LEGISLATIVE COUNCIL

Wednesday 14 September 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.18 p.m. and read prayers.

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

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

That the sitting of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

PAPER TABLED

The following paper was laid on the table:

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

Reports—

Government Boards and Committees information (by Portfolio) as at 30 June 2005, Volumes 1 to 3.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 24th report of the committee.

Report received.

The Hon. J. GAZZOLA: I bring up the 25th report of the committee.

Report received and ordered to be read.

NATURAL RESOURCES COMMITTEE

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

That the members of the council appointed to the committee under the Parliamentary Committees Act 1991 have permission to meet during the sitting of the council this day.

Motion carried.

PANDEMIC INFLUENZA

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a copy of a ministerial statement relating to pandemic influenza made earlier today in another place by the Premier.

ADELAIDE PARKLANDS BILL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to the Adelaide Parklands Bill 2005 made on 13 September 2005 in another place by my colleague the Minister for Environment and Conservation.

THE *RING*

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to the *Ring* made on 13 September 2005 in another place by my colleague the Minister Assisting the Premier in the Arts.

GTR AUTO PTY LTD

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement relating to GTR Auto Pty Ltd made on 13 September 2005 in another place by my colleague the Minister for Consumer Affairs.

GAWLER HEALTH SERVICE

The Hon. CARMEL ZOLLO (Minister Assisting in Mental Health): I lay on the table a copy of a ministerial statement relating to the Gawler Health Service made today in another place by my colleague the Minister for Health.

QUESTION TIME

TRANSPORT AND URBAN PLANNING DEPARTMENT

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the minister representing the Minister for Transport a question about tendering processes in the government.

Leave granted.

The Hon. R.I. LUCAS: Earlier this week the Auditor-General produced a special report pursuant to section 39 of the Passenger Transport Act. I refer in particular to section 39(2a)(c) of the Passenger Transport Act which, in summary, requires that, during a process of tendering, should the Minister for Transport issue a direction to any person, the minister must forward a copy of that direction to the Economic and Finance Committee; and it also has to be published in the annual report of the minister's department. On page 96 of the Auditor-General's report, amongst other references, it states:

Audit's review of the tender process for the Metropolitan Bus Services has, however, identified that, at certain key stages of the process, the minister was briefed on the process and provided input on the future conduct of the process. This input was communicated to the Project Steering Committee by the Chief Executive of the Department of Transport and Urban Planning or implemented personally by the Chief Executive of the Department of Transport and Urban Planning.

In the audit recommendations on page 4 (I might say, in my view, a generous interpretation by the Auditor-General), the Auditor-General concludes as follows:

Although it was not possible to say definitively that the minister gave directions concerning the conduct of the tender process within the meaning of section 39(2a)(c) of the Passenger Transport Act 1994, the minister did provide certain input concerning the conduct of the tender process which were acted upon by the department as if they constituted formal directions. A clarification or definition of the concept of a 'direction' would be beneficial.

My questions are:

1. Given the findings of the Auditor-General in relation to the role of the Minister for Transport, what input specifically did the Minister for Transport provide concerning the conduct of the tender process which were acted upon by the department as if they constituted formal directions?

2. Was the minister, or any of the ministerial officers reporting to the minister, required by the Auditor-General to give evidence to the Auditor-General on oath in relation to this aspect of the tendering process?

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

Transport and see whether he can find the information. I assume that it would apply to a previous minister for transport, although I am not sure which one. I will endeavour to get the information for the leader.

The Hon. R.I. LUCAS: I have a supplementary question. If the minister or the minister's officers were not required to give evidence on oath, can the government ascertain as to why they were not required to give evidence on oath in relation to this critical issue?

The Hon. P. HOLLOWAY: I will also refer that question to the Minister for Transport for his consideration.

MARALINGA TJARUTJA LANDS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Maralinga Tjarutja lands.

Leave granted.

The Hon. R.D. LAWSON: It has recently been announced that Dr Archie Barton AM, the longstanding and highly respected administrator of the Maralinga Tjarutja lands, has stepped aside and that an acting administrator has been appointed in his stead. Only a couple of weeks ago, the Aboriginal Lands Parliamentary Standing Committee made an official visit to the Maralinga lands. We were greeted at Oak Valley by Dr Barton, and we had interesting and informative discussions and inspections with Dr Barton and other community leaders at Oak Valley. We also visited the office of Maralinga Tjarutja at Ceduna.

Mr President, as you and members of the council would be aware, Maralinga Tjarutja is a body corporate established under South Australian legislation, namely the Maralinga Tjarutja Land Rights Act 1984. It is an incorporated body, and the act requires that the council cause proper accounts to be kept of its financial affairs and requires those accounts to be audited annually before 30 September each year. I should mention that the minister was unable to be present with the Aboriginal Lands Parliamentary Standing Committee during that visit, but his presence was much missed. My questions are:

1. Did the state government or any of its agencies or instrumentalities have any prior knowledge of the circumstances which led to Dr Barton's standing aside?

2. Will the minister report to the council on the current status of the financial position of Maralinga Tjarutja?

3. Will the minister advise when the government last saw audited accounts of the incorporated body?

4. Can he assure the council that no state government funds in relation to Maralinga Tjarutja are at risk?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his question and his kind words about my being missed during the visit to the lands. Certainly the standing committee has taken its responsibility seriously in relation to dealing with those issues, not just the Maralinga Tjarutja lands but also the AP lands. Members took time out to visit Oak Valley, Ceduna and Yalata and received in-depth reports from practitioners, people on the ground, who are putting into place policies that both the commonwealth and the state government have determined are in the best interests of those communities. It is unfortunate that investigations are going on into issues associated with the use of funds in the administration of the Maralinga Tjarutja lands. I have no detail of the investigation other than the information that has been put into the public arena. As it is a police matter, I will wait for the outcome of their investigations.

I will refer the question to the Office of the Premier and Cabinet in relation to the first question as to what date or time the state government had information relating to the investigation. In respect of the operation of the trust fund, I will have to get details from the minister's office responsible for the department whose job it is to oversee the administration of the trust fund. The only information I have is in the public arena generally but, as far as I know, no state government funds were at risk. I will wait until I get a report as to whether any state government funds were at risk and relay that information to the honourable member in relation to his question.

The Hon. R.D. LAWSON: By way of supplementary question arising from the minister's reference to the trust fund and to the fact that he would seek from the minister responsible details in relation to that fund, will he indicate which minister has responsibility in relation to the trust fund, of which the Maralinga Tjarutja people are beneficiaries?

The Hon. T.G. ROBERTS: I will inquire into that. I am unsure of the appropriate minister at this time, but I will obtain those details and get back to the honourable member.

MINING ROYALTIES

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Mineral Resource Development a question about a mining royalties bill.

Leave granted.

The Hon. CAROLINE SCHAEFER: I have a copy of a good news press statement released jointly by minister Holloway and the Premier today, and it is headed 'Olympic Dam expansion now a major project'. Over the page, there is almost what could be described as a P.S., and taking total responsibility at this stage of the press release is minister Holloway, so I assume it is somewhat more contentious. It says:

> Mr Holloway has announced that, meanwhile, the Rann government will this week introduce a bill that will change the way mining royalties are calculated in South Australia.

Some detail is then given, and the last sentence states:

> The new regime has been negotiated with the South Australian Chamber of Mines and Energy and has the support of the industry.

This is directly contrary to information I have received from the industry. My question is: can the minister detail what negotiations took place with the industry in regard to the new bill, when did they take place and with whom?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): The change to mining royalties was announced by the Treasurer in the 2003-04 budget—so it is now over two years ago that these changes were flagged—and for the benefit of the council I will explain the reason for the announcement in that budget. Western Mining Corporation pays royalties that are set in the Roxby Downs (Indenture Ratification) Act at 3.5 per cent—and, incidentally, the vast majority of mining royalties in this state come from that one mine, Olympic Dam. That rate of royalty payment was due to expire after 20 years, so it expires on 31 December this year.

The announcement made by the government in the 2003-04 budget was that the government would lift the

general rate at that stage to 3.5 per cent so that, when the indenture provision relating to royalties expired, the rate of 3.5 per cent would continue. In other words, the state would continue to receive the same amount of money from Roxby as it has received in the past at that rate because, as I understand them, the provisions in the indenture are that after the 20 year period they would revert to the rate that applied generally across the state.

That was the reason for the announcement in the 2003-04 budget, and at that time it was indicated that the state government would negotiate with the Chamber of Mines and Energy and with the industry generally in relation to these mining provisions. That has taken place and there has been quite a significant discussion including, at one stage, the release of, I think, a discussion paper that was handed to the industry. There were comments on that, so it has been quite an iterative approach. So, in effect, there have really been two years of negotiations over this measure.

I believe that the bill is being introduced into the House of Assembly today, and that is because, being a money bill, it has to be debated in the House of Assembly first. The bill sets the mineral ad valorem royalty base rate at 3.5 per cent for all existing mines that mine minerals other than extractives, and we dealt with that in an amendment earlier this year. It removes the provision that allows for a discounted ad valorem royalty rate for on-site value-adding processing. I should point out that under the Mining Act the current rate is actually a variable one—it varies between 1.5 per cent and 2.5 per cent—and the Minister for Mineral Resources Development has the power to alter that rate in special circumstances.

In its lengthy negotiations with the industry, the government has formalised an approach where there will now be a rate of 1.5 per cent that will apply to all new mines for a period of five years. I think that will be an attractive royalty rate to encourage new mines to set up within the state, and it will give us a very attractive regime that will mean that the industry is supported in setting up new mines, because the mineral industry involves very extensive capital expenditure early in the process, although with bigger returns some years out. In fact, I can remember Hugh Morgan telling me once that the company was still out of pocket in the sense that, even with all the revenue it had earned from Olympic Dam, the company still had not recouped all its expenditure on the mine at that stage.

So these are long-term investments, and we believe that this new royalty regime—the 1.5 per cent for five years for new mines and the 3.5 per cent, which is an increase, for mines established for five years—will be competitive relative to those in the rest of the country and that this new feature will make it attractive. As I said, those rates have come about as a result of extensive negotiations with the South Australian Chamber of Mines and Energy (SACOME) and representatives of the industry. I have also spoken to individual companies.

The other feature of this new bill is not only the changing to the rate but also the means by which it is assessed. In the past, the minister has set the value for the mineral to which the royalty applies. Most other states and most other parts of the world have a far more efficient system, which is that the royalty should be based on the ex-mine gate value of minerals. So what the new bill will do is provide a three-year phase in. It will set the rate at the current levels up until the end of 2008. After that time this 3.5 per cent will revert to the ad valorem rate, which is the way that most other minerals regimes apply, and it is a much more economically efficient rate.

Obviously it will follow the value of minerals, both up and down, as these prices fluctuate, which is greater economic efficiency and of benefit to the industry and the government, so that the taxpayer would get the benefit when mineral prices are high. When mineral prices are in a downward fluctuation and the companies have less cashflow, then they pay less. All in all, we believe the changes which have been arrived at after two years of lengthy negotiations with the company will be very worthwhile and, as I say, they are being introduced by my colleague the Treasurer in the House of Assembly in the next day or two.

OLYMPIC DAM

The Hon. J. GAZZOLA: Continuing on with the theme, I seek leave to ask the Minister for Mineral Resources Development a question regarding Olympic Dam.

Leave granted.

The Hon. J. GAZZOLA: Will the minister advise honourable members of the council on the status of the proposal by BHP Billiton to expand its Olympic Dam operations and explain what sort of assessment processes will apply to such a significant proposal?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his question and would be delighted to follow on from the other parts of the announcement that was made by the government today in relation to mining royalties. Today I can update the members of the council on the government's decision to support the declaration as a major development under the Development Act 1993 of the proposal by BHP Billiton to undertake a significant upgrade and expansion of its mining operations at Olympic Dam.

I am sure that members of the council are aware that the BHP Billiton operations at the Olympic Dam mine process significant amounts of copper and uranium and, to a lesser extent, silver and gold. The current production rate of copper is around 220 000 tonnes per annum, with uranium around 4 000 tonnes per annum. BHP Billiton is proposing to upgrade and expand its current operations to more than double its copper production and triple its uranium production.

The major components of the project as proposed by BHP Billiton include the establishment of a new open-pit mine with the continuation of underground mining operations; the expansion of smelter and hydrometallurgical processing activities; the establishment of waste rock dumps and the expansion of the tailings storage system; the augmentation of the water supply from 42 megalitres a day to 120 megalitres a day; augmentation of the power supply through the upgraded transmission lines from Port Augusta or an on-site power station, and possibly a natural gas pipeline from the Moomba area; a potential rail line from Olympic Dam to Pimba; the transport of copper and uranium to either Port Adelaide or Darwin; the expansion of the Roxby Downs township; and the development of a new airport.

This proposal is of both state and national significance and, as such, is likely to trigger an EIS process under the Commonwealth Environmental Protection and Biodiversity Conservation Act. I understand that BHP Billiton has already referred the proposal to the commonwealth for a determination on the level of assessment required. With regard to the major development assessment process, under the Roxby

Downs Indenture Ratification Act 1982 the Minister for Mineral Resources Development is responsible for declaring the development major as well as for the final decision. Under the Development Act, it is usually the minister responsible for urban development and planning who declares the project and the governor who is the decision-maker.

With a need to ensure that the assessment process, across commonwealth and state governments, can proceed in a coordinated manner, and that obviously means the process would be more efficient and timely, I would like to remind the members here today that the government has established an Olympic Dam task force to coordinate the government's response to the proposed expansion. I can also advise that discussions with the commonwealth Department of the Environment and Heritage have already occurred and a collaborative assessment process has been agreed. This will ensure that community consultation and the assessment processes are coordinated across government.

Once the major development declaration has been formalised by gazettal tomorrow, the next step is the preparation of an issues paper for public consultation. This will be followed by the drafting of the assessment guidelines by both state and commonwealth governments, taking into account submissions received on the issues paper. BHP Billiton will then be required to undertake investigations based on the level of assessment which will shortly be determined. Again, this will be subject to extensive public consultation and response before an assessment report is prepared for consideration and a decision is made by the Minister for Mineral Resources Development. If approved, this proposal will have significant benefits for South Australia in terms of its contribution to the economy and the employment opportunities it will create both during and after the construction phase.

GENETICALLY MODIFIED CROPS

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Emergency Services, representing the Minister for Agriculture, Food and Fisheries, a question regarding a GM gift device.

Leave granted.

The Hon. IAN GILFILLAN: On my recent study tour to the UK, I noticed that the issue of GM crops and the introduction of GM crops was a widespread matter of concern both within and without the parliament. One particular item which was before the public was brought forward through *The Guardian* newspaper under the heading 'Growers can Exploit GM Loophole'. The following is a quote from that particular edition of *The Guardian* dated 8 August this year, under the by-line of Paul Brown, environment correspondent. The article states:

> GM crops can be grown in the UK without farmers having to notify the authorities or their neighbours, the Guardian has discovered after testing a loophole which allows enthusiasts to grow their own GM maize.
>
> Supporters of GM crops can legally grow them in Britain by applying to the biotech company Monsanto for a sample pack of GM maize to test on a British farm.
>
> When the Guardian put this to the test, Monsanto offered to send a small quantity free provided the farmer sent the test results and undertook to protect the company's interest by not breaching patents, for example, by selling the seed to a third party.

The article goes on with a lot more detail. However, it is clear that, if the agribusinesses that are promoting GM crops are prepared to use a device such as a free gift of GM seed to producers who are prepared to risk the damage that can be done to the state's reputation and the state's agriculture, and if the situation that applies here is the same as in the UK, that loophole is a very dangerous means whereby the further extension and contamination of South Australian rural areas by GM crops could be perpetrated. With that background, I ask:

1. Is the minister aware of the loophole being exploited in the UK?

2. Does the minister agree that any such scheme exercised by any company in South Australia is unacceptable?

3. What, if any, legislation is in place to prevent such a scheme being used in South Australia?

4. What steps will he take, if necessary, to protect South Australia from infiltration by such a scheme?

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

ROAD SAFETY

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, questions regarding a recent article in the *Sunday Mail*.

Leave granted.

The Hon. T.G. CAMERON: The RAA was recently reported in *The Sunday Mail* as claiming that the Rann government's denial over sub-standard roads is costing lives and that it has largely forgotten South Australia's dangerous and crumbling road systems in the state budget. RAA Managing Director, Mr John Fotheringham, stated that the government was not committed to reducing crashes on South Australian roads. He said the government needed to commit $80 million over three years rather than the $22 million allocated as part of the budget's Long Life Roads package. The RAA also believes the government is too focused on speed and red light cameras rather than better roads as a way to lower the road toll.

It is pleasing that finally the RAA has seen the light and seen what the government's use of speed cameras and red light cameras is all about. Mr Fotheringham said:

> The fact cannot be ignored that the single most effective way to reduce road trauma is to make our roads safer to use. The Government remains in denial that sub-standard roads are often a major contributor to lives being lost.

Not everybody who is killed or injured on our roads is as a direct result of speed, as the government tries to claim. As the state's peak motoring body with over half a million members and a 100 year history, the RAA is well placed to argue the safety benefits of better roads for drivers. My questions to the minister therefore are:

1. Just how many deaths and serious road traumas is it estimated are caused by sub-standard roads in South Australia each year, and how much is it estimated that this is costing the community in financial terms?

2. Will the government commit to meeting Mr Fotheringham and the RAA to discuss their concerns over current levels of funding being committed to improving our roads?

3. Will the government consider diverting some of the revenue raised by 50 new red light and speed cameras towards road repair and road safety improvements?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The government announced that that revenue was

used for that purpose. The state has very limited sources of revenue for its programs. It has either the commonwealth reimbursements from tax or it has a very limited source of revenue from its own resources. The fact is that in terms of road safety we need a multipronged approach to prevent people from doing silly things on our roads as well as investment in road facilities.

Recently when I was acting minister for transport I had the opportunity of announcing a number of government grants for black spots in this state. There were a couple of roundabouts including the one outside the Aldgate Pump Hotel in the hills. Everyone in that area would know that that is a major traffic blackspot. There was also the need to improve a roundabout in the Salisbury area, one of a number of projects that have received state government money. So, the government does recognise the deficiencies in our road infrastructure and has put money into those sorts of programs. I guess we could also do with a far better reimbursement of road funding at both a state and local level from the commonwealth which we probably have not had for at least 50 years. Anyway, those are matters for my colleague the Minister for Transport. I will refer the honourable member's questions to him and bring back a reply.

MILLBROOK RESERVOIR

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the minister representing the Minister for Infrastructure a question about repairs to the Millbrook Reservoir.

Leave granted.

The Hon. J.F. STEFANI: I have been contacted by a constituent who informed me that the Millbrook Reservoir is only half full and that the reason for controlling the capacity in this reservoir is that there is a hole in the wall. My constituent also advised me that in making inquiries he has been told that the money to complete the repairs will not be allocated until October 2005. In view of these circumstances my questions are:

1. Will the minister confirm when the repairs to Millbrook Reservoir will be carried out?

2. Will the minister advise the council of the reason for the delay in completing the repairs to the wall of the reservoir?

