see, but somehow they can be, can they, Sandra? Somehow or other they might be substantiated? How long have they had them?

The Hon. Sandra Kanck: Get Ralph out and you will get him—

The Hon. P. HOLLOWAY: You see, it is Ralph Clarke. It is all this sort of thing, and you can really see what is happening. I know Ralph Clarke reasonably well. He was a colleague of mine for some years. Ralph would be having a great chuckle and a laugh at this. I think he would be absolutely delighted and revelling in the fact that people such as Sandra Kanck spent two days in a courtroom. She has become obsessed with this matter. That comes back, I suppose, to why we have this. In this state at the moment we have the highest level of employment for many years. Economic growth is above the national average. We have all those things, so why do we have these sorts of debates when nothing happened?

The Hon. R.I. Lucas: You got caught out!

The Hon. P. HOLLOWAY: Yes; we were caught out for not telling anyone a crime was not committed. It's great, isn't it?

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The leader knows full well that the Premier agreed to do it months ago because this government has standards—something which I know the Leader of the Opposition would not understand. The Leader of the Opposition has wasted 23 years in this place. He is bitter and twisted. All of his colleagues have gone. He sold the electricity trust. His credibility is shattered. I noticed that one of the things we tabled this morning was the financial report of the Health Commission. It talks about what happened between Dean Brown and Rob Lucas in relation to how they ran the health department. They would not talk to each other. It is worth reading, and I am sure that will come out. They are matters of real public interest. Sandra Kanck would not be interested in that—

The Hon. Sandra Kanck: The Hon. Sandra Kanck!

The Hon. P. HOLLOWAY: Sorry, the Hon. Sandra Kanck would not be interested in that. When it comes to gossip, she sat in court for two days to listen to the Ashbourne trial. She came in here to repeat some unsubstantiated allegations and got caught up in all this nonsense about events that happened over two years ago. A jury trial found Mr Ashbourne not guilty, but the honourable member is going on about this matter, while some really important things are happening. The important thing that the people of South Australia want to know is that the government will not be distracted by this circus.

We know members opposite, and, sadly, it now involves the Democrats. We know the political reasons for this. We know they will go on with this, but the government will not be diverted by these things. The attempt is to divert what has been the most effective government this state has had for years away from its central purpose. But it will not work. This government will stay on track. We have to had to waste hours of our time with these diversions, but we do not care. We will get on with the job that the voters of this state want. We will not worry about matters which have already been the subject of three investigations—and a person was found not guilty. We will not be diverted by things such as that. We will allow these processes to take their course. We will not get caught up in this sort of rubbish that is being put up by members opposite.

Tomorrow, when we get to the committee stage, I would love to go through how ludicrous these terms of reference are; and how they would make the Legislative Council a total laughing stock. For example, one of the terms of reference from the Hon. Sandra Kanck is an absolute classic. She wants a commission of inquiry that would involve paying a top lawyer probably $5 000 a day—or upwards—plus costs to look at whether Mr Alexandrides assisted in framing the terms of reference for the inquiry proposed by the government in the resolution of the House of Assembly passed on 5 July. Well, I can say now that he did. That is his job. He is the legal adviser to the Premier. It would be a scandal if he was not doing his job. It would be an absolute scandal if Mr Alexandrides was not doing his job and the legal work and assisting in it. This is the absurdity.

Another one referred to the part of the Attorney-General in contacting journalists covering the Ashbourne case in the District Court during the trial and the nature of those conversations. So, we are going to pay a top lawyer to go and investigate the Attorney-General talking to journalists. What have we come to? What sort of kangaroo court is this? We are going to look at whether ministers are talking to journalists, and I presume we will have star chamber tactics cross-examining journalists about what they talk about with ministers. This is nonsense; it is crazy stuff. The people of South Australia will recognise it as crazy stuff. I look forward to the committee stage tomorrow when we can talk in more detail about some of this incredibly stupid stuff. On behalf of the government, I say that this is so totally ridiculous that it will not be accepted. It really is absurd. Given the hour, the best thing we can do now is conclude the debate, come back tomorrow and deal with the committee then.

Bill read a second time.

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

That standing orders be so far suspended as to enable me to move an instruction without notice.

The PRESIDENT: You need an absolute majority.

The Hon. R.D. LAWSON: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

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

That standing orders be so far suspended as to enable me to move an instruction without notice.

Motion carried.

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

That it be an instruction to the committee of the whole council that it have power to insert a schedule in the bill in relation to the terms of reference of the inquiry.

The Hon. P. HOLLOWAY: We will oppose it tomorrow, but we will not divide on it now.

Motion carried.

The Hon. SANDRA KANCK: I move:

That standing orders be so far suspended as to enable me to move an instruction without notice.

Motion carried.

The Hon. SANDRA KANCK: I move:

That it be an instruction to the committee of the whole council that it have power to insert a schedule in the bill in relation to the terms of reference of the inquiry.

Motion carried.

AMBULANCE SERVICES (SA AMBULANCE SERVICE INC) AMENDMENT BILL

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

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

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

ELECTORAL COMMISSIONER

The House of Assembly agreed to the resolution contained in message No. 77 from the Legislative Council without any amendment.

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

The House of Assembly agreed to grant a conference as requested by the Legislative Council. The House of Assembly named the hour of 10.30 a.m. on Thursday 7 July 2005 to receive the managers on behalf of the Legislative Council at the Garden Room.

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

That a message be sent to the House of Assembly agreeing to the time and place appointed by the house.

Motion carried.

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

The House of Assembly requested that a conference be granted to it respecting certain amendments in the bill. In the event of a conference being agreed to, the House of Assembly would be represented at the conference by five managers.

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

That a message be sent to the House of Assembly granting a conference as requested by that house, and that the time and place for holding the same be the Garden Room in Old Parliament House at 10.45 a.m. and that the Hons J. Gazzola, I. Gilfillan, P. Holloway, R. Lawson and T. Stephens be the managers on the part of this council.

Motion carried.

ADJOURNMENT

At 1.18 a.m. the council adjourned until Thursday 7 July at 11 a.m.