3. Will the minister advise the parliament of the estimated cost to effect the repairs?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I think this is probably SA Water's responsibility. I know that the reservoirs in this state are ageing; and this government has had to invest a lot of money into the Happy Valley reservoir to strengthen and stabilise that particular dam. We do have some ageing infrastructure in this area, which will be expensive to maintain in the future. If money had been allocated in October 2005, I would think it would be in this budget and it would not be an issue after 1 July. I will get a response from my colleague—probably minister Wright—and bring back a reply.

MANUFACTURING INDUSTRY

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Industry and Trade a question about the state's manufacturing industry.

Leave granted.

The Hon. J.M.A. LENSINK: In June we had the announcement by Acting Premier Kevin Foley of the strategy entitled, 'Global horizons-local initiatives: a future framework for South Australia's manufacturing future'. In the press release the Treasurer outlined a number of what are described as initiatives of some $25 million, including a Centre for Innovation. My questions are:

1. In relation to the Centre for Innovation, how does this specifically differ from the dismantled CIBM? Where will it be established? When will it be established?

2. In relation to the initiatives, were submissions invited for these multimillion dollar initiatives? If not, why not? If so, who was on the panel? What criteria were applied? Was it a multiple-step selection process between a committee, council or some other body and the minister's office? If it was through a selection process and tender, will the minister provide a list of all the unsuccessful projects and the reasons therefor?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The money about which the Treasurer was talking in that report related to support that the government has provided to a number of centres throughout the state, such as the CRC, advanced automotive engineering, product innovation awards, the wine innovation cluster (which was $9.5 million over two years) and the Australian Mineral Science Research Institute (which was $2.5 million). They were all projects that have been proposed to—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes; they were announced. After all, this statement was made by the Deputy Premier some time in the last financial year. There are a number of projects for which the government is providing money, and they were considered through the usual processes of government. There was not a tender, as such. I do not think one tenders for something like the Australian Mineral Science Research Institute. Clearly, those sorts of bodies get funding only through the commonwealth, and commonwealth funding is a significant part of any project. The states have to put up the money and get the commonwealth funding. Clearly, only a few places in this state win that highly competitive process to get that sort of support.

The Ian Wark Research Institute at Mawson Lakes, of course, is world renowned in relation to expertise. So, in relation to that particular money which went to the Australian Mineral Science Research Institute—with which I am familiar—there would be no other body in this state, I would think, that would have the capacity to do the sort of work that is being done there. These processes are not tenders, but the various centres of excellence and the programs that the government has been supporting will improve the competitiveness of manufacturing. I announced earlier this week some details of other programs where we are helping the automotive component sector.

In relation to the honourable member's question about the Centre for Innovation, the centre has already been established. It will provide specialist services and act as a catalyst for high growth South Australian companies to innovate. It will include innovation nodes to the north and south of Adelaide. The node in the north will be located at the Mawson Lakes centre. There will also be a node established to the south of Adelaide. The services that will be available through that centre for innovation will include innovation support, commercialisation support, collaboration and also helping with the process of education awareness and raising of performance.

In this state we have an enormous amount of innovation going on. There are many research institutes, including those announced by the Treasurer in that statement, such as the Australian mineral and science research institute, the Wine Innovation Cluster and the Mawson Institute for Advanced Manufacturing, which will get $8 million over four years. Those bodies exist and there is certainly plenty of innovation going on. The key is to tie in that innovation with our companies, particularly the smaller companies at the cutting edge of the global competition for manufacturing. We need to ensure that there is the connection between the bodies doing the research and innovation and the companies that need that commercialisation support.

The specific role of the centre for innovation is to make that connection between the companies (particularly the smaller companies that need support) and the bodies that are doing the innovation. That, essentially, will be its role. As I understand it, it will have a specific focus on centres for innovation that have been set up around the world, and I have had a look at some of the data from overseas bodies, and that is increasingly their focus. So, we believe that this centre for innovation will play that role very well.

As I indicated in answer to a question from the Leader of the Opposition two days ago, it has a specific focus in relation to the automotive component sector, because that is one part of manufacturing that is particularly feeling the heat at the moment because of a number of global factors—high petroleum prices, changing sectors of the car market, the high Australian dollar and global influences (particularly the state of the US car market). So, that is part of the industry that will get the initial focus from the centre for innovation.

MOBILONG PRISON

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the commissioning of 50 new beds at the Mobilong Prison.

Leave granted.

The Hon. R.K. SNEATH: The state government's recent commissioning of the new 50-bed Ross Unit at the Mobilong Prison represents the biggest increase in prison accommodation in this state in almost a decade.

The Hon. T.J. Stephens interjecting:

The Hon. R.K. SNEATH: I think there has been a bed put aside for you, Mr Stephens. Can the minister provide details of this significant $4 million project?

The Hon. T.G. ROBERTS (Minister for Correctional Services): It just so happens that I can provide some detail on the question asked by the honourable member. I thank him for his interest in correctional services and in the outer metropolitan area of Adelaide, at Murray Bridge. The $4 million expansion of the Mobilong Prison at Murray Bridge adds 50 new beds to South Australia's correctional system. As the honourable member mentioned, this represents the biggest increase in prison accommodation in South Australia in almost a decade. It also continues the Labor government's commitment to improving the state's correctional services system after eight years of neglect under the previous regime.

Designed in 1984 and completed in 1987, Mobilong Prison itself was an innovative prison, being Australia's first open-plan, village-style prison. It was designed as an educational and vocational prison in which prisoners could undertake programs to address their offending behaviour, assess education and vocational training, and progress through their sentence until their ultimate release.

The Mobilong expansion includes five new accommodation buildings, each comprising two duplex style units. Each unit provides accommodation for five prisoners in single bedrooms with a shared bathroom, kitchen, and meals and lounge area. This self-contained accommodation not only helps prisoners readapt to communities but it allows them to become accustomed to self-management living before they are released. It also plays a valuable role in minimising the burden on the prison's existing care and control functions. Importantly, all bedrooms within the units incorporate safe cell design principles such as the removal of hanging points, and one of the five bedroom units is designed to meet the needs of disabled prisoners.

The new accommodation will house low to medium security prisoners who will be responsible for all their own living requirements, including cooking, cleaning, attending work or education, as well as attending rehabilitation programs, depending on individual needs. The project has incorporated green design principles (which should impress members opposite, particularly the Hon. Mr Gilfillan and the Hon. Sandra Kanck), which will help to reduce energy consumption and greenhouse gas emissions. For example, thermodynamic features include reverse brick-veneer outer walls; eaves designed to reduce heat load on exterior walls and windows; highly efficient ceiling installation; and other passive heating and ventilation measures. The new units are also equipped with solar hot water and centrally controlled heating and cooling systems.

A particularly pleasing aspect of this project was the key role played by the staff of the Department of Correctional Services and those at the Mobilong Prison in the planning and design of this expansion. The state government has also allocated $850 000 in recurrent funding for 15 additional staff and services required to manage the new units.

The Hon. Sandra Kanck: Job creation!

The Hon. T.G. ROBERTS: Yes. In keeping with the Mobilong tradition of naming accommodation wings after famous Australian explorers and settlers, the new wing will be named after John Ross, who led the 1870 expedition that preceded the construction of the overland telegraph line from Adelaide to Darwin. Since coming to office in 2002, the Labor government has been committed to providing extra funds to improve our prisons and correctional services system in South Australia, which was badly neglected under the previous regime. Labor's investment in South Australia's correctional system also includes $500 000 for new beds at the Northfield women's—

The Hon. Sandra Kanck: What about the women's prison?

The Hon. T.G. ROBERTS: We have spent half a million dollars on new beds, including $200 000, unfortunately, on refitting expenses after a fire, which was money that did not show any clear benefit but was a renewal of a wing of the women's prison; $950 000 for a new state-of-the-art control room at the Mount Gambier prison, which I have mentioned once before and for which we won an innovative design award; $1.9 million for new prison fire safety equipment; $1.6 million for extra prison officers and community corrections staff; and $1 million to improve medical and professional education and staff accommodation at Mobilong.

Members can see that, with all those investments in corrections, in a modest way this state is making some inroads into the neglect of the past and, hopefully, with the

crime rate dropping as it is, the loading problems will be accommodated with the 50 new beds. Certainly it gives the correctional services officers and management more flexibility in planning for prisoners in terms of space and prevents the overcrowding that leads to dissatisfied prisoners and sometimes trouble in prisons.

DRUGS SUMMIT

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Industry and Trade, representing the Premier, a question about the drugs summit initiatives.

Leave granted.

The Hon. SANDRA KANCK: Last month in my correspondence I received a copy of the Social Inclusion Board's first stage evaluation report summary on the drugs summit initiatives titled 'Taking stock and implications for the future'.

The Hon. T.J. Stephens interjecting:

The Hon. SANDRA KANCK: Yes, they did nothing—exactly. Amongst the recommendations coming out of the June 2002 drugs summit were: safe injecting rooms; consideration of heroin prescription trials; and consideration of the regulated availability of cannabis. There was also a recommendation that there needed to be a tough approach to alcohol. I have read all four pages of this self-congratulatory report summary and, after more than three years, I cannot find any reference to action being taken to follow through on those particular recommendations. My question to the minister is: what progress has been made in implementing the drug summit recommendations regarding: (a) safe injecting rooms; (b) heroin prescription trials; (c) regulated availability of cannabis; and (d) alcohol?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): In relation to safe injecting rooms, I thought the government announced its policy on that. I am not the expert in this area, so I will refer it on to the Premier, although I am well aware that other ministers, such as the Minister for Health and the Minister for Families and Communities and others, were responsible for implementing it. I will seek to coordinate an approach but, in relation to the first issue the honourable member raised, the government's policy is well known.

PORT WAKEFIELD ROAD

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about Port Wakefield Road.

Leave granted.

The Hon. A.L. EVANS: Not long ago a constituent wrote to me raising concerns about a certain section of Port Wakefield Road. In his letter he states:

> Recently I heard of an accident just south of the town of Port Wakefield on the main highway. The accident occurred because one of the drivers was on the wrong side of the road, apparently thinking that he was still on the dual highway.

My questions are:

1. Will the minister advise on the number of accidents that have occurred on this section of the road over the past five years?

2. Will the minister advise whether consideration has been given to the installation of flashing lights to warn drivers of the approaching end of the dual highway?

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

CHRISTIES BEACH HIGH SCHOOL

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Infrastructure, a question on Christies Beach High School.

Leave granted.

The Hon. T.J. STEPHENS: In response to questions asked by the Hons Mr Stefani, Mrs Reynolds and Mr Redford in October 2004, the minister provided a chart showing transactions of the Land Management Corporation. One transaction shows that a part of the Christies Beach High School has been sold by DECS to the Housing Trust. I am also advised that some sections of the high school have been earmarked for a retirement village. My questions to the minister are as follows:

1. Will he detail exactly what parts have been sold?

2. Will he detail for what purpose they were sold?

3. Will he confirm that the state government is still committed to supporting the federal government's technical trade school to be built at that site?

4. Will any moneys from these transactions go to bringing the remaining parts of the grounds up to a proper standard?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer that question to the Minister for Infrastructure and bring back a reply, although the latter question probably should go to the Minister for Education and Children's Services.

MOUNT CRAWFORD AIRSTRIP

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the Mount Crawford airstrip.

Leave granted.

The Hon. J. GAZZOLA: I understand that an airstrip is being constructed for fire bombing aircraft within the Mount Crawford forest. Will the minister advise the council on the details of this new airstrip?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his important question. The new Mount Crawford airstrip is a joint project between Forestry SA, SA Water, the Department of Environment and Heritage and the CFS. For many years the CFS has used a privately owned airstrip located at Kersbrook as its primary airstrip for the Northern Mount Lofty Ranges. However, in the past larger aircraft have presented operational limitations on days of extreme fire danger where it has been unsafe to operate from the airstrip.

The new Mount Crawford airstrip will see significant improvements to air-based management and afford greater safety to aircraft operators and ground support crews that participate in aerial firefighting operations to support ground-based firefighting crews. The airstrip will be located directly behind the Mount Crawford ranger station and depot on the Williamstown to Mount Pleasant Road. It will be 1.16 kilometres in length, 40 metres in width and with a 20 metre clear zone either side.

The landing zones and stand-by area will be gravel with a grassed strip. Aircraft will have access to mains water via an existing 90 000 litre mains-fed concrete tank. The strip has been built to Civil Aviation Safety Authority standards and is designed to last for a minimum of 20 to 30 years. In the future it is anticipated that air and ground support crews will have access to a mixing and storage shed as well as a crew room with kitchenette amenities and radio room facilities, although these facilities have not yet been constructed. This airstrip may also service the expanding Barossa area in the future. Volunteer air support crews trained by the CFS will undertake aerial operations and ground support.

The airstrip at Mount Crawford is central to the majority of ForestrySA plantations in the Mount Lofty area, to a large amount of SA Water land and to the expanding northern Mount Lofty hills rural/urban interface. Australian Maritime Resources, which is a CFS contractor, has been consulted on the airstrip and fully endorses the type and style of airstrip under construction at Mount Crawford. The new airstrip will be available for the 2005-06 fire season.

The Hon. J.F. STEFANI: I have a supplementary question. Can the minister advise the council whether this airstrip is capable of being used by aircraft that are engaged from overseas to fight fires?

The Hon. CARMEL ZOLLO: It does depend on the size. Which particular aircraft does the honourable member refer to? As the honourable member would probably be aware, this government has put significant resources into its budget—particularly over the past two years—to increase the air fighting capacity for bushfires in South Australia, and I know that for the next fire danger season we will see two fixed-wing, single engine air tankers based in Mount Gambier which will, obviously, be available in the South-East. We will also have two fixed-wing, single engine air tankers and two helicopters available in the Mount Lofty Ranges, and two fixed-wing single engine air tankers available at Port Lincoln—

The Hon. A.J. Redford interjecting:

The Hon. CARMEL ZOLLO: The honourable member is obviously not interested in hearing about the good things we have done to increase air firefighting capacity in the state. In addition, the CFS will be establishing a 'call when needed' register of suitable aircraft that may be available to undertake a variety of aerial functions relative to fire management. As I said in my response, the airstrip will be a wide one and, if the honourable member can tell me what type of aircraft he is thinking about, I will undertake to bring back a response.

EMERGENCY ELECTRICITY PAYMENT SCHEME

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs, representing the Minister for Families and Communities, a question about the Emergency Electricity Payment Scheme.

Leave granted.

The Hon. A.J. REDFORD: The Emergency Electricity Payment Scheme was established to assist people—

The Hon. Sandra Kanck: It is all about a door snake.

The Hon. A.J. REDFORD: No, there is no door snake here but it is nearly that good. It was established to assist people who as a consequence of financial hardship could not pay their bills. Indeed, for 2003-04, disconnections from electricity were some 13 500, and for the 2003-04 year there were some 8 000 disconnections.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: I am told when I look at the figures that the level of disconnections in South Australia is much higher than that in Victoria and, in response to the honourable leader's interjection, a state where there also is privatisation. Indeed, only recently the Minister for Families and Communities announced an increase in the amount payable per claim from $200 to $400. I also note that last year, despite having a budget of some $400 000 to help these people in financial hardship, the government managed to spend only $200 000, notwithstanding some 8 000 disconnections. These figures concern me and I did make some inquiries as to why we have such a large number of disconnections and yet a fund which is only half spent.

The Hon. P. Holloway: What about the millions we spent by extending concessions?

The Hon. A.J. REDFORD: If the honourable leader can just wait, because he will like this. What I discovered is that one of the conditions for a payment from the Emergency Electricity Payment Scheme is that you must not have had your electricity cut off. So what we have is a situation where if people are financially destitute they can apply to this fund but if their electricity is cut off then it is too late. If I can just pass on a bit of news to the government: it is usually a good sign if someone has had electricity cut off that they might be in some financial difficulties. Anyway, the government might care to take that on board. My questions are:

1. Will the government review the rules? Why are people who have already had their electricity cut off precluded from access to this scheme?

2. Does the government realistically expect the whole of its budget to be spent whilst it retains ridiculous rules like that?

The PRESIDENT: There is a fair bit of opinion involved in there, but I am sure the minister can handle it.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): What I can say is that this government has, for the first time in 10 years or more, increased the concession that went to pensioners.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: It was millions of dollars that was spent by this government—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: And why did we have to do that? Why did we have to commit scarce taxpayers' money in providing millions of dollars to help the pensioners—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: It was because when the Hon. Angus Redford put his hand up to privatise the electricity system in this state he locked in massive increases, a 30 per cent increase in prices, which have put people of this state under enormous pressure.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! The Hon. Mr Redford will come to order.

The Hon. P. HOLLOWAY: The Hon. Angus Redford should be up here on his hands and knees apologising profusely to the people of South Australia for what he has done in relation to electricity. He should be apologising,

because he and his colleagues and those who supported that privatisation are the ones who are to blame for the massive increases in electricity prices. But this government has addressed them significantly in terms of the massive increases and the million of dollars of scarce taxpayers' funds that have been put into assisting pensioners and others on low incomes.

All the honourable member can do is look at a scheme that is at the periphery of the enormous assistance this government has given to people in relation to electricity prices. In relation to that peripheral matter, I will get a response from my colleague. But this government will not apologise for what it has done. Rather, it is members opposite who should be apologising for what they did in privatising the electricity system. One has only to look at what their federal colleagues are doing at the moment in relation to Telstra to see that this lot never learn.

REPLIES TO QUESTIONS

SHEEP, FLYSTRIKE

In reply to **Hon. IAN GILFILLAN** (9 November, 2004).

The Hon. P. HOLLOWAY: The Acting Minister for Aboriginal Affairs and Reconciliation advises that:

The Minister for Agriculture, Food and Fisheries has provided the following information:

1. The Government of South Australia through the Department of Primary Industries and Resources is working closely with industry and the University of Adelaide on a number of fronts to address the issue of flystrike in sheep. These range from the support of programs to identify genetic attributes that reduce the susceptibility of sheep to fly attack to the development of improved preventative treatments for the current sheep flock.

2. Officers from my Department are working to ensure that South Australia is well represented in the national research and industry development activity associated with this issue. Considerable industry funding is available through the Merino industry to support the management of flystrike.

Some of the earlier development work undertaken by Microbial Products Pty Ltd was carried out at the Turretfield Research Centre north of Gawler. Apart from this involvement, Primary Industries and Resources SA has not had an ongoing interaction with this company.

The Government is supporting industry in a range of other activities in the area of flystrike management.

In reply to **Hon. NICK XENOPHON** (29 June).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

The research referred to by the Honourable Member is segmentation research conducted for SA Lotteries in 2002. This research was commissioned for internal use at that time and as such will not be released by SA Lotteries. The research was only quoted in response to specific points raised by the lawyers acting on behalf of Mr Brian Selth.

SA Lotteries categorically confirms it does not have a policy of targeting lower income households.

A Lotteries does not classify clientele. With more than 70 per cent of South Australians playing SA Lotteries' games on occasion, SA Lotteries recognises that its market is reflective of the broad South Australian population—just as its profits go to the State Hospitals Fund for the benefit of all South Australians.

Guidelines are contained in SA Lotteries "Agent Information Booklet" which is provided to all potential applicants on request.

SA Lotteries guidelines for applicants state that there are two key factors considered in approving an application:

- Is this the best site to deliver incremental sales to SA Lotteries; and
- Is the applicant suitable.

Whenever an SA Lotteries agency opportunity becomes available, whether it is a brand new site, a sale of an existing site or a relocation of an existing site, SA Lotteries assesses both the site and the applicant(s).

The assessment to determine the potential of an agency site includes a review of whether:

- The site is the best location for an SA Lotteries agency.
- The existing SA Lotteries agency (if applicable) meets SA Lotteries' standards of performance and whether improvements could be made.
- The quality of the business operation is of an acceptable standard ie general cleanliness and tidiness, adequate staffing levels, staff presentation, stock levels and merchandising, and the general attitude of management and staff.
- The business is compatible with SA Lotteries games.
- There is a sufficient level of existing business turnover and customers who patronise the business to make an outlet viable.

With regard to the suitability of the applicant, an interview is conducted by SA Lotteries at the time of the site assessment. At this time, the applicant is also informed of SA Lotteries' requirements in relation to establishment costs, corporate fit-out requirements, design and layout of the agency and training and responsible gambling commitments. In addition, a satisfactory police check is required.

Only those applications for an agency that are considered to be commercially viable, with applicants of good standing prepared to demonstrate the necessary commitment to delivering SA Lotteries games in a socially responsible manner, are approved by SA Lotteries.

ROYAL ADELAIDE HOSPITAL

In reply to **Hon. A.L. EVANS** (28 October 2004).

The Hon. P. HOLLOWAY: The Acting Minister for Aboriginal Affairs and Reconciliation advises the following:

The Minister for Health has provided the following information:

1. The Royal Adelaide Hospital (RAH) manages its workload during peak periods. On 5 October 2004 there was a brief period of ambulance diversion from the RAH. This was the first ever diversion from the RAH because of workload pressures. It was also the busiest day on record, with 187 attendances and 112 admissions.

Although workload pressures continue to be high, the hospital has only had one further brief period of diversion when patients in the emergency department peaked at over 70 and there were multiple traumas.

2. The RAH's "Whoa to Go Emergency Department Patient Flow Initiative" commenced on 1 June 2004 and has demonstrated some encouraging results. When comparing the period 1 June 2004 to 28 February 2005, against the same period the year before, the RAH has treated 12% more patients, and has improved the time it takes to be seen by a doctor by 26 per cent.

The number of patients who did not wait to see a doctor has reduced considerably.

In January 2005, the RAH commenced a hospital wide patient-flow initiative called 'Patient Pathways' to review patient flow throughout the hospital, building on the work done in the emergency department.

3. It is appreciated that further improvements to patient flow are achievable. However, the RAH Emergency Department is the busiest in Adelaide, the triage breakdown indicates that it has the sickest patients and, with respect to waiting times and 12 hour waits, it is already the best performing public hospital in metropolitan Adelaide.

The RAH has undertaken a number of initiatives this year to improve bed availability. These include the consolidation of general medical beds to five main wards. It is recognised, however, that workforce issues and activity demand will impact on availability. The RAH anticipates improvement in bed capacity and availability as a result of "Patient Pathways", with groups established to assist with bed management for emergency department patients.

The Central Northern Adelaide Health Service management have developed specific strategies aimed at improving the management of patients presenting at Emergency and at the discharge and process of patients.

The above strategies will facilitate appropriate utilisation of the available beds at the hospital.

LOTTERIES COMMISSION

In reply to **The Hon. NICK XENOPHON** (24 May).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

1. Up to 70 per cent of adult South Australians play SA Lotteries games at least once each quarter. Therefore SA Lotteries' target market is all adult South Australians.

SA Lotteries does not directly target families, however, within such a broad customer base, many players of SA Lotteries' games are likely to be experiencing a 'family' lifestyle.

Therefore games and marketing strategies are often developed in a way that reaches and achieves some resonance with common family experiences.

SA Lotteries subscribes to the widely used Roy Morgan Values Segments*TM in its media strategy planning. These segments provide insight into the prime motivations of consumer choice and change. These segments do not identify specific people but enable the alignment of marketing strategies with consumer attitudes, perceptions and behaviour.

Again, whilst there may be those members of the public who are impulsive or compulsive gamblers this is not a segment identified within the Roy Morgan Values Segments used widely across the advertising industry. SA Lotteries therefore does not target (ie tailor any advertising creative or direct any media placement), impulsive or compulsive gamblers in any way.

To target impulsive or compulsive gamblers would be in contravention of the State Lotteries Advertising Code of Practice, which requires that advertising:

- s not directed at minors;
- Is not explicitly or exclusively directed at vulnerable or disadvantaged groups (including recovering problem gamblers);
- Does not promote gambling as a means of relieving financial or personal difficulties; and
- Does not state or imply that gambling is a means to pay for household staples, education or rent, or to meet mortgage commitments.

SA Lotteries' Advertising Policy ensures adherence to the State Lotteries Advertising Code of Practice and procedures exist to support this policy, including the requirement to specifically analyse advertising campaigns in the context of the Code.

Furthermore, SA Lotteries' advertising is placed in accordance with the advertising periods specified by the State Lotteries Advertising Code of Practice.

2. The response provided in November 2003 was based on a segmentation study conducted by SA Lotteries in March 2002.

SA Lotteries does not currently rely on this data in its game or marketing planning, or utilise the segments derived from it.

With up to 70 per cent of adult South Australians playing an SA Lotteries game at least once each quarter, it is necessary for SA Lotteries to segment its market to ensure the most effective use of marketing budgets. For this reason, SA Lotteries subscribes to the widely used Roy Morgan Values Segments*TM in its media strategy planning. These segments provide insight into the prime motivations of consumer choice and change. These segments do not identify specific people but enable the alignment of marketing strategies with common consumer attitudes, perceptions and behaviour.

3. The last SA Lotteries segmentation study was conducted in March 2002. At this time it was identified that the percentage of revenue generated by consumers who play for the thrill and excitement of winning was:

Lotto	21%
Powerball	20%
Keno	27%
Instant Scratchies	28%

Other than for the game of Oz Lotto, playing for the thrill and excitement of winning was the leading purchase motivation for players—winning the lottery is an extremely thrilling and exciting thought for players as they buy their weekly entry.

SA Lotteries does not currently rely on this segmentation data in its game or marketing planning, or utilise the segments derived from it.

4. The assertion that the most recent release within the Star Wars movie series is aimed at people aged 25 years and above is based on research provided to SA Lotteries by Lucasfilm Ltd into the Star Wars consumer base. This research suggests that the movie's core consumer base is those people most likely to have a rooting in and affinity for the original movie trilogy.

The M15+ rating for the film Star Wars: Episode 3 reinforces that the film is not directed towards the youth market.

5. SA Lotteries is not required to seek the Independent Gambling Authority's approval for marketing activities and communications. All marketing activities are, however, conducted in accordance with the State Lotteries Responsible Gambling Code of Practice and the State Lotteries Advertising Code of Practice, as determined by the Independent Gambling Authority.

Further, all marketing communication concepts are subject to the approval of the Cabinet Communications Committee.

ASBESTOS

In reply to **Hon. NICK XENOPHON** (8 February).

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

1. After the decision of the High Court in *BHP Billiton Ltd v Schultz & Others* on the 7 December, 2004, the Attorney-General had made an appointment to meet Mr John Camillo of the Australian Manufacturing Workers' Union, Mr Terry Miller of the Asbestos Victims Association, and their legal representative. The meeting was originally scheduled for 23 December, 2004, It took place on 19 April, 2005.

2. No

3. The *Survival of Causes of Action Act 1940* was amended in 2001 so that the claims of plaintiffs who die from dust-related conditions can be continued by their executors after their deaths. The damages to which they were entitled are paid to the executors of their estates to be distributed according to their wills or the laws of intestacy.

To a considerable extent, the speed with which proceedings progress depends on the parties themselves and on the knowledge, skill and efficiency of their lawyers.

Legislation, rules of court and court practice allow for the early taking of evidence in, or outside, South Australia of parties or witnesses who may die before the trial and for the preservation and later use of that evidence.

The Courts can, and do, hear genuinely urgent cases urgently. They can, and if necessary do, conduct proceedings at a party's home or hospital.

It is up to the plaintiffs' lawyers to request the court to do these things and to inform the Court of the reasons. It is for the judge to decide whether the requests are justified and can be accommodated by the Court.

The Courts cannot control the number of proceedings issued. They must act impartially in all cases brought before them. There are cases other than the claims of people who are suffering asbestos diseases that are urgent. They must act independently of the executive arm of Government. It would not be proper for the Executive to direct the Courts about how they are to perform their judicial functions.

It is not possible for the Courts, or the Government, to guarantee that *every* future urgent case will be disposed of urgently.

However, I have indicated to representatives of Asbestos Victims Association that I am willing to consider any suggestions they have for practical improvements to our courts and court processes. The Attorney-General's Department is working on possible legislative changes to assist the prompt hearing of claims for common law damages for mesothelioma.

4. Changes to the law of evidence and procedure of the type that the Asbestos Victims Association seek would require legislation.

Although there is a great deal of satisfaction amongst plaintiffs and their lawyers with the N.S.W. Tribunal, defendants usually see it as operating under an unfair process.

Under existing South Australian Court Rules, there is a procedure available for requesting the other party to admit facts and the Court can penalise the defendant by costs orders if it is of the opinion that a defendant has put a plaintiff to proof unnecessarily.

There is already workers' compensation legislation in South Australia to the effect that if it is proved that a worker who has mesothelioma or asbestosis was exposed to asbestos during the course of his or her work, then it is presumed that the exposure caused the disease.

However, some further provisions are being considered. The *Dust Diseases Tribunal Act* of New South Wales and its Rules and the New South Wales *Dust Diseases Amendment (Claims Resolution)* Bill 2005 and proposed Order for standard presumptions about apportionment, are being examined.

The Attorney-General has indicated to representatives of the Asbestos Victims Association that he is willing to consider any suggestions it has they have for practical improvements to our courts and court processes.

5. and 6. The High Court in *BHP Billiton v Schultz* does not mean that no South Australian residents may sue in the N.S.W. Dust Diseases Tribunal. If one or more of the defendants carry on business

in New South Wales, as do the James Hardie companies, the New South Wales Tribunal would have jurisdiction to hear the case. However, there is now a greater chance for plaintiffs that their cases will be transferred from the Tribunal to South Australia.

It may be that what the Asbestos Victims Association and trade unions want most is the special rules about evidence and procedure that apply in the N.S.W. Tribunal. It is legally possible to make special rules for particular types of cases without establishing a separate tribunal.

There are cost and policy arguments against establishing a special South Australian Dust Diseases Tribunal.

Establishing a new tribunal would cost public money. The demand for a tribunal is one of many demands made of the Government to spend taxpayers' money to help particular groups of people.

At this stage, it is uncertain that there will be enough cases to occupy a special tribunal fully.

As plaintiffs suffering these diseases need to issue proceedings promptly to preserve their rights and the rights of their estates, it is probable that the number of proceedings commenced would far exceed the number going to trial. Even if a special tribunal were set up in South Australia, there could be some South Australian resident plaintiffs who would be advised to issue their proceedings in the N.S.W. Tribunal.

The real differences between asbestos claims and the run-of-the-mill personal injuries cases is (a) the number of asbestos cases in which the taking of plaintiff's evidence is very urgent, and (b) the length of time that elapses between the tortious conduct and the manifestation of symptoms of disease. Neither of these facts are sufficient by themselves to warrant a special tribunal.

Some of the difficulties faced by both plaintiffs and defendants in legal proceedings for damages for asbestos diseases may not be common, but they are not unique. The District Court and the Supreme Court are very experienced in dealing with claims for damages for personal injuries, including cases in which the facts that give rise to the case occurred a long time ago. The District Court is already dealing with claims for asbestos diseases. The Government is of the opinion that it would be better to deal with asbestos cases through the existing courts.

If the number of urgent cases becomes too great, I would expect that the Chief Justice and the Chief Judge would draw this to the attention of the Attorney-General and request the appointment of auxiliary judges to deal with them. The Government would consider the request on its merits.

As a general observation, the more different courts and tribunals are created, the greater the chances of arid jurisdictional arguments. English law had learnt this lesson by the nineteenth century when it passed the *Judicature Act*.

Special tribunals exercising a narrow area of jurisdiction have a tendency to develop their own jurisprudence and lose touch with the mainstream of law. They can become idiosyncratic and even develop biases. This tends to result in perceptions of injustice.

It would be inappropriate for the Executive arm of Government to attempt to dictate to the judiciary how it will exercise its judicial functions or to do anything to compromise its independence or impartiality. The legislature may change the rule for courts by enacting legislation. This is what the Government is considering doing.

DIRECTOR OF PUBLIC PROSECUTIONS

In reply to **Hon. J.F. STEFANI** (31 May).

The Hon. P. HOLLOWAY: The Attorney-General has advised that under the Workers Rehabilitation and Compensation Act, 1986, stress is not a compensable disability. To make sense of the question, it has been re-framed as seeking information as to the number of workers suffering from a recognised psychiatric disability, as certified by the treating doctor.

The Attorney-General has received this advice:

1. There are no staff of the Office of D.P.P. currently on workers compensation income maintenance owing to a psychiatric disability.
2. There are no staff who have been on workers compensation income maintenance for up to one month as at 30 May, 2005, owing to a psychiatric disability.
3. There are no staff who have been on workers compensation income maintenance for up to two months as at 30 May, 2005, owing to a psychiatric disability.
4. There are no staff who have been on workers compensation income maintenance for up to three months as at 30 May, 2005, owing to a psychiatric disability.

LAND TAX

In reply to **Hon. J.F. STEFANI** (28 October 2004).

In reply to **Hon. NICK XENOPHON** (28 October 2004).

The Hon. P. HOLLOWAY: The Treasurer has provided the following information:

For the purposes of determining land tax liabilities, land valuations are carried out by the Valuer-General under the *Valuation of Land Act 1971*, committed to the Minister for Administrative Services.

The Government announced a land tax reduction package in February 2005 which included an increase in the tax-free threshold from $50 000 to $100 000, adjustments to the land tax bracket and rate structure to provide broad-based relief, and the introduction of specific land tax exemptions.

Further relief was provided in the 2005-06 Budget by lifting the tax-free threshold to $110 000, exempting supported residential facilities from land tax and introducing an option to pay land tax bills on a quarterly basis.

All of these measures take effect from the 2005-06 land tax assessment year.

The land tax reduction package also included land tax rebates in respect of 2004-05 land tax assessments.

The old and new land tax arrangements are detailed in the tables below.

2004-05 land tax structure

Total taxable site value	Tax applicable
$0 to $50 000	0.00%
$50 001 to $300 000	$0 + 0.35%
$300 001 to $1 000 000	$875 + 1.65%
Over $1 000 000	$12 425 + 3.70%

New land tax structure to apply from 2005-06

Total taxable site value	Tax applicable*
$0 to $110 000	0.00%
$110 001 to $350 000	$0 + 0.30%
$350 001 to $550 000	$720 + 0.70%
$550 001 to $750 000	$2 120 + 1.65%
$750 001 to $1 000 000	$5 420 + 2.40%
Over $1 000 000	$11 420 + 3.70%

*% tax rates apply to the excess above the lower limit of the taxable site value range

An estimated 45 000 landowners will pay no land tax as a result of lifting the tax-free threshold from $50 000 to $110 000. A further 74 000 taxpayers will benefit from the re-scaled land tax structure.

The maximum benefit is $2 880 for land ownerships valued between $550 000 and $750 000 (total taxable site value).

Land tax rebates were provided to 2004-05 land taxpayers at a cost of $20.2 million. Rebates were calculated as 50 per cent of the savings under the land tax scales proposed in February 2005, applied to 2004-05 ownerships.

The following table shows the value of the rebate in 2004-05 and the value of ongoing tax savings in 2005-06 for selected site values.

Value of benefit to taxpayers from rebate in 2004-05 and tax savings in 2005-06

Total taxable site value	Tax payable under		2005-06 saving	2004-05 rebate
	2004-05 scale	2005-06 scale		
$75 000	$87.50	$0	$87.50	$43.75
$100 000	$175	$0	$175	$87.50
$110 000	$210	$0	$210	$90.00
$200 000	$525	$270	$255	$112.50

Value of benefit to taxpayers from rebate in 2004-05 and tax savings in 2005-06

Total taxable site value	Tax payable under		2005-06 saving	2004-05 rebate
	2004-05 scale	2005-06 scale		
$300 000	$875	$570	$305	$137.50
$400 000	$2 525	$1 070	$1 455	$712.50
$500 000	$4 175	$1 770	$2 405	$1 187.50
$600 000	$5 825	$2 945	$2 880	$1 425.00
$700 000	$7 475	$4 595	$2 880	$1 425.00
$800 000	$9 125	$6 620	$2 505	$1 237.50
$900 000	$10 775	$9 020	$1 755	$862.50
$1 000 000	$12 425	$11 420	$1 005	$487.50

In addition to the broad-based relief to be provided through the restructured land tax scale, the following specific amendments have been introduced to provide additional relief to particular categories of land ownership. Property owners conducting a business from their principal place of residence, including operators of bed and breakfast accommodation, will be able to claim full or partial land tax exemptions depending on the proportion of the house area used for the business activity.

Effective from the 2005-06 assessment year, a full exemption will be available if the home business activity occupies less than 25 per cent of the floor area of all buildings on the land that must have a predominantly residential character. Part exemptions will apply to home business activities occupying between 25 per cent and 75 per cent of that area based on a sliding scale that moves in 5 per cent increments. As the proportion of the area used for income-earning activities increases, the size of the exemption reduces. No relief will be provided where the home business activity occupies more than 75 per cent of the floor area of all buildings on the land.

Land used for residential parks (where retired persons lease land under residential site agreements for the purpose of locating owner occupied transportable homes on that land) will now be exempt from land tax, as will caravan parks and supported residential facilities, licensed under the *Supported Residential Facilities Act 1992*.

The criteria for determining eligibility for a primary production exemption for owners of land located in "defined rural areas" (close to Adelaide and Mount Gambier) will also be amended to broaden eligibility.

As part of the 2005-06 Budget the Government announced a quarterly instalment payment option for land tax in an effort to make the payment of land tax bills easier for land owners. Quarterly payments will be available from the 2005-06 assessment year. This replaces the instalment payment option over four consecutive months that was introduced in the 2004-05 assessment year.

The quarterly instalment payment option will be available to all land taxpayers with no interest charged, unless a default occurs. No discounts will apply if taxpayers elect to pay their tax in one single payment. Land tax bills will be sent out at the same time as in previous years.

The total cost of these land tax relief measures is $58 million in 2005-06 or $244 million over the four years to 2008-09.

In relation to your third question, I am advised by RevenueSA that the amount of land tax collected for the year ending 30 June 2004 from private taxpayers was $117.5 million.

ELECTRICITY PRICES

In reply to **Hon. J.F. STEFANI** (14 October 2004).

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

The Government has been actively working to deliver cheaper power to South Australian consumers and fully understands South Australians' frustration with the effects of electricity privatisation.

The Labor Party did not support the privatisation of this State's electricity assets. As anticipated, privatisation has not produced the benefits the former Government proposed.

The legacy of privatisation has been the high power bills paid by South Australian consumers. These bills have reflected the botched privatisation process that the Liberal Party followed. Far from increasing competition in the electricity market the previous Government sold two network monopolies and gave a single retailer a stranglehold over consumers in the retail market while creating a single buyer in the wholesale market. To increase the price received for the electricity entities the previous Government gave returns on investment far in excess of that allowed to other comparable electricity companies across the country.

This Government has taken positive steps to help consumers reduce their power bills. As at the end of April 2005, around 270 000 small customers have transferred to market contracts since 1 January 2003, representing 37% of the small customer base in the State. These contracts offer savings to the consumer of up to 8% off the standing contract prices.

A $50 one-off Electricity Transfer Rebate (ETR) was provided to energy concession recipients who switched from the standard contract to one of the better value-for-money market contracts offered by electricity retailers by mid-August 2004. The Government has been pleased with the response to the ETR, around 87 017 eligible customers have transferred to market contracts and qualified to receive the ETR.

The Government recognises that increased efficiency can help reduce consumers bill and has provided $2.05 million over 2 years to fund an energy efficiency program for low-income households, run in partnership with local community based organisations. The program includes free energy audits for low-income households, which identify how the householder can reduce the cost of heating and cooling without reducing their own comfort, as well as a no interest loan scheme to replace inefficient appliances.

In recognition of the dynamic and ever-changing nature of the South Australian electricity market, this Government is always seeking to improve the regulatory framework for the benefit of South Australian energy customers. On this basis, further improvements were made to the process for justifying standing contract prices through additional legislative amendments last year.

In May 2004, I requested that Essential Services Commission of South Australia (ESCOSA) undertake an inquiry into the standing contract prices to apply from 1 January 2005 for three and a half years. Of note is the requirement under the terms of reference that the proposed standing contract prices for the period specifically exclude any allowance for headroom to promote competition, as headroom artificially increases prices charged to small customers.

ESCOSA has issued the AGL final price determination and the ETSA Utilities final price determination, which will result in real reductions for small consumers over the life of the determinations. These determinations provide for a reduction of around $50 from July 2005 for average residential consumers.

With regard to rebate increases, last year the Government announced a number of initiatives to assist pensioners and others on fixed incomes to manage the recent increases in electricity bills. The annual energy concession, after remaining stagnant for 14 years, through the whole term of the previous Government, was increased from $70 per year to $120 per year. Further, in 2004 the energy concession was extended to self-funded retirees who hold a Commonwealth Seniors Health Card.

This year to assist low income households the Government is paying a $150 bonus to all Energy Concession holders, as well as extend the Concession to 30 000 single people on Centrelink allowances. This scheme is another example of the Government's commitment to social inclusion.

The Government will continue to monitor the impact of energy prices and concessions on those least well off in the community, with the aim of minimising any adverse impacts.

PIRSA, ANNUAL REPORT

In reply to **Hon. CAROLINE SCHAEFER** (29 June).

The Hon. P. HOLLOWAY: The unacceptable rehabilitation practices referred to in last years annual report related to the method of backfilling 9-inch diameter exploratory drill holes. Miners were merely covering these holes by "back blading" with their bulldozers rather than using a method which ensured that the holes were completely filled. Compliance officers, when undertaking rehabilitation inspections for approval claim surrenders were unable to determine the extent to which drill holes were filled. It was found that drill holes rehabilitated by the "back blading" practice were not completely filled leading to subsidence of the cover and exposure of the drill hole. Unfilled drill holes pose a potential hazard to the Pastoralist.

This unacceptable rehabilitation practice was identified and discussed with the South Australian Opal Miners Association Inc (SAOMAI) who were informed that PIRSA would not approve rehabilitation of claims that had drill holes backfilled in this manner.

This practice has now been eliminated and all 9-inch drill holes are now backfilled properly, which has seen the compliance rate for the satisfactory rehabilitation of tenements return to approximately 95 per cent.

RURAL AND REGIONAL TASK FORCE

In reply to **Hon. CAROLINE SCHAEFER** (9 February).

In reply to **Hon. T.G. CAMERON** (14 April).

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

Upon receiving the South Australian Farmers Federation (SAFF) policy paper, "A Triple Bottom Line for the Bush" on 30 March 2004, the Premier requested the Government's peak regional advisory group, the Regional Communities Consultative Council (RCCC) to provide advice.

The RCCC considered the report and provided advice to the Premier on its contents. On 21 July 2004, the Premier announced that the Government would develop a strategy for regional development to complement South Australia's Strategic Plan.

Cabinet approved the development of this plan in December 2004. Consultation has occurred at departmental level with SAFF, Local Government Association, Regional Development SA and various State Government agencies.

The RCCC membership will continue to oversee and guide the development of this plan.

COLLECTIONS FOR CHARITABLE PURPOSES ACT

In reply to **Hon. NICK XENOPHON** (10 February).

The Hon. P. HOLLOWAY: The Acting Minister for Aboriginal Affairs and Reconciliation advises that:

The Minister for Gambling has provided the following information:

1. During the first half of 2004, written consultation was undertaken with approximately 250 charities and collection agents licensed under the *Collections for Charitable Purposes Act 1939*. The consultations were specifically in regards to the disclosure requirements under the *Collections for Charitable Purposes Act 1939*. Their view was sought on a number of changes being considered to the Act to make charitable fundraising more transparent for the sake of donor confidence.

2. With specific reference to conditions on remuneration levels, section 12(2) of the *Collections for Charitable Purposes Act 1939* states that:

> A licence may be issued subject to any condition fixed by the Minister limiting the proportion of the proceeds of collections and entertainments which may be applied as remuneration to collectors or other persons concerned in the collections or entertainments and may be issued subject to any other conditions of any kind fixed by the Minister

The licensing regime is an annual process and therefore the licensee was not required to advise of the Cherie Blair tour and therefore, the Minister could not apply specific conditions.

3. Financial statements provided under section 15 relate to activity in a full financial year, not individual events. Consistent with that, the financial statements for the Queen Elizabeth Hospital Research Foundation for the year ended 30 June 2004 do not specifically identify the proceeds from the August 2003 Rudi Giuliani event. The proceeds from the August 2003 Rudi Giuliani event were summarised with all the other activities undertaken by the Queen Elizabeth Hospital Research Foundation during that period. These statements are currently not publicly available.

4. The financial year statement was received on 12 January 2005.

In reply to the supplementary question asked by the Hon. J.F. Stefani MLC, the Minister for Gambling advises:

5. The Minister will not table the working papers associated with this matter. A Bill to amend the *Collections for Charitable Purposes Act 1939* will be introduced in the near future dealing with disclosure under this Act.

CORRECTIONAL SERVICES, ANANGU PITJANTJATJARA LANDS

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

In reply to **Hon. J.F. STEFANI** (7 April).

The Hon. P. HOLLOWAY: The Acting Minister for Correctional Services advises that:

The Government has not yet decided whether or not to establish a correctional centre on, or adjacent to, the APY Lands.

The first sentence of paragraph 10.51 of the Coroner's March 2005 Findings of Inquest into the deaths of four Aboriginal men reads as follows:

> I was told that in March 2004, the Department for Correctional Services was seeking funds from Treasury as part of the State Infrastructure Plan, to develop a business case for a correctional facility on or near the Anangu Pitjantjatjara Lands.

It is clear from the statement made to the Coroner that the Department considers it appropriate to investigate the level of community support for, and the feasibility, scope and costs of a correctional centre, before determining whether or not to develop a proposal for my consideration.

The government has provided funding for a feasibility study and business case to be carried out. Consultants have been engaged to undertake the feasibility study, and the Department expects to receive their report by September 2005. I will decide, in the light of that report and in the Budget context, whether or not to submit a firm proposal to develop a correctional centre.

The reference to a prison as a second-order priority in the State Infrastructure Plan reflects the Government's recognition that the concept of a correctional facility on, or near the Lands, warrants detailed consideration, but that any commitment of funds should await the outcome of community and stakeholder consultation and other relevant assessments.

It is important to emphasise the distinction between a correctional centre, whose primary role would be to address the rehabilitation and community reintegration of repeat offenders; and what the Coroner refers to in his March 2005 Findings as a 'secure care facility', designed to provide opportunities for sobering up, detoxification, and rehabilitation of substance abusers. The Coroner has commented on the latter in paragraphs 10.55—10.63 of his report.

Links undoubtedly exist between repeat offending and chronic substance abuse on the APY Lands. Both the Department for Correctional Services and the Department of Health however, agree that the program and service models to address these issues in Aboriginal communities need to be developed separately, albeit in a coordinated manner. The Coroner refers to this matter in paragraphs 10.48 – 10.50 of his March 2005 Findings.

The development of one or more correctional centres as an alternative to imprisonment for certain categories of Aboriginal offenders from the APY Lands and from Pitjantjatjara, Ngaanjatjara and Yankuntjatjara-speaking communities in Western Australia and the Northern Territory, has been one of the options addressed by the Cross-Border Justice Project, established in June 2003 by the Chief Executives of the Justice Departments of the three jurisdictions concerned.

In reply to the Supplementary Question asked by the Hon. J.F. Stefani:

To date, there has been no firm decision by Governments in any of the three jurisdictions on whether to proceed with such a development. However, officers from the relevant Western Australian and Northern Territory Departments have noted with interest South Australia's initiative in commissioning a feasibility study. The consultants undertaking the study in South Australia have therefore been asked to consult with appropriate Justice and Correctional officers in these jurisdictions in order to explore further possibilities for co-operation in this regard.

ANANGU PITJANTJATJARA LANDS

In reply to **Hon. R.D. LAWSON** (8 February).

The Hon. T.G. ROBERTS: The Minister for Housing has provided the following information:

1. Based on ABS March, 2001 data, there were about 2 187 Aboriginal people living on the APY Lands and at March, 2004 there were 232 people on waiting lists for housing. As at February, 2005 there were 384 occupied houses on the Lands, but 49 of these, whilst occupied, require replacement.

Action is being taken to do something about the housing shortage on the APY Lands. Since 2000-01, $23.799 million of housing funds have been committed to the APY. Lands and 73 houses have been constructed. Over the next 12 to 24 months, 10 houses are programmed for construction and six units of accommodation for Indigenous staff housing will be built.

2. The Minister for Housing believes that all people should be able to access affordable lodging and should be supported in their endeavours to seek home ownership.

3. The Government wants to encourage innovative opportunities for home ownership among Indigenous people. As a result of initiatives introduced by Home*Start* Finance and the Aboriginal Housing Authority, Indigenous pledge are currently taking up home ownership in record numbers.

Individual home ownership by Indigenous people on the APY. Lands is complicated. I am not aware of any new proposal that effectively addresses the dual issues of Indigenous land rights and home ownership. I would, however, be interested to receive any proposal, provided that it does not disadvantage Indigenous people's interest in the land.

LIQUOR AND GAMBLING COMMISSIONER

In reply to **Hon. NICK XENOPHON** (11 April).

The Hon. P. HOLLOWAY: The Acting Minister for Aboriginal Affairs and Reconciliation advises that:

The Minister for Gambling has provided the following information:

1. All Liquor and Gambling Compliance Officers have completed a number of training courses including:

- Basic Evidentiary Techniques of Investigation course (conducted by the SA Police)
- Investigation Methods
- Investigative Interviewing Techniques
- Law Handbook Live (conducted by the SA Legal Services Commission and Adelaide University Law School)

2. In the absence of any photographic or video footage of a person actually in the act of committing an offence, the first procedure is to obtain identification tools such as a photograph or video footage as soon as a suspected offender has been apprehended.

In this particular case, there was no video footage of the incident and the investigating officers used the most recent photographs available to them. The fact that the minor's appearance may have changed between the time of the alleged incident and the time of questioning was a factor outside of the control of the investigating officers since the complaint was not lodged with the Liquor and Gambling Commissioner until a week after the incident occurred.

The alleged bets were made on 24, 25 and 26 May 2002 and the Office of the Liquor and Gambling Commissioner received a telephone complaint on Friday 31 May 2002. On 3 June 2002 the Commissioner received a further phone call from the family's solicitor. On 4 June 2002 the Commissioner received a log of all bets from the TAB and on 5 June 2002 officers interviewed the boy and obtained photos during the interview. TAB agents were interviewed on 6 June 2002 and management and staff of the hotel were interviewed on 7 June 2002. Therefore, the first round of interviews were completed within 5 working days of the incident first being reported and photographs of the boy were taken within 2 working days of the incident being reported. Clearly it was not possible for investigating officers to obtain a photograph of the boy prior to when the incident was reported.

I am satisfied that the investigating officers acted quickly and employed methods and procedures diligently.

Further, the Commissioner has advised that he has written to SA Police asking for police to review the conduct of the investigation and if any deficiencies are identified the Commissioner will take appropriate action.

3. The report submitted by the Independent Gambling Authority and laid before the Parliament details a number of complexities in the facts upon which the complaint was said to be founded and, in particular, with respect to conflicts within and between the evidence of the witnesses who came before the inquiry.

In addition, the Independent Gambling Authority has advised that before any evidence could be taken, it had been necessary to resolve certain preliminary legal issues arising from the nature of an inquiry conducted in the context of the potential for subsequent statutory default action.

4. The Commissioner's initial report, in 2002, recommended the imposition of a licence condition requiring video surveillance of all points of sale.

The Independent Gambling Authority noted that, while such a direction would make it easier to prove whether or not a bet had been accepted from a particular person, it would not of itself ensure that minors were prevented from gambling.

The Authority was concerned that to give a direction of the nature suggested, before determining whether or not a statutory default had occurred, could impair the inquiry process and any subsequent disciplinary process.

The Authority's inquiry report itself makes observations about what might be regarded as good practice for determining the age of those seeking to place bets. Staff of the Authority is following this up with the Commissioner's office and SA TAB.

Under the Authorised Betting Operations Act 2000, the Independent Gambling Authority is the disciplinary authority in relation to breaches of the Act or conditions of licence. The Authority may take action against a licensee under the Act if a Statutory Default occurs.

The Commissioner is responsible to the Authority for the scrutiny of the operations of licensees under the Act and the Commissioner reports monthly to the Authority.

However, where an incident occurs which may involve a statutory default, the Commissioner will provide a separate report to the Authority.

This reporting process was followed in relation to this matter.

POLICE, SOUTHERN SUBURBS

In reply to **Hon. T.J. STEPHENS** (4 April).

The Hon. P. HOLLOWAY: The Acting Minister for Aboriginal Affairs and Reconciliation advises that:

The Minister for the Southern Suburbs has been advised that:

The cost of placing the column in the Southern Times Messenger is $423.00 per month.

The Minister for Police has advised the following:

The Commissioner of Police has advised that during 2005 and 2006, an additional 16 police will be allocated to the South Coast Police Local Service Area. Adequate equipment and resources required for the use by the additional police will be provided.

The additional police referred to in the article will be working within the South Coast Local Services Area. Five Police will be stationed at Christies Beach and will undertake duties primarily within the Christies Beach Police District. Six police will be stationed at Victor Harbor and support policing of the Victor Harbor police District. The remaining five additional officers will be stationed at Aldinga.

Whilst police will generally undertake duties within the Police District in which they are stationed, they will be utilised across the entire South Coast Local Services Area at the discretion of the Local Services Area Commander to provide the best possible policing service to the local community.

RETIREMENT VILLAGES

In reply to **Hon. A.L. EVANS** (5 April).

The Hon. P. HOLLOWAY: The Acting Minister for Correctional Services advises the following:

The Minister for Ageing has provided the following information:

There is nothing preventing the retirement village industry from developing and marketing a "model" residence agreement as a resource for their members, based on the minimum legislative requirements. In fact, I have been informed that the retirement village industry has been keen to do so.

The Rann Government certainly encourages initiatives which enhance information disclosure and assist prospective residents to make informed decisions about their accommodation choice.

HOCKING COURT

In reply to **Hon. J.M.A. LENSINK** (12 April).

The Hon. P. HOLLOWAY: The Acting Minister for Correctional Services advises that:

The Minister for Housing has provided the following information:

1. The Government's commitment to the Hocking Place project is up to $2.2 million, inclusive of GST. The contribution of the Adelaide City Council (ACC) is $495 000 in land and cash.

2&3. At the close of business on 20 April 2005, a total of $133 860 had been expended on this joint venture initiative. The 'checks and balances' reported in the article in *The Advertiser* were likely to be a reference to the due process which is required to be followed by the South Australian Community Housing Authority's (SACHA) Joint Venture Program in the allocation and expenditure of public monies.

4. Negotiations following the close of the tenders involved minor variations in design and technical detailing between the architect and the builder, which is a normal part of the tender assessment and evaluation process.

5. The Multi Agency Community Housing Association is looking to move in a number of people who are currently accommodated as long term boarding house residents (over 10 years residing in boarding houses) and who are considered more suited to more independent arrangements than in a boarding house. In other words, most of the prospective residents for Hocking Place are currently residents of boarding houses.

6. The State Housing Plan proposes the development of new models for financing and building affordable accommodation. The new Affordable Housing Innovations Unit is a further example of the Government's commitment to explore partnership opportunities between the State Government, the private sector, not-for-profit organisations and local government.

7. SACHA will continue to work in partnerships with local communities and the private sector to provide long-term, affordable housing with community support.

SACHA has been building homes under the Joint Venture Program since 1995. Since that time, over 50 organisations—local councils, Church groups, aged care organisations and organisations working with disabled people have collaborated with Government to build more than 300 homes.

TAXIS

In reply to **Hon. A.J. REDFORD** (14 April).

The Hon. P. HOLLOWAY: The Acting Minister for Correctional Services has provided the following information:

The Department for Correctional Services advises that investigations have revealed that a senior Yatala Labour Prison officer, who has access to cab-charge vouchers for emergency work purposes, used a voucher for his own use when his car failed to start after a private function.

Although it was his intention to reimburse the prison for the travel when the invoice for payment was received at the prison, he started annual leave shortly thereafter and forgot that he had incurred the debt.

As soon as the matter was brought to his attention, he immediately reimbursed the prison for the expenses that had been incurred.

The Department for Correctional Services has an audit process that automatically checks the use of all taxi vouchers. Those relevant to Yatala Labour Prison were in the process of being checked when the matter was raised in Parliament. I am assured that had this matter not been raised in Parliament, this misuse would have been identified.

The use of work taxi vouchers for private use is not acceptable.

The officer concerned has been informed in writing that any future instances will result in formal disciplinary action.

All other departmental staff have been reminded that taxi vouchers are not to be used, other than for work related purposes.

YOUTH GAMBLING

In reply to **Hon. NICK XENOPHON** (16 September).

The Hon. P. HOLLOWAY: The Acting Minister for Aboriginal Affairs and Reconciliation advises that:

The Minister Gambling has provided the following information:

1. There is no proposal before either the Minister for Gambling or the Government to reduce the government inspectorate at SkyCity Adelaide.

2. In the last three financial years, 2497 inspections of gaming machine venues have been conducted by the Office of the Liquor and Gambling Commissioner. No venues have specifically been inspected on the issue of under-age gambling, other than in response to a specific complaint.

In the last 3 years the Office of the Liquor and Gambling Commissioner has received 6 complaints relating to minors on premises. One was a technical complaint that a minor had to be taken through a gaming area to go to the toilet. This was addressed. Disciplinary action was taken against 2 licensees and assurances were signed. One complaint was withdrawn, one licensee was cautioned and one matter is still under investigation.

It is primarily the responsibility of the holders of gaming machine licences (hotels and clubs) having both statutory obligations and control of the premises, to ensure that minors do not enter or remain in gaming areas.

In both the *Liquor Licensing Act 1997* and the *Gaming Machines Act 1992*, common powers of entry, inspection of premises and access to records are given to both inspectors and the police. While licensing and gaming inspectors inspect for non-compliance with legislation and do participate in joint task force operations with the police, local councils and other authorities they do not take primary responsibility for dealing with offences on licensed premises. This is primarily the role of SA Police.

No additional conditions have been placed on gaming machine licences to ensure compliance regarding minors in gaming areas as the provisions in Division 3 of the *Gaming Machines Act 1992* are quite comprehensive.

Procedures and protocols similar to the Casino have not been approved by the Commissioner for use in hotels and clubs. The requirement to approve the Casino's procedures is contained in the *Casino Act 1997* and there is no similar provision in the *Gaming Machines Act 1992*.

Unlike the Casino, most hotels and clubs do not have security guards permanently situated at entrances to the premises since it is not an offence for a minor to be present in non-gaming areas between 5am and midnight.

3. The SKYCITY Adelaide Casino Security Procedures Manual sets out all procedures to be followed in relation to minors seeking to enter the Casino. As the manual deals with security issues relating to the Casino it is inappropriate to provide a copy of this document to a third party. However, a summary of the procedures in relation to minors is as follows:

One of the responsibilities of a Uniformed Security Officer is to refuse entry to persons who have not attained the age of 18 years. Where a person is considered to be underage an acceptable form of identification must be produced. These are—

- Photographic drivers licence;
- Photographic Proof of Age cards;
- Passport

Should the suspected juvenile fail to produce sufficient evidence they are denied entry.

Should a Uniformed Security Officer suspect that a person on SKYCITY premises is underage then they are empowered to approach the person and request ID. However they must first advise the Security Shift Manager and ensure that at least two Security Officer's approach the person.

If sufficient ID is not produced the person must be requested to leave the premises.

ID that is mutilated or tampered with is not acceptable and a procedure is detailed for its seizure and subsequent forwarding to police.

Surveillance operators as part of their duties constantly monitor patron's at SkyCity Adelaide for the presence of suspected juveniles or barred patrons. Security are advised of any identified persons and will act accordingly.

There is no power for any authorised officer or person (other than a police officer) to detain juveniles.

4. In relation to question four, the Minister for Police has provided the following information:

The Commissioner of Police has advised that uniform and plain clothes police officers play an important role in proactive community policing of local hotels in their Local Service Areas (LSA) to ensure that minors do not enter or remain in prohibited areas. The Community Programs Sections also assist in these operations.

Recently 'the fake I/D project', an initiative of the Sturt LSA, Drug Action Team and the Office of the Liquor and Gambling Commissioner (OLGC) was evaluated by the Office of Crime Statistics and Research (OCSAR) and is reported on their website. The project was about policing the use of fake or altered identifi-

cation used by minors to gain entry into the prohibited areas of licensed premises.

On 10 March 2005, the Licensing Enforcement Branch (LEB) was established within SAPol to police regulatory laws in relation to, but not limited to, licensing and gaming legislation.

Regular inspections and patrolling of licensed premises are undertaken by LEB in order to complement operational strategies already in place within each LSA. Whilst the primary responsibility for policing licensed premises will remain with each LSA, LEB will provide specialist support in order to prevent and detect minors from entering or being on premises for the purposes of gaming.

Responsibility in the first instance for preventing minors from entering licensed premises for an unlawful purpose (gaming) rests with the individual licensee. SAPol, in cooperation with individual licensees and the Office of Liquor and Gambling Commissioner, will continue to enhance LSA community policing strategies in order to minimise and prevent these occurrences.

SEPTIC TANK EFFLUENT DISPOSAL SCHEME

In reply to **Hon. J.S.L. DAWKINS** (27 October 2004).

The Hon. P. HOLLOWAY: The Acting Minister for Aboriginal Affairs and Reconciliation advises that:

The Minister for State/Local Government Relations has provided the following information:

1. The STEDS Advisory Committee, comprised of Local and State Government representatives and managed by the Local Government Association of SA (LGA), has adopted a reform program aimed at raising the awareness of STEDS issues and providing information and advice on reform matters to all councils with STEDS.

The reform program milestones are:

Audits

An audit of one existing scheme in each of 32 of the 42 councils in SA with STED schemes was undertaken during November/December 2004 to assess the condition of the infrastructure and renewal requirements, regulatory compliance and costs/charges to achieve sustainability. The cost of each audit was subsidised 50% by the STEDS Advisory Committee.

Information Package

A comprehensive Information Package was developed to assist and guide councils on reform matters with STEDS. The package includes information on:

- Understanding STED schemes and the audit process
- Funding arrangements for new schemes
- Pricing and revenue guidelines
- Operation and Maintenance
- Effluent re-use
- Aggregation of schemes and private sector involvement
- Recommendations for the way forward

All Councils have been provided with a copy of the Information Package and the LGA's web site contains a comprehensive suite of information on all STEDS matters.

Regional Forums

During April and May 2005, half day Forums were held in each of the 5 regional Local Government Associations where presentations were made by representatives from the LGA and State Government, an Industry expert and a legal adviser on the issues facing councils with the reform of the STEDS sector. The Forums were very well attended by approximately 140 delegates representing all country "STEDS" councils in SA.

Minister's Local Government Forum

The STEDS Advisory Committee reports to the Minister's Local Government Forum which continues to take a major interest in STEDS reform. It is expected that all the elements of STEDS reform, including sustainability, management and future funding arrangements will be brought together for consideration of the Forum by Spring 2005. The Forum will then provide advice to the Minister and the President of the LGA on the recommended way forward for the management of this vital infrastructure requirement for regional South Australia.

2. The STEDS Audit reports for 32 Councils were completed in February 2005. They were received and reviewed by the STEDS Advisory Committee at its February meeting and forwarded to Councils during March 2005. A summary of the audit findings was presented to the Minister's Local Government Forum held on 6 April 2005.

MATTERS OF INTEREST

FEDERAL INDUSTRIAL RELATIONS

The Hon. J. GAZZOLA: The current session of the federal parliament has clearly signalled the Howard government's arrogant disregard for the rights of ordinary people and workers in its introduced or pending legislation on industrial relations, the Telstra sale and compulsory student unionism. Not content with rolling away the rights of workers, it is also prepared to steamroll any opposition within its own coalition. The coalition's functionaries in both houses have been released to stifle debate and enforce contrition reflecting the measure of the executive's relentless and dogmatic belief in their defining ideological moment. Its arrogance is on display when the proper representation of state and people's rights by coalition senators are, according to the Prime Minister, subordinate to the demands of loyalty to the coalition and its industrial agenda.

However, an informed and aware public are quite right to be wary of this federal government's supposed industrial benevolence and leadership. The public are not convinced, nor are the Nationals, as the government signals its intentions. The federal government has already blown the whistle on industrial relations and what it will mean for workers' wages. Industry minister Ian Macfarlane stated the following in an interview with Alan Jones:

> We've got to ensure that industrial relations reform continues so we have the labour prices of New Zealand. We're already a decade behind the New Zealanders, so there is no resting.

What is the result of these changes? New Zealand introduced similar legislation under the Employment Contracts Act in 1991 and saw real wages for the workers in the decade to 1997 fall between 11 per cent and 40 per cent, according to New Zealand's labour market review. The present base weekly wage for a semi-skilled production worker in New Zealand is $503, while the comparative Australian wage is $912. Approximately $20 million of taxpayers' money will be spent by this arrogant federal government to spin its attempts to sell it to the public and soothe contradictions in the coalition. We all remember the Medicare and GST advertisements.

The federal government's attempts to turn the industrial clock back 100 years brings me to my matter of interest, the ASU South Australian and Northern Territory centenary. The relevance of unions to the real needs of workers today is as important as it was 100 years ago. I will read an article from *The Advertiser* of 15 August 1905 entitled 'A Clerks Association Founded in Adelaide'. It states in part and by way of introduction:

> A meeting of clerks convened by Messrs Ponder MP and W.J. Brook was held at Jackman's Rooms on Tuesday evening for the purpose of considering the desirableness of forming a clerks' association, and there was a fairly large gathering. Mr Ponder said that the clerks were at present about the most helpless section of the community, and would derive considerable benefit from an association established for the purposes of promoting good fellowship among clerks generally. . . He regretted that there seemed to be a tendency amongst employers to show ill feeling towards employees plucky enough to join a union with the ideas of improving their status.

As an aside, I suggest that the employers' mantle has been taken over by this federal government. The article continues:

> The Rev. H. Gainsford—

hardly a man to take advantage with the truth, a voice of moderation—

believed that there were hundreds of employers in Australia who would give higher wages if their businesses would enable them to do so, but, on the other hand, a workman could not be expected to do good work if he were underpaid. . . the wages paid at present to many clerks was a scandal on society. The methods adopted in advertising for clerks were grossly unfair. It simply meant that the man willing to work for the lowest remuneration got the job.

While members opposite would disagree, the parallels with the plight of today's workers under the federal government's proposed changes are worrying; something about which the opposition has little to say, even on the matter of states' rights.

To return to the celebration, the night was a great success under the guidance of new ASU Secretary, Andy Dennard, and Assistant Secretary Katrine Hillyard and saw the presence of four past secretaries—Senator Anne McEwen, Mr Harry Krantz, Mr Ralph Clarke, and of course myself—executive members, parliamentarians, ASU representatives from South Australia and the Northern Territory and officials and representatives from all branches of the ASU. I congratulate the ASU, South Australia and Northern Territory Branch, on its 100 years and look forward to its next 100.

RANN, Hon. M.D.

The Hon. R.I. LUCAS (Leader of the Opposition): I want to speak about Mike Rann and, in particular, aspects of his political spin and his mastery of that area. I also want to talk about his propensity to claim anyone in public office as a close and dear friend of his of many years. Let me refer to some examples. In March of 2002, he said that David Suzuki was a very dear friend. In June 2002 he said:

I met tonight with Glenda Jackson, an old friend. She's promised to help.

In June 2002, again about Glenda Jackson, now a Labour MP, he said, 'Glenda has been helping me.' Of course, in August 2002, it is Geoff Dixon: 'The Head of Qantas, Geoff Dixon, who's an old friend. . . we're looking forward to making some progress today.' Then in September 2002 it's Natasha Stott Despoja: '. . . have friendships on all sides of politics. . . had lunch on Friday with Natasha Stott Despoja. . . old friend. . . knew her mum years ago when she was a journalist at the 'Tiser.'

Then of course in November 2002: '. . . no I spoke with Basil [Scarsella]. . . he is an old friend [too]. . . I spoke with him just before I went.' Then of course in September 2003 it's Mark Bickley: 'I've now got friends like Mark Bickley who plays for the Crows.' Then in September 2003: 'I was a press secretary for the last couple of years [for Don Dunstan] when he was Premier. . . then [he] became a [very] good friend.' Again in September 2003: '. . . as you know Bob Carr is a close friend of mine and John Singleton I like very much.'

Then in November 2003 it's Bryan Dawe: 'Well what happened was that Bryan Dawe. . . he is an old friend of mine [too].' Again in November 2003: 'Bob Carr is probably my closest friend in politics. . . he's always been one of my very closest personal friends.' So he has special status. Then there's Clare Martin: '. . . the Member for Fanny Bay is Clare Martin, who is my friend and the Chief Minister.' Then there's Dean Brown: 'Dean Brown is a friend of mine and has been for many, many years.' Then there's Kate Fischer and Pru Goward: '. . . good old Kate, I'm a good friend of her mum Pru Goward.'

Then there's John O'Neill: 'I've written to John O'Neill, who's a friend of mine, who is the new head of the Australian Soccer Association.' Then there's Rob Kerin: 'Rob Kerin's a friend of mine, and I like him a lot.' Then there's Peter Beattie: 'Peter Beattie and I [are] actually very good friends, the Premier of Queensland. . . I'm looking forward to catching up with my good friend Peter Beattie.' Then there's John O'Neill again, and then there's Ted Chapman: 'I guess I knew him as a friend. I grew to become a very close friend of Ted's.'

Mr President, when you are close friends with everyone, you have to remember with whom you say you are close friends, because in January 2004 he said this on Channel 9 about Mark Latham when he came to visit South Australia:

I have absolute confidence in Mark Latham, also in the fact that we can work together. We've known each other for many, many years.

The problem was that he forgot what he said back in 2003 in the earlier stages of the leadership contest. At that time, when he was asked what he knew about Mark Latham, he said: '. . . I don't know Mark Latham very well at all.' He said on 5DN: 'I don't actually know Mark Latham. . . I met him years and years ago when he was a staffer for Bob Carr.' Of course, the following year when Mark Latham became the leader, what did he say on Channel 9? He said: 'We've known each other for many, many years.' So, somewhere between 2003 and 2004 he had gone from 'I don't actually know Mark Latham, I met him many, many years ago when he was a staffer for Bob Carr', but once he became important and he was the leader of the opposition, he said, 'I have absolute confidence in Mark Latham. . . in the fact that we can work together.'

The other area that has become legendary, of course, is his alleged close association with Tony Blair, the Labour leader in England. Eventually in 2004, one of the journalists asked the Premier: 'What is your relationship with Tony Blair?' At that stage, he had to confess: 'Well, I have only ever met Tony Blair once.' I summarise by saying that I think it is a sad fact and a further indication that our Premier, Mike Rann, is prepared to say almost anything when he is put in front of a television camera. Can I say, Mr President, if at any stage I am not here, if Mike Rann ever says publicly that he is an old friend of mine, it is bloody untrue!

The PRESIDENT: I think there is little chance of that occurring.

THE BIG ISSUE

The Hon. R.K. SNEATH: I want to speak on a very big issue today: *The Big Issue* that is sold on the streets in most of our major capital cities. This publication is sold by vendors who are seeking to change their lives. The magazine exists to help its vendors earn their own income. It is registered as a benevolent institution. All members receive training, sign a code of conduct, and wear identification. If people are approached by someone requesting donations for *The Big Issue*, they are not supposed to give them any —only pay for the magazine, for which they receive half the payment.

It is interesting to read some of the profiles. I buy *The Big Issue* regularly, either at the railway station or on the corner of King William Street and North Terrace from a couple of different vendors. It is interesting to read the profiles of some of the people who sell *The Big Issue.* I take this opportunity to put some of them in *Hansard*. An article in issue No. 231 states:

Michael was born in Brisbane. . . after his father died the family fell apart and Michael spent the next 10 years drifting. 'I learnt a lot

from travelling and talking to people. I became a pretty good communicator,' he says. 'I was living on the streets, in and out of hostels and got involved selling badges and collecting money for charity, which I did for about six years. I was watching people sell *The Big Issue* and thought, 'These people are no different to myself. I've done sales before.'

So, he went to the office of *The Big Issue* and signed up, and he says that he has not looked back since.

There is also a very interesting profile of a vendor named Lenette who sells in Melbourne. Lenette has a severe handicap yet gets up and goes to work to sell *The Big Issue* on the streets of Melbourne. An article in issue No. 237 states:

> Lenette's day starts with a trundle down to the local station in her motorised chair, then straight into the city on the train. She drops into *The Big Issue* offices in Lonsdale St for a coffee, before zooming to her pitch at the nearby corner with Russell St, swapping throughout the day between it and another pitch on the corner of Exhibition Street. It's exhausting just watching. . . Lenette explains all this [and other things to people who want to stop to talk to her] with the aid of a panel of words and pictures attached to her chair.

Also, John K. sells *The Big Issue* in Adelaide. John has travelled extensively across the world. An article in issue No. 237 states:

> I was never sober then, drunk all the bloody time. And when you're in that awful state, any place you've been, it all looks the bloody same. I have travelled. . . from native Glasgow to God knows where and back, it was a journey of bleak despair; one I never want to travel again.

But he has settled in Adelaide and he says he really enjoys selling *The Big Issue* in Adelaide. If anyone feels like a chat or, just to say good day, stop for a while and share a smile, John would be happy with that. This publication has given these people some pride in themselves to go out and sell *The Big Issue*. They are wonderful, interesting people with whom to speak. I say to members of parliament who stop to buy *The Big Issue* to have a chat with these people.

The Hon. Sandra Kanck: It is good reading.

The Hon. R.K. SNEATH: As the Hon. Sandra Kanck says, it is good reading. It has wonderful articles, both humorous and serious. It has a good blend of articles across it. It has a very valuable 'missing persons' section, which is put in each edition. I am sure that has been successful over a period of time in returning people home to their loved ones. I take this opportunity to congratulate the magazine and all its vendors; so, keep up the good work.

JUDICIAL APPOINTMENTS

The Hon. R.D. LAWSON: I wish to highlight disturbing trends in the Rann Labor government's policy in relation to judicial appointments. One of the most significant functions of any government is to select for positions on the bench the most talented and capable people available for appointment. These are important and prestigious positions, which are supposed to be independent of government and entirely impartial.

The most serious evidence of the disturbing trend is the most recent appointments made to the industrial relations jurisdiction. The appointments were announced on 14 July by the Attorney-General and the Minister for Industrial Relations. The first is Ms Leonie Farrell as a judge of the District Court assigned to the Industrial Relations Court. Ms Farrell was an auxiliary magistrate who was appointed by this government. Prior to that time she had not had great court experience. Undoubtedly, the reason she was appointed to the high post which she now holds is that she is the sister of Mr Don Farrell, the head of the Shop Distributive and Allied Employees Association and convenor of the right faction of the Labor Party. Ms Farrell would not have been appointed to this position had it not been for that connection.

The other appointment made on the same day was that of Mr Stephen Lieschke as an Industrial Magistrate and Deputy President of the Workers Compensation Tribunal. The press release described him as being a solicitor and barrister since 1988 and having worked as a WorkCover Corporation review officer prior to 1985. What was not said in the press release, nor publicly announced, is the fact that he is a partner in the firm of Lieschke and Weatherill, his partner being Jay Weatherill, a minister in this government. So we have the two most recent and senior appointments to the industrial relations jurisdiction being made in favour of those who have close connections with this government.

The trend, of course, started with the government's very first appointment in August 2002 when Ms Susanne Cole was appointed a judge of the District Court and designated to sit in the Environment, Resources and Development Court. The announcement of her appointment was applauded by the government, yet the government failed to mention that Ms Cole is the wife of Tim Stanley, who is a prominent member of the Labor Party and, I believe, the federal candidate for the seat of Adelaide. These appointments are made for party political purposes.

The other trend I refer to is the fact that this government has appointed a number of magistrates but only a couple from the private profession. I can think of Mr Clive Kitchen in Port Augusta and Ms Cathy Deland, a former magistrate in the Northern Territory. But most of the appointments this government has made have come from the crown law office. Anyone would think that the primary source of legal talent in this state is the crown law office, the government's own agency. Members of the private legal profession who are highly experienced and talented have been overlooked by this government in appointments to the magistracy. It is a measure of the inexperience and incompetence of this Attorney-General that he should choose people—

The Hon. Carmel Zollo interjecting:

The Hon. R.D. LAWSON: I do not suggest for a moment that all of the appointments made by this government have been defective or tainted in this way. Many of them have been very good appointments of talented people, of whatever political persuasion. But the appointments to which I have just referred were made for party political reasons and are arrogant and show the contempt in which this government holds not only the institutions but also the community those institutions serve.

GREAT ARTESIAN BASIN

The Hon. SANDRA KANCK: Two days ago I asked questions about the limitations of the water supply of the Great Artesian Basin, and I have previously asked questions of minister Holloway about the proposed expansion of Olympic Dam and the consequent water usage. At the present time, 33 megalitres of water a day are being drawn from two existing bores that Western Mining Corporation sunk in the Great Artesian Basin some years ago. Yesterday, *The Advertiser* printed a most disturbing article about that mine and its water usage. It revealed that the new owners, BHP Billiton, estimate that it will need 150 megalitres of water every day for 70 years when the mine is expanded. I do note

that minister Holloway earlier today in question time said 120 megalitres.

However, the most disturbing aspect was the news that BHP Billiton does not want to build a desalination plant because it would be too expensive. The alternative that it is canvassing now is to sink a new bore into the Great Artesian Basin and build a 330 kilometre pipeline to Roxby Downs and Olympic Dam from that bore. It is a straight economic decision because the desalination option would cost BHP Billiton an extra $160 million. If we allow BHP Billiton to exploit and scavenge the Great Artesian Basin, who will bear the real cost of that? Obviously it will not be BHP Billiton. I do not expect much from a government that fawned, even in opposition, about the expansion of Roxby Downs in 1996. Its delight at the introduction of that bill was an embarrassment to watch. It was a bill that should have gone to a select committee, but the Liberal government combined with the Labor opposition to suspend standing orders so that the bill could move through quickly.

Had we had the select committee that was required, the issue of water usage might have been able to be properly investigated. Nevertheless, in a speech I made opposing that bill, I went to great length to draw attention to the implications of the increase in water usage from the then 15 megalitres a day up to 42 megalitres a day. At the committee stage, I moved an amendment, as follows:

> Nothing in this act or the indenture prevents the imposition of rates or charges to discourage excessive depletion of artesian water supply.

Did I get any support for this in this chamber? Apart from my colleague the Hon. Mike Elliott, the answer is: no. The Hon. Mr Lucas, who had carriage of the bill here, said that the government could not support it because it would be in contravention of section 33 of the indenture. That was convenient excuse because, as we all know, indentures can be amended, and that was exactly what we were doing at that time.

The Hon. Ron Roberts backed the position of the government, but he did say that, if the Democrats were proven to be right in 20 years, it would give him no pleasure to admit it. The consequence of that refusal of support by Liberal and Labor means that Western Mining Corporation had—and now BHP Billiton has—access to 42 megalitres of water per day basically for as long as it want to use it. What does 42 megalitres of water look like? Imagine a six metre diameter swimming pool and replicate that to a height of 1.5 kilometres. That is what 42 megalitres a day looks like. And now BHP Billiton wants to extend that use; in fact, it wants to triple that use. So, take that tower of water 4½ kilometres into the sky, if members want to get an understanding of how much water it wants to use from the Great Artesian Basin.

I think it is now time for the government to look very closely at section 33 of the indenture act and consider that a charge be levied for the use of that water because, if BHP Billiton is going to use up a non-renewable resource, at least the state should get some recompense for it. Yesterday's newspaper article gave no indication of what other corporate welfare BHP Billiton anticipates from the South Australian government as part of this expansion. I hope, as the minister suggested earlier today, that there will be an EIS. Hopefully, the federal government will be tougher than this state government has been, because we surely must say no to such massive exploitation of this very fragile water resource.

PORT STANVAC OIL REFINERY

The Hon. A.J. REDFORD: Yesterday I received a response to my freedom of information applications regarding the Port Stanvac Mobil site and the dirty little deal that the Treasurer did with Mobil in 2003. The documents prove conclusively that the Treasurer (Hon. Kevin Foley) could not negotiate his way out of a wet paper bag. However, today the *Southern Times Messenger* has reported on the Mobil site scandal based on some investigative work of its own through the journalist Tanya Westthorp, who is fast proving to be one of the best investigative journalists in Adelaide.

The article makes the following assertions, based on a document released to the Messenger entitled 'Executive summary of phase 2 environmental site assessment report'. The report is dated 31 December 2003 and is now nearly two years old—a report released by Mobil and kept secret by the government. The report says:

> The Gulf St Vincent is at risk from contaminable leaching from the mothballed Port Stanvac oil refinery.

He goes on and says that there is polluted ground water containing cancer causing chemicals at risk of washing into the gulf from the site's western flank. It further states that the environmental concern was contaminated ground water at the western end of the site, and it also refers to the close proximity of the locations of contamination to the coastal marine environment ground water management and recommends further monitoring. It goes on to refer to the existence of chemicals called TPH, BTEX and PAH, and it says that these compounds can affect the central nervous system and cause a nervous disorder called peripheral neuropathy, consisting of numbness of the feet and legs. An expert says that the material is highly carcinogenic. It also refers to concerns about the wildlife sanctuary on the south-east corner of the site and nearby paddocks. The article goes on to say:

> Based on the current condition of the site the report said current or future occupants and workers doing excavations were [and I emphasis this] at risk from volatile organic vapours.

Not bad for a site that this government has identified as priority No.1 and the sole key to future development for the people of the southern suburbs! Not bad that this site has been completely locked away and poisoned by Mobil, and then the Treasurer comes along and does a dirty little deal with Mobil, which I will outline some time next week!

Of even more concern is that the EPA wrote a letter and said that it is working in close cooperation with Mobil. When I reported to the head of the EPA some of the serious environmental concerns reported to me by former workers, the EPA had absolutely no idea of these serious concerns. One starts to wonder whether the EPA is properly doing its job and acting in an independent fashion to protect the health, welfare and future of the young, of our environment and of the people in the south. It is absolutely disgraceful that Mobil is able to hide behind the EPA in the face of documents that clearly show an environmental disaster on that site.

I am really concerned that the EPA can write letters to the editor saying that there is no evidence to suggest an adverse environmental impact outside the boundary of the site when the report, which I have seen, clearly says that marine life in St Vincent's Gulf, right near the O'Sullivan Beach boat ramp where amateur fishermen go fishing regularly (even the Hon. John Gazzola goes out fishing from there), is at risk. The government continues to say nothing and hides behind secrecy.

Next week I will show conclusively just why the Treasurer could not negotiate his way out of a wet paper bag with Mobil and just why he sold out the people of the south when he did his dirty little deal with Mobil. The Treasurer is a disgrace.

ANIMAL WELFARE LEAGUE

The Hon. A.L. EVANS: The Animal Welfare League was formed to promote the ownership of companion animals, the interaction between humans and animals generally, and to improve the welfare and care of animals. Over the past 40 years the league has evolved from an organisation assisting approximately 2 000 animals per year solely through the work of volunteers to a medium sized organisation comprising staff and volunteers assisting approximately 15 000 animals each year. The league currently operates out of facilities based at Wingfield and Elizabeth, and it has its doors open 364 days of the year to assist people in the community either find their lost pets or find a new pet. The only day the league closes its doors is Christmas Day.

Along with assisting pet owners care for their pets and providing shelter for sick, stray and abandoned animals, the league also supports domestic animals and native fauna by working with other agencies; removes dangerous animals that pose a threat of harm to humans; assists private owners, local government and emergency services with animal care in circumstances where there has been a natural disaster; provides constructive input regarding the development of state and federal animal welfare and care legislation and guidelines; and undertakes many activities which are incidental to the attainment of the above objects.

The league is also involved in strategic partnerships with state and local government and with like-minded welfare agencies at both the state and national level. A recent example of this was the Pets and People program—a partnership launched by the Australian Veterinarian Association which is specifically targeted at helping schoolchildren become more aware of animal welfare and animal issues. At this stage, 2 957 schoolchildren have participated in the program. I understand the league would like to offer the program to all schools in South Australia but, unfortunately, funds are limited, and with little financial support from state and local government the league has to be careful when allocating its resources.

Overall, the services and programs offered by the league are made possible largely through donations and financial donors. I wish to note that, in conjunction with the RSPCA, Greening Australia and the Adelaide zoo, the league called for relief from payroll tax. Both federal and state government taxation agencies preclude the league from tax relief on the basis that the league is not an organisation that assists humans. This is a narrow position to take, given that the very issues addressed by the league are caused by the ill-informed actions of humans, and the essential support that the league provides would otherwise be borne by taxpayers at an annual cost of approximately $2 million. South Australia is the only state that requires the league to pay this tax. The Animal Welfare League in South Australia is a valuable and respected charity and contributes to the moral growth of our community. Accordingly, the league deserves support whenever possible—whether in kind or in finances.

Time expired.

DIRECTOR OF PUBLIC PROSECUTIONS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.I. LUCAS: I believe I was misrepresented yesterday by the Leader of the Government on a number of occasions. *Hansard* records that in question time yesterday the Leader of the Government said:

> What the Director of pubic Prosecutions was saying was that the Leader of the Opposition effectively had lied in relation to that story, in suggesting that leak from his office.

Further on the Leader said:

> Today's question says that a source with intimate knowledge of the DPP has been leaking again.

Further on he says:

> The Leader of the Opposition is apparently claiming that he has some source from within the DPP's office that is leaking this information.

As you will be aware, Mr President, when I first raised the question on 30 June this year I clearly indicated that I had been informed by a very senior source with an intimate knowledge of the operation of the DPP's office. I did not indicate that my source came from within the DPP's office—indeed, there are many other categories of persons who would broadly fit within the category of someone with an intimate knowledge of the operations of the DPP, including senior ministers such as the Attorney-General, some ministerial advisers such as Mr Alexandrides and others, former officers of the DPP, many officers in the Attorney-General's Department, the Department of Justice, the police and the courts.

In his statements yesterday the leader also indicated that in the question (that is, yesterday's question) I had claimed that a source with an intimate knowledge of the DPP had been leaking again, and further on (as I said) that 'he has some source within the DPP's office that is leaking this information.' I made it quite clear yesterday that the source of the information I put on the record was a very senior source with an intimate knowledge of the highest levels of the Rann government. I made no reference to any source within the DPP's office yesterday. So the statements made by the Leader of the Government yesterday certainly misrepresented what I said yesterday and what I had said on a previous occasion.

The PRESIDENT: That is a very personal explanation. There was no attempt to introduce any further debate into the argument. I suggest that all honourable members, when making personal explanations, use that as a blueprint for personal explanations.

SELECT COMMITTEE ON THE ATKINSON/ASHBOURNE/CLARKE AFFAIR

The Hon. SANDRA KANCK: I move:

> That the special report of the select committee be noted.

I rise to address this special report on an attempt by the Attorney-General, Michael Atkinson, to influence my deliberations as a member of the Select Committee on the Atkinson/Ashbourne/Clarke Affair. We live in a pluralist society that harbours competing ideas and beliefs. Politics is the means by which we resolve those differences, and parliament is the principal forum for that resolution. As members of this parliament, I believe we are duty bound to

set the standard for wider society. Indeed, as leaders in our society, we need to adhere to higher ethical standards.

The Attorney-General failed in that duty during a telephone conversation with me on 30 August this year. During that conversation the Attorney accused me of corruption and vindictiveness. He then proceeded to make the very adolescent threat that: 'What goes around comes around.' He rounded out this unsavoury conversation by defaming another member of the committee.

The Hon. R.I. Lucas: Name him. Was it me? Who was it?

The Hon. SANDRA KANCK: I think you have a pretty fair idea it would not have been the Hon. Paul Holloway or the Hon. Mr Sneath, and it wasn't me, so—

The Hon. R.I. LUCAS: It must have been me! What did he say? I demand to know.

The PRESIDENT: Order! This is a Legislative Council chamber; it is not a three-ringed circus.

The Hon. SANDRA KANCK: In short, the chief law officer of this state attempted to bully me, a member of a parliamentary committee investigating the circumstances surrounding this state's first criminal trial for corruption, a trial that involved allegations concerning the Attorney. No doubt some people believe in this chamber that private telephone calls should stay private, and some government members have made that point to me and, essentially, I agree with that position, but I do draw the line at unethical or illegal behaviour.

As an example in the recent past, racist abuse flourished on the sporting fields of Australia and 'What happens on the field stays on the field' was the cliche used to justify this situation. Then, St Kilda's Nicky Windmar took a stand on the field. He lifted his jumper, pointed to his black skin and sparked a profound debate on racism in sport, and a few short years later racist abuse is now outlawed by all sporting codes, and it is rare on Australian sporting fields. Today I am taking a stand. I am saying it is totally unacceptable to attempt to bully or abuse or intimidate people. It should not happen in the schoolyard, it should not happen in the workplace and it should not happen in the parliament. I must say I found it ironic that the Attorney's tirade included defamatory comments about another parliamentarian.

The Hon. R.I. Lucas: Shame!

The Hon. SANDRA KANCK: It was, of course, the Attorney's derogatory comments about Ralph Clarke on 5AA that gave rise to the defamation actions that were central to the corruption allegations swirling around the very highest levels of the Rann government.

The Hon. R.K. SNEATH: Point of order, Mr President—

The PRESIDENT: Yes; I am about to say that the Hon. Mrs Kanck is aware of the constraints placed on members talking about matters that are before the committees of the parliament acting on behalf of and on the authority of the council, and they should not be canvassed in debates in the parliament.

The Hon. R.I. Lucas: She hasn't raised it here.

The PRESIDENT: She is starting to talk about the grounds for the select committee and what the allegations were, where talking of the circumstances. It is a clear breach of the rules. The Hon. Mrs Kanck—

The Hon. R.I. Lucas: Are you trying to gag her?

The PRESIDENT: Order! The Hon. Mrs Kanck is entitled to put the view of the circumstances that occurred during the phone calls, and that is clear, but she must refrain from the evidence and especially the deliberations of the committee until such time as the committee has reported.

The Hon. SANDRA KANCK: Thank you for your guidance, Mr President. I promise not to in any way deal with the deliberations of the committee, but it is certainly worth noting that part of the reason this committee exists is that the Rann government refused to conduct a proper investigation into the issues that surround the select committee.

One of the things that has always been of interest to the wider community is that the alleged chief beneficiary of the corruption has never been required to give sworn testimony. Does that trouble the Attorney-General? Apparently not. I heard no word of protest from the Attorney when the Premier proposed to hold a closed inquiry, with the narrowest terms of reference, after the conclusion of the trial. Ralph Clarke would not have been called before that inquiry, just as he was not asked to appear before the McCann inquiry and just as he did not give evidence at the trial. We have never got to the bottom of this issue. As a consequence, a dark smudge hangs like a low cloud over the Attorney's credibility as long as Ralph Clarke maintains his silence.

The fact that the Attorney gave evidence fundamentally at odds with the evidence of his chief of staff, George Karzis, only deepens doubts about this affair. The Rann government likes to project the image of being tough on crime and the Attorney-General has been an enthusiastic proponent of that strategy.

The Hon. R.K. SNEATH: I rise on a point of order. The Hon. Sandra Kanck is going on about matters that are before the committee and, until the committee reports to parliament on the matter as to whether or not this has any substance, it should not be brought up in the council.

The PRESIDENT: I was listening intently to what the Hon. Mrs Kanck was saying. I did ask her to refrain from talking about the matters before the committee. The honourable member introduced the point about who was giving evidence and she was moving into that area again, so I was getting concerned at that point. I have to reiterate that the matters before the committee, the evidence, the opinions of the witnesses and their actions are not to be discussed today. The matters that the honourable member wanted to canvass, namely, the telephone call to her as a member of parliament and as a member of the committee, are reasonable grounds for her to discuss at this stage. However, the Hon. Mr Sneath is right and it is a fine line as to how far the honourable member was going. I was getting concerned myself, so I remind her again not to refer to the matters, the reasons for the committee, the evidence that the committee is considering, the submissions to the committee or any of the considerations of the committee. I took advice on this matter prior to its coming on to the *Notice Paper*, because of the concerns expressed to me in writing previously by the honourable member. I have to insist that the standing orders prevail.

The Hon. SANDRA KANCK: Thank you, Mr President. The comment I would make, as I said earlier on, is that as parliamentarians we are required, I believe, to set higher ethical standards than are expected of the rest of the community. When those higher ethical standards were required of this government and this Attorney-General they failed. It really is not good enough. What I can assure this council is that, despite the Attorney-General's phone call to me and his attempt to intimidate me, I am not going to be dissuaded from attempting to get to the bottom of the Atkinson/Ashbourne/Clarke affair.

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

MIDWIVES BILL

The Hon. SANDRA KANCK obtained leave and introduced a bill for an act to provide for the registration of midwives and midwifery students; to regulate midwifery for the purpose of maintaining high standards of competence and conduct by midwives and midwifery students in South Australia; and for other purposes. Read a first time.

The Hon. SANDRA KANCK: I move:

That this bill be now read a second time.

Mr President, I hope that I am not offending standing orders, but today I am wearing a lapel badge. It is Lucina, the midwife's rose, because 'Lucina' meant 'midwife' in Roman times. This badge is traditionally worn on International Midwives Day. Am I allowed to keep it on, Mr President?

The PRESIDENT: Yes, and you can keep your shirt on as well.

The Hon. SANDRA KANCK: Apart from the continued commitment from the South Australian Democrats to the advancement of the profession of midwifery, I am motivated to again introduce this bill (which I first introduced two years ago) because of the state government's failure to take action on this front. Back in the 1990s when the parliament dealt with the rewrite of the Nurses Act, I tried to no avail to have midwives recognised in the title of the bill so that it would have been called the nurses and midwives act. It would have been a simple statement, but the Labor Party in opposition would not concede the need for that recognition.

I argued that we needed this because it was going to be only a matter of time before South Australia had direct entry midwifery courses at our universities and then we would have a group of midwives who were not nurses. The Hon. Lea Stevens, the then shadow minister, did not seem to grasp how close the advent of direct entry midwifery was, but she said that if it happened her party would look at the issue again. Well, it did happen, and much sooner than she thought. In 2002 the first direct entry midwife students began courses at both Flinders University and the University of South Australia, graduating at the end of 2004.

This has all happened on the minister's watch and she has a whole department to keep her up-to-date on these developments. Those newly graduated midwives (who are definitely not nurses) have been out on the job since the beginning of this year, effectively practising as nurses, inappropriately defining their competencies in terms of nurses. The Australian College of Midwives has been negotiating for a number of years with the minister and her department regarding the drafting of amendments for the Nurses Act. The minister told them that she would have legislation in the parliament by the middle of this year and it is now September and there is still no sign of it. The most recent edition of the Nurses Board Bulletin gave me no heart in this regard. In Bulletin 19 (July 2005), which is the most recent edition, Judi Brown, the CEO and Registrar, said:

In January the Board provided input into the review of the Nurses Act 1999.

That was eight months ago. She continues:

The comments and questions were based on the collective experience and expertise in nursing and midwifery regulation gained as members and staff of the statutory body with the responsibility of administering the Nurses Act 1999 in South Australia. . . The Board's submission included provision within the Act for a short title of Nurses and Midwives Act 2005, support for inclusion of nursing and midwifery students within the legislation and recommended definitions for Nursing and Midwifery.

Back in July the CEO said:

The Board is eagerly awaiting the first draft of the new proposed Act which is expected in the near future.

I do not know what 'near' means, but this was in July and it is now September. I hope nobody is holding their breath.

The College of Midwives would far prefer to have a separate act, but it had been negotiating with the minister in good faith in the belief that she would keep her promise. Given that the minister has not kept her promise, I think it is time to go back to the preferred position of midwives of a separate act. That is why I am introducing this bill today.

There are many very good reasons for promoting midwifery within our health system. For a start, it is more cost-effective to use midwives compared with obstetricians, and with the escalating costs of our health system this is something we should positively embrace. Of even greater importance to me is the outcomes for women, because the work of midwives is women-centred. That is what the word 'midwife' means: 'with woman'. Overwhelmingly, there is far less intervention in births where midwives are involved compared with obstetricians. This is logical because obstetricians are trained for the abnormal and the complex, they are trained to intervene. Telling them not to intervene with a caesarean section is a bit like telling an engineer not to build a road or a bridge.

In rural areas obstetricians are often not available, midwives are, so it makes sense to encourage and promote them and their skills. Our obstetrician population is ageing with many choosing to retire, so again it makes sense to utilise the skills and dedication of midwives. The Community Midwifery Program at the Women's and Children's Hospital (which was launched by the Minister for Health last year) has been a runaway success with expectant mothers metaphorically queuing to get into the program. Women who have given birth under that continuity of care model would not go back to an obstetrics-based one. The program has been so successful that, since the launch in January last year, there are now three community midwife teams at the Women's and Children's Hospital.

I am not saying that there is no place for obstetrics. To the contrary, midwives do not claim to be doctors, any more than they claim to be nurses. They know the limitations of their training, and when it becomes necessary for a caesarean to be performed an obstetrician will always be called in because their role in childbirth is to deal with the abnormal and the complex.

Midwives are a passionate and committed group, and this has been shown in the recently conducted elections for the Nurses Board, the results of which are published in today's *Advertiser*. All registered nurses, enrolled nurses and registered midwives in South Australia were entitled to vote. Of the five elected positions, two are now filled by midwives: Ros Donellan-Fernandez, who has held the position since the Nurses Act was proclaimed, and Jen Byrne, who has been elected for the first time. I congratulate both those women for that achievement. It would be even nicer if the midwives of South Australia had their own board, because women like Ros and Jen would then be able to serve on that board.

Direct entry midwives are not nurses and their existence and professionalism is worthy of recognition—which is what this bill does. There will be another lot of direct entry

midwives graduating in three months, and another lot graduating in 15 months. This matter must be dealt with. I looked forward now to hearing expressions of support from other parties, although, as with the promise of the minister to introduce a nurses and midwives bill in the middle of this year, I will not be holding my breath.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

WHISTLEBLOWERS PROTECTION (REPORTING OBLIGATIONS) AMENDMENT BILL

The Hon. IAN GILFILLAN obtained leave and introduced a bill for an act to amend the Whistleblowers Protection Amendment Act 1993. Read a first time.

The Hon. IAN GILFILLAN: I move:

That this bill be now read a second time.

There are two matters, and I think comments I make in respect of this Democrat bill also relate to the second one on the *Notice Paper*, which is a bill to amend the Criminal Law Consolidation Act. Events which have occurred in South Australia over the past 12 months, and the public events surrounding that, including the Ashbourne trial for corruption, have brought to the attention of the Democrats some deficiencies in the Whistleblowers Protection Amendment Act.

The act was put in place to attempt to encourage and protect members of the public who felt that they have information which could have direct bearing on the analysis of what may be corrupt practices in the government. In relation to these people who come forward with that information, a procedure is outlined in legislation to protect them from both civil and criminal charges. From that point of view, there would be an obligation on the public official to whom this information was given to proceed to take action. I will quote from the act, because I think it is an interesting background to the bill I have introduced. It provides:

Immunity for appropriate disclosures of public interest information.

5. (1) A person who makes an appropriate disclosure of public interest information incurs no civil or criminal liability by doing so.

(2) A person makes an appropriate disclosure of public interest information for the purposes of this act if, and only if—

(a) the person—

(i) believes on reasonable grounds the information is true; or

(ii) is not in a position to form a belief on reasonable grounds about the truth of the information but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated;

(b) the disclosure is made to a person to whom it is, in the circumstances of the case, reasonable and appropriate to make the disclosure.

(3) A disclosure is taken to have been made to a person to whom it is, in the circumstances of the case, reasonable and appropriate to make the disclosure if it is made to an appropriate authority (but this is not intended to suggest that an appropriate authority is the only person to whom a disclosure of public interest information may be reasonably inappropriately made).

(4) For the purposes of subsection (3), a disclosure of public interest information is made to an appropriate authority if it is made to a minister of the crown or. . .

I will not read the rest of the act—it is easily available for members. Other authorities, or other people who are regarded as an appropriate authority, are listed in some detail. I mention that the first part of subsection (4) indicates that an appropriate authority is a minister of the crown. Subsection (5) provides:

If a disclosure of information relating to fraud or corruption is made, the person to whom the disclosure is made must pass the information on as soon as practicable to—

(a) in the case of information implicating a member of the police force in fraud or corruption—the Police Complaints Authority;

(b) in any other case—the Anti-Corruption Branch of the police force.

It is on the public record that there were ministers of the Crown who were allegedly aware of information, and there were allegations that the information was not passed on—certainly not passed on in due process, as this particular act requires any minister of the Crown to do, that is, pass on the information as soon as practicable—I emphasise 'as soon as practicable'—to the Anti-Corruption Branch of the police force.

The act goes on with other matters, which again I will not read into *Hansard* at this stage but which are available. Where it deals with the category of offences, the only offence for which there is any penalty in the act is dealt with in section 10, which provides:

Offence to make false disclosure

10. (1) A person who makes a disclosure of false public interest information knowing it to be false or being reckless about whether it is false is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

(2) A person who makes a disclosure of public interest information in contravention of this section is not protected by this act.

So there is quite a severe penalty for any person who misuses the protection of the whistleblowers act. However, there is absolutely no penalty for any public authority which does not comply with the obligation clearly spelt out in this act. I did not read the list in section 5(4), but it includes disclosing information to a member of the police force, the Police Complaints Authority, the Auditor-General, the Commissioner for Public Employment, and others. All these people are listed as appropriate authorities, and the act says clearly, and I repeat: the disclosure must be passed on as soon as practicable to the Anti-Corruption Branch of the police force.

My Democrat bill balances the approach to the people who are entrusted by the public of South Australia to follow through with the obligations of the whistleblowers protection act, and those who fail to comply with that obligation should be subject to a penalty which is in stark contrast to the penalty in the act, which is very clear for anyone who misuses the protection of the whistleblowers protection act.

The Hon. R.D. Lawson interjecting:

The Hon. IAN GILFILLAN: Interjections, of course, are out of order, so I will not acknowledge that one. I rest the case for this bill on this fact: whatever sorry history there may be in previous situations in South Australia, let there never be any doubt in future that, where the protection of the whistleblowers act is properly expected from a public authority and that public authority does not comply with the legal obligation of that public authority, there will be a penalty. Therefore, I urge the chamber to support the bill.

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

CRIMINAL LAW CONSOLIDATION (BRIBERY AND CORRUPTION) AMENDMENT BILL

The Hon. IAN GILFILLAN obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935. Read a first time.

The Hon. IAN GILFILLAN: I move:

That this bill be now read a second time.

As I indicated previously, I want my second reading contribution to stand alone because it is not linked to the previous bill in relation to whistleblowers. However, I do indicate that events in South Australia have highlighted a deficiency in both the whistleblowers legislation and the Criminal Law Consolidation Act where it deals with the issue of bribery or corruption of public officers. No less an authority than the office of the DPP itself, in a submission to the court in the Ashbourne corruption trial, made it plain that the obligation of the DPP in prosecuting was to establish that not only was there an attempt at corruption but also that corruption had been achieved. Those words obviously are a very brief summary of the implications of what was submitted to the court by the office of the DPP.

For virtually any other offence that I am aware of that we have dealt with in this place, public expectation of justice is that, where there is an attempt to commit an offence, whether that is successful or otherwise, and where the intention is clear, that then stands in the public mind as an offence for which, if proven, a person would be found to be guilty. So, it seems anomalous, and it is certainly illogical, that the legislation we have in place in this very large act, the Criminal Law Consolidation Act 1935, in dealing with that very important part (Part 7, offences of a public nature), is deficient in recognising that an attempt of corruption is in itself, if proven, an offence, whether it is in part successful or not successful at all.

It is not difficult to imagine circumstances where there is an attempt to bribe a public official for some advantage and that public official refuses to concede to that. The actual wording in the Democrats' bill is worth reading into *Hansard* at this stage, because it does provide the text which applies to parliamentary counsel's drafting to overcome the anomaly which I have just outlined. The nub of the bill is an amendment to part 2, amendment of the Criminal Law Consolidation Act 1935. Clause 4 amends section 249, bribery or corruption of public officers, and it provides:

Section 249, after subsection (3) insert—

(4) a person who—

(a) negotiates, or offers to negotiate, a corrupt agreement between a public officer and a third person; or

(b) represents to a public officer that he or she is, or may be, in a position to negotiate a corrupt agreement between the public officer and a third person; or

(c) represents to a third person that he or she is, or may be, in a position to negotiate a corrupt agreement between the third person and a public officer,

is guilty of an offence.

Maximum penalty: imprisonment for seven years.

(5) A corrupt agreement is an agreement or understanding under which a public officer, in consideration of an improper inducement, exercises power or influence the public officer has (or is supposed to have) in his or her official capacity in a particular way.

Some of that may need a couple of readings to grasp it, but it is quite clear that the wording in clause 4 of the bill covers the attempted action at corruption whether or not it is successful and, in this case, that does not need to be proven for there to be shown to have been an offence if there has been an attempt.

I do not believe any constructive thinking by any member of the public, let alone members of parliament who should be concentrating on these matters, would be prepared to absolve a person who has tried to influence in a corrupt manner but has been unsuccessful and that it then should be regarded as a perfectly innocent act which is not subject to any offence. It seems quite clear that the office of the DPP interprets the current legislation as being inadequate to just prove that there was an attempt—successful or not. In fact, it must be established that it was successful before the offence can be proven. It is clear from that that we have the signposts before us whereby, if we are really serious about preventing, wiping out and punishing attempts at corruption, we need to have that clearly spelt out in the act.

It is a very simple amendment and I believe that it puts the case very clearly. Certainly, the offence will carry a maximum penalty of seven years. Quite clearly, we believe that an attempt, successful or otherwise, is still corruption. Corruption is corruption by any other name, and therefore it should be subject to quite a severe penalty, if proven. Incidentally, through an oversight (but I am sure people who read *Hansard* will pick it up), in the earlier bill, which we have just introduced, the penalty for the public officer who does not comply with the whistleblowers legislation is a maximum of two years' imprisonment. As members would realise, the Democrats are not fanatical imprisoners of offenders. In fact, we believe that part of the reason we have such stress on prison facilities in South Australia is that we have a penchant to throw people into prison rather than deal constructively with offences.

For us to be accepting a penalty of two years' imprisonment for a public authority who refuses or does not follow through on the obligation of the whistleblowers act and seven years' imprisonment for people indulging in corruption reflects how seriously the Democrats believe these offences to be. My colleague in an earlier contribution indicated how parliamentarians should set a higher than average standard in ethical behaviour—and that applies to the public sector, both elected members and those who are career public servants. That is why these two bills have come forward. I admit my ignorance, because I had not been aware of these deficiencies in the legislation; they had not been brought to my notice. If nothing else good comes out of the Ashbourne imbroglio, let us hope two substantial improvements to the state's legislation will. I urge support for the bill.

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

STATUTORY AUTHORITIES REVIEW COMMITTEE: SOUTH AUSTRALIAN WATER CORPORATION

Adjourned debate on motion of Hon. Caroline Schaefer:

That the Statutory Authorities Review Committee inquire into and report on the operations and management of the South Australian Water Corporation, with particular reference to—

1. The efficiency and effectiveness of the South Australian Water Corporation in the outsourcing of the Corporation's database management;

2. The efficiency and effectiveness of the South Australian Water Corporation in the tendering and awarding of maintenance contracts;

3. The relationship of the corporation with public and private organisations within South Australia for the supply and maintenance of the state's domestic, public and business water supplies; and

4. Any other relevant matter.

(Continued from 8 December. Page 803.)

The Hon. SANDRA KANCK: I think all members received a note from the Hon. Ms Schaefer a few days ago asking for cooperation in a vote on this motion. She first moved it on 8 December last year—nine months ago. Clearly, there cannot be anything controversial in it because nobody has spoken either for or against it in that time. As the holder of the portfolio for the Democrats, I see no good reason not to have this investigated. We need to ensure that authorities such as the water corporation are kept under close review all the time and I indicate Democrat support for the motion.

The Hon. CAROLINE SCHAEFER: There being no other speakers, I thank the Hon. Sandra Kanck for her contribution. I moved this motion on 8 December last year and as such I believe there has been ample time for each of the parties to discuss their position. It is purely an inquiry to be held by a standing committee and, as such, while the inquiry itself may become quite contentious if we are able to discuss it in the limited time left to us between now and the election, I do not think the reference to the committee is in any way controversial, and I therefore ask the council to vote on it.

Motion carried.

PITJANTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation) obtained leave and introduced a bill for an act to amend the Pitjantjatjara Land Rights Act 1981. Read a first time.

The Hon. T.G. ROBERTS: I move:

That this bill be now read a second time.

The ACTING PRESIDENT (Hon. J. Gazzola): I advise members of the public in the gallery that the display of signs is not allowed. You have made your point, so please put them down, thank you.

The Hon. T.G. ROBERTS: The bill amends the Pitjantjatjara Land Rights Act 1981 to provide a legislative framework for a more accountable and transparent system of governance on the Anangu Pitjantjatjara Yankunytjatjara (APY) lands. The amendments deal with the operations of the Anangu Pitjantjatjara Executive Board, the peak governing body for the APY lands. The bill forms part of the government's commitment to improve the lives of 3 000 indigenous people living on the APY lands in the state's Far North. This government has committed an additional $25 million over four years to improve conditions on the lands. It is doing what successive governments have failed to do to provide health services, to create safer communities, to provide better educational opportunities, to establish relevant employment and training and to develop real and sustainable jobs.

The Hon. R.I. Lucas: So when are you doing all this?

The Hon. T.G. ROBERTS: The funding says over four years. The reforms contained in the bill include:

· Changing the name Anangu Pitjantjatjara to Anangu Pitjantjatjara Yankunytjatjara to recognise the Yankunytjatjara people;

· More transparent financial reporting by the executive board, including a requirement for the board to annually provide Anangu and the Minister for Aboriginal Affairs and Reconciliation with audited accounts and financial statements;

· Clarifying that the role of the executive board is as a landholding authority to manage the APY lands in accordance with the wishes of the traditional owners;

· Three year terms of office for members of the executive board;

· Clearer operating procedures for the executive board;

· Strict honesty and accountability requirements for the executive board;

· A power for the Minister for Aboriginal Affairs and Reconciliation to intervene when there is evidence that the executive board has refused or failed to exercise a power, function or duty under the act or the APY constitution, where the refusal or failure results in a detriment to the Anangu people; and

· A power for the Minister for Aboriginal Affairs and Reconciliation to suspend the executive board for refusing or failing to comply with certain directions.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: The question is: are you supporting this or not?

The Hon. R.I. Lucas: I don't know; I haven't seen it yet. You just sprung it on us.

The Hon. T.G. ROBERTS: A copy has been circulated. These changes are not about diminishing indigenous self-determination or taking away land rights; their purpose is to increase the confidence that Anangu have in their peak governing body by increasing the transparency and accountability of its decision-making. They are about making the executive board a more effective and responsive body with a greater capacity to implement the wishes of Anangu. The amendments will also improve the delivery of government services on the lands by refocussing the board's activities on land management.

The checks and balances that are being proposed for the executive board represent normal standards of accountability and transparency. They are no more rigorous or onerous than those expected of other publicly funded corporations. In order to provide for public scrutiny of the measures taken by this bill, the minister must review the operation of the Pitjantjatjara Land Rights Act 1981 insofar as it is amended by the bill, and provide a report to both houses of parliament. The review must be undertaken and the report prepared within three years of commencement of clause 1 of this bill.

The bill is the result of extensive consultation with the current executive board, its legal representatives, Anangu, state and commonwealth government agencies and the general public. The Anangu consultations included public meetings at Indulkana, Umuwa and Pipalyatjara. The government provided funding to cover transport costs so that all interested Anangu could attend these meetings. A public call inviting submissions on the review of the Pitjantjatjara Land Rights Act 1981 was published in indigenous, state and national newspapers.

The Hon. R.I. Lucas: You did not ask them: you told them.

The Hon. T.G. ROBERTS: You will have a chance to vote for it or oppose it. The overriding message from these consultations was the need to reform the current governance arrangements. These amendments are the first part of a comprehensive two-stage review of the Pitjantjatjara Land Rights Act 1981 that cabinet approved in March 2004. This is the first time that act has been reviewed since its proclamation in 1981. The second stage will examine land

management issues, particularly as they relate to mining on the APY lands and the Mintabie township lease. At the completion of this stage of the review a second amendment bill will be introduced. Owing to the complexity of these issues and the extensive consultation that will be needed, it is not expected that the second bill will be introduced until 2006. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Pitjantjatjara Land Rights Act 1981*

4—Amendment of section 1—Short title

This clause amends the short title of the principal Act to refer to "Anangu Pitjantjatjara Yankunytjatjara" rather than just "Pitjantjatjara".

5—Amendment of section 4—Interpretation

This clause introduces definitions consequential to other provisions of the measure and amends some of the current definitions so that where the Act currently refers to "Pitjantjatjara" it will instead refer to "Anangu".

The clause also inserts new subsection (2), providing that if a provision of the principal Act that specifies that an act may be done or a resolution made by Anangu Pitjantjatjara Yankunytjatjara at an annual or special general meeting, that act etc may not be done or made by the Executive Board on behalf of Anangu Pitjantjatjara Yankunytjatjara.

6—Insertion of section 4A

This clause inserts new section 4A into the principal Act, which provides the objects of the principal Act (as amended by this Bill).

7—Amendment of section 5—Constitution of Anangu Pitjantjatjara Yankunytjatjara as body corporate

This clause makes consequential amends to refer to "Anangu Pitjantjatjara Yankunytjatjara" (this amendment is made wherever necessary throughout the principal Act) and provides that a document will be presumed to have been executed by Anangu Pitjantjatjara Yankunytjatjara if it is sealed and signed by 6 members of the Executive Board, or 2 persons from among the Chairperson, Deputy Chairperson, Director of Administration or the General Manager.

8—Amendment of section 6—Powers and functions of Anangu Pitjantjatjara Yankunytjatjara

This clause amends section 6 of the principal Act to make amendments to the to leasing and licensing powers of Anangu Pitjantjatjara Yankunytjatjara in relation to the lands, extending to 10 years the time to which a lease or licence can be granted to someone other than Anangu, and also sets out procedures in relation to the granting or transfer etc of leases and licences, most notably that a lease or licence cannot be mortgaged, and that a transfer etc must not be done dealt with without the consent of the Executive Board.

9—Amendment of section 8—Annual general meetings and special general meetings

This clause amends section 8 of the principal Act, setting out when a special general meeting of Anangu Pitjantjatjara Yankunytjatjara must be held.

10—Amendment of section 9—Executive Board of Anangu Pitjantjatjara Yankunytjatjara

This clause amends section 9 of the principal Act, providing that the Executive Board will consist of the 10 elected members, rather than those 10 members plus a separate chairperson. It also provides that a person who is holding the office of Director of Administration or General Manager or is an employee of Anangu Pitjantjatjara Yankunytjatjara cannot be a member of the Executive Board. The term of office for members is now 3 years. The clause requires the Minister to review the electorates 3 months before an election of members of the Executive Board, and further requires members elected to the Executive Board to undertake training in corporate governance within 3 months of being elected. The training courses are to be approved by the Minister.

11—Insertion of sections 9B to 9F

This clause inserts new clauses 9B to 9F, effective restructuring the principal Act in relation to setting out the provisions related to the Executive Board's procedures, functions and powers.

9B—Functions and powers of the Executive Board

This clause provides that the functions of the Executive Board are to carry out the functions of Anangu Pitjantjatjara Yankunytjatjara, and the day to day business of Anangu Pitjantjatjara Yankunytjatjara, and in doing so the board may exercise any power conferred on Anangu Pitjantjatjara Yankunytjatjara by or under this Act.

The clause provides that the Executive Board must comply with certain resolutions of Anangu Pitjantjatjara Yankunytjatjara.

9C—Chairperson and Deputy Chairperson

This clause sets out procedures related to the election of the Chair and Deputy Chair, and any vacancies in those offices.

9D—Casual Vacancies

This clause sets out procedures related to casual vacancies arising in the office of a member of the Executive Board, including conferring on the Minister a power to direct the Executive Board to remove a member in certain circumstances.

9E—Remuneration

This clause provides that a member of the Executive Board is entitled to certain remuneration etc.

9F—Delegations

The clause provides that the Executive Board may delegate certain powers and functions to the General Manager.

12—Substitution of sections 10, 11 and 12

This clause substitutes sections 10, 11 and 12 of the principal Act.

10—Procedure of the Executive Board

This clause sets out procedures to be followed by the Executive Board in relation to meetings

11—Minister may call meetings

This clause provides that the Minister can call a meeting of the Executive Board if the Chair refuses or fails to call a meeting within 4 months after the previous meeting, or if 2 or more successive meetings are inquorate. The Minister may direct members to attend such a meeting.

12—Meetings to be open to all Anangu

This clause requires all meetings of the Executive Board to be open to all Anangu, although the Executive Board may, if there are reasonable grounds, exclude some or all Anangu from a meeting.

12A—Advisory Committees

This clause provides that the Executive Board may set up advisory committees to advise the Board on its functions under the principal Act. The clause sets out procedures that must be determined by the Board in relation to such a committee.

12B—Duty to exercise care and diligence

This clause requires that a member of the Executive Board must exercise a reasonable degree of care and diligence in the performance of his or her functions.

12C—Duty to act honestly

This clause requires that a member of the Executive Board must act honestly in the performance of his or her functions.

12D—Duty with respect to conflict of interest

This clause sets out procedures that must be followed by a member of the Executive Board in relation to any conflict of interest.

12E—Civil liability for contravention of section 12C or 12D

This clause enables Anangu Pitjantjatjara Yankunytjatjara to recover profits or compensation in relation to the failure of a member of the Executive Board to comply with proposed sections 12C and 12D.

12F—Code of conduct

This clause requires the Executive Board to prepare a code of conduct to be complied with by members of the Executive Board, the Director of Administration, the General Manager and any employees of Anangu Pitjantjatjara Yankunytjatjara.

12G—Guidelines

This clause requires the Executive Board to prepare guidelines to be followed by members of the Executive Board when entering contracts or engaging in certain commercial activities.

12H—Prudential requirements for certain activities

This clause requires the Executive Board to obtain and consider a report addressing specified prudential issues before the Board engages in a project likely to exceed 20% of Anangu Pitjantjatjara Yankunytjatjara's approved budget in a particular year.

13—Amendment of section 13—Accounts and audit

This clause amends section 13 of the principal Act to require that audited accounts of Anangu Pitjantjatjara Yankunytjatjara are made available to Anangu at each annual general meeting.

14—Insertion of section 13A and Part 2 Division 4A and 4B

This clause inserts new section 13A and Part 2 Divisions 4A and 4B

13A—Reports and Budget

This clause requires the Executive Board to prepare and submit to the Minister an annual report, an annual budget and certain other reports. The reports or budget must contain the information required by the regulations. In relation to the budget, it must be submitted to the Minister for approval.

Division 4A—Director of Administration and General Manager

13B—Director of Administration

This clause establishes the office of Director of Administration, and sets out certain grounds why a person may not be appointed to the office.

13C—Functions of Director of Administration

This clause sets out the functions of the Director of Administration, which is to oversee the implementation, by the General Manager, of resolutions of the Executive Board.

13D—General Manager

This clause establishes the office of General Manager, and sets out certain grounds why a person may not be appointed to the office.

13E—Functions of General Manager

This clause sets out the functions of the General Manager, which are to implement the resolutions of the Executive Board, take responsibility for the day to day operations and affairs of Anangu Pitjantjatjara Yankunytjatjara, and other specified functions.

13F—Director of Administration and General Manager subject to direction

This clause provides that, if an administrator is appointed under section 13O of the principal Act, the Director of Administration and General Manager are subject to his or her direction.

13G—Termination of appointment of Director of Administration or General Manager by Executive Board

This clause provides for the removal, by the Executive Board, of the Director of Administration and General Manager in certain circumstances, which are essentially the same as for members of the Executive Board. The clause also allows the Minister to direct the Executive Board to terminate the Director of Administration and General Manager in certain circumstances.

13H—Duty to exercise care and diligence

This clause requires that the Director of Administration and General Manager must exercise a reasonable degree of care and diligence in the performance of his or her functions.

13I—Duty to act honestly

This clause requires that the Director of Administration and General Manager must act honestly in the performance of his or her functions.

13J—Duty with respect to conflict of interest

This clause sets out procedures that must be followed by the Director of Administration and General Manager in relation to any conflict of interest.

13K—Civil liability for contravention of section 13I or 13J

This clause enables Anangu Pitjantjatjara Yankunytjatjara to recover profits or compensation in relation to a failure of Director of Administration or General Manager to comply with proposed sections 13I and 13J.

13L—Appointment etc by General Manager

This clause enables the General Manager to appoint employees of Anangu Pitjantjatjara Yankunytjatjara in accordance with the approved budget, or with the approval of the Executive Board and the Minister.

13M—Director of Administration, General Manager and employees of Anangu Pitjantjatjara Yankunytjatjara not subject to direction by member of Executive Board

This clause provides that the Director of Administration, the General Manager and any employees of Anangu Pitjantjatjara Yankunytjatjara are not subject to direction by an individual member of the Executive Board unless the member of the Executive Board is acting in accordance with a resolution of the Executive Board.

Division 4B—Limited intervention by Minister

13N—Minister may direct Executive Board

This clause provides that the Minister may, if the Executive Board has refused or failed to exercise, perform or discharge a power, function or duty under the Act or the constitution and if such refusal or failure has resulted in, or will result in, a detriment to Anangu generally, or to a substantial section of Anangu, direct the Executive Board to take such action as the Minister requires to correct or prevent such detriment.

13O—Minister may suspend Executive Board

This clause provides that the Minister may, if the Executive Board refuses or fails to comply with a direction of the Minister under proposed section 9D(4), 13A(3), 13G(4) or 13N, or if not less than 4 members refuse or fail to attend a meeting called by the Minister under section 11, the Minister may, by notice in the Gazette, suspend the Executive Board for a period specified in the notice or until further notice in the Gazette. The clause also sets out provisions relating to the appointment of an Administrator in those circumstances, the powers and functions of the Administrator and procedural matters related to the Administrator.

13P—Use of facilities

This clause provides that the Administrator may use certain facilities of the Public Service or a public authority.

13Q—Offences

This clause creates offences of hindering or obstructing the Administrator, or falsely representing to be assisting the Administrator. The maximum penalty is a fine of $5 000.

15—Substitution of section 14

This clause substitutes section 14 of the principal Act to require the constitution to be amended so as to be consistent with the principal Act as amended by this Bill, and that the constitution as amended (and whenever amended in future) be submitted to the Minister for approval.

16—Amendment of section 18—Rights of Anangu with respect to lands

This clause makes a consequential amendment.

17—Amendment of section 19—Unauthorised entry on the lands

This clause amends section 19 of the principal Act to enable a prescribed fee to be charged for applications for an entry permit, and to enable a person carrying out an action under proposed section 13N to enter the lands.

18—Insertion of section 19A

This clause inserts new section 19A, which provides that a person who is entitled under section 19(8)(a), (b), (ba), (c), (ca) or (da) of the principal Act to enter the lands for the purpose of carrying out, or assisting in carrying out, official duties or functions or providing a service is entitled to reside on the lands where that is necessary or desirable for the purpose of carrying out that duty or function or providing such assistance.

19—Amendment of section 20—Mining operations on the lands

This clause makes a consequential amendment.

20—Amendment of section 22—Royalty

This clause makes a consequential amendment.

21—Amendment of section 24—Certain payments or other consideration to Anangu Pitjantjatjara Yankunytjatjara must represent fair compensation

This clause makes a consequential amendment.

22—Amendment of section 26—The Mintabie Consultative Committee

This clause makes a consequential amendment.

23—Amendment of section 27—Exclusion of certain persons from the field

This clause makes a consequential amendment.

24—Amendment of section 30—Right of the Crown to continue its occupation of certain land

This clause makes a consequential amendment.

25—Substitution of section 35

This clause amends section 35 of the principal Act to change the name of the tribal assessor to the "conciliator".

26—Amendment of section 36—Disputes

This clause requires the conciliator to attempt to mediate a resolution in the first instance, and enable the conciliator to refuse to hear an appeal that is, in his or her opinion, frivolous or vexatious. The clause also makes consequential amendments.

27—Amendment of section 37—Order compelling compliance with direction of conciliator

This clause provides that if a person or body refuses or fails to comply with a direction of the conciliator, a party to the proceedings before the conciliator may apply to the District Court for an order to compel that person or body to comply with the direction. The District Court must, unless satisfied that the direction of the conciliator is unjust or unreasonable, make an order requiring the person or body against whom the direction was made to comply with the direction.

28—Amendment of section 42B—Depasturing of livestock

This clause makes a consequential amendment, and replaces an obsolete reference.

29—Insertion of section 42C

This clause inserts new section 42C, a standard immunity from civil liability clause.

30—Amendment of Schedule 3—Rules of election under section 9

The clauses of Schedule 3 make amendments to the election process, consequential upon the fact that there is no longer a separate election for the Chairperson in the electorate.

The clauses of the Schedule also makes other consequential amendments to the Schedule, and allow the costs of an election under section 9 of the principal Act to be paid out of the Consolidated Account.

31—Amendments relating to Anangu Pitjantjatjara Yankunytjatjara

This clause makes consequential amendments throughout the principal Act related to terminology and spelling.

32—Review of Act by Minister

This clause requires the Minister to cause a review of the operation of such part of the principal Act as may be amended by this Act to be conducted. A report must be submitted to the Minister, and laid before both Houses of Parliament. The review must take place and the report completed before the third anniversary of the commencement of clause 1 of the Bill.

Schedule 1—Transitional provisions

1 The clauses of this Schedule continue the persons currently holding the offices of Director of Administration and General Manager, whether or not they are currently referred to by those titles.

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

STATUTES AMENDMENT (RELATIONSHIPS) BILL

Adjourned debate on second reading.

(Continued from 12 September. Page 2472.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak briefly to the second reading stage of this bill. I understand that the government has indicated a desire to have this legislation pass the second reading stage by tomorrow, and I would like to indicate the difficulty in which that is placing a number of members who, I understand, are going to move significant packages of amendments to be considered in the committee stage.

As of yesterday, I believe that the Hon. Mr Cameron had lodged a significant series of amendments, but I am also aware that the Hons Mr Evans, Ms Lensink, Mr Xenophon (I think), and possibly one or two other members, are all potentially going to be lodging packages of amendments to this legislation. There are also a number of members who, in considering the second reading of this bill, would like to know about the various options that will be considered in the committee stage before they finalise their position on the second, and ultimately third, reading of the legislation.

So I think the government's position is making it difficult for members who in conscience are trying to form their views on the second reading of this particular bill, because if there are significant amendments to be moved by a number of members it obviously assists the debate if those members still wanting to finalise their position can be aware of those amendments prior to putting down their position on the second reading. I am happy at this stage to speak to the second reading to assist the process of eventually getting to the committee stage of the debate. I know there are some members who will vote against the second reading of the legislation because they have strongly held views. I would indicate that at this stage, whilst I have not formed a final view, I am inclined to the view of allowing the bill to pass the second reading to enable consideration in committee of the various packages of amendments that there are. I would say that I have not formed a final view on that in relation to the second reading. I will certainly also discuss it with those members who might be wanting to vote against the second reading of the bill before I finalise my position.

I think it is also fair to indicate that, given the position that I have adopted in the past on this legislation, I am probably more inclined to vote against the legislation at the third reading than to support it. However, as I have indicated to various lobby groups and individuals who have lobbied me on it, I am prepared to listen to the debates and the argument on the legislation before finalising a position or a view ultimately on the third reading of the legislation. That is all I wish to say at this stage, that in essence I am reserving my position on the bill. I am more inclined to support the second reading at this stage and leave open the options in committee and at the third reading, but I have not yet ruled out absolutely the possibility of perhaps voting against the second reading of the legislation.

The Hon. D.W. RIDGWAY secured the adjournment of the debate.

HALLETT COVE SHOPPING CENTRE

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

That the petition to the South Australian state government signed by 451 residents—

1. expressing concern at years of ongoing delays in implementing the planned new Hallett Cove shopping centre and council amenities; and
2. noting the general deterioration of the centre; and
3. calling for early action by the state government and, in particular, funding for major roadworks from the Trott Park area,

organised by Mrs Doreen Hodgeman of Hallett Cove, be noted.

Earlier this month I was provided with a copy of a petition organised by Mrs Doreen Hodgeman of Hallett Cove in

relation to the shopping centre. For those members who are not aware of the position that Hallett Cove residents face in regard to shopping, I advise members that Hallett Cove has one major shopping centre. Hallett Cove is the largest suburb in the metropolitan area of Adelaide and comprises approximately 7 000 residents. The shopping centre at Hallett Cove is just off Lonsdale Road and comprises a Foodland, a Mitre 10, a butcher shop, two what I would call penny/dime stores, a chemist shop, a shop selling some furniture and a dental surgery.

For some years now, the Macris Group of Companies has been in negotiation with the Marion council, the state government and the federal government to have approved a shopping centre extension that would bring further shopping and other community facilities to the people of Hallett Cove. It has been suggested to me that the one shopping centre that services this substantial suburb is not subjected to competitive pressures in terms of pricing, and it has been suggested to me by Hallett Cove residents that if they use the local shops they pay more dearly. The consequence of that is that Hallett Cove residents tend to have to travel down Brighton Road to the Marion Shopping Centre, embark in the considerable exercise of endeavouring to find a carpark in the Marion Shopping Centre, to go about shopping for their daily needs and their daily grocery needs. That is not a task that we expect of people in many other suburbs, and most other consumers in the metropolitan area have a choice of more than one supermarket.

This plan has been a long time coming and, indeed, as a consequence we have seen the shopping centre that currently exists in Hallett Cove slowly deteriorate and become the victim of repeated graffiti attacks. There are vacancies in the shopping centre and the carpark site has become an eyesore, and this is all as a consequence of the significant delays in the construction of the site. Indeed, *The Guardian* Messenger front page refers to this shopping centre development and the deterioration in the shops.

What has been holding up the development of this much-needed shopping centre has been the construction and upgrading of roads, particularly Landers Road, which connects Sheidow Park and Trott Park with Hallett Cove. In the absence of sufficient funds to upgrade that road, the shopping centre development will not proceed. The article, ably written by the Messenger journalist Eszter Vasensky, reports as follows:

> Delays to the promised $40 million upgrade of the Hallett Cove shopping centre have prompted a 450-signature petition from residents 'sick to death of waiting'.

The article states:

> The hold-up is caused by a shortfall of $1.8 million needed for a link road connecting Trott Park and Sheidow Park to the shopping centre.

Doreen Hodgeman, who prepared this particular petition, which I will refer to in a moment, is quoted as saying:

> 'It's a shame that our shopping centre is being held up by a road. . . We are sick to death of the shopping centre as it is. It's an absolute eyesore.'

I have to agree with Mrs Hodgeman's assessment. The article goes on to report:

> The proposed revamp was unveiled two years ago and trumpeted by Marion Council as part of its $80 million Marion South Plan. The upgrade would have 70 specialty shops, a discount department store, supermarket, and 1 000 car parks.

The article reports a Hallett Cove resident, Margaret Nicholls, as saying the centre needed urgent upgrading. She said, 'It's all getting neglected around here.' This is a project that has strong support within the community, as evidenced by the petition. People from Zwerner Drive—

The Hon. D.W. RIDGWAY: The member is reading from a document. Can he be asked to table it?

The Hon. A.J. REDFORD: I am happy to do that, Mr President.

The PRESIDENT: Are you moving that the item be tabled?

The Hon. D.W. RIDGWAY: Yes.

The PRESIDENT: The council has resolved that the document ought to be tabled.

The Hon. A.J. REDFORD: Members now have the opportunity to read this document, and I know the government will be able to write to all the residents and explain the government's position on this particular development.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: I know. The government will be able to write to the residents and I hope the government will be able to say, 'We have a positive announcement.' If the government does write to residents, I will be the first person to congratulate the government on its support for the project.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says he is working hard, and I am sure that when he responds to my contribution it may give him an opportunity to explain exactly how hard they are working. There are a couple of issues that have come to my attention that perhaps the minister—who I know is not directly handling the matter—might not be aware of and I am sure he will take them into account. The article goes on to quote business people. The spokesperson for Your Fashions said that businesses were being kept in the dark about plans for the upgrade. She is quoted as saying, 'We are all very angry.' Included in the article as supporting the project are the importer, a Baker's Delight, etc.

The figures in relation to this project are interesting. Two years ago, the total estimated cost of this upgrade was $8.9 million. Given the explosion of the Chinese economy and growth in the price of concrete and steel (of which roads are constructed), I suspect that the price has risen considerably while this government has sat on its hands. The current contribution until last week in terms of how we arrived at this $8.9 million is as follows. First, the commonwealth generously has offered $3.4 million. Indeed, the commonwealth cannot be criticised at all, because it has actually been making payments of dollars in real terms to the Marion council in order to implement the project. The council has budgeted $2.2 million; the developer, Makris, has initially offered $600 000; and a developer on the other side of Lonsdale Road has offered $200 000.

The state government initially offered $1.1 million, which is about what it raises out of poker machines in 24 hours. The community cabinet went down to Marion and explained in some detail the nature of this $1.1 million, because, unbeknown to the Marion council, a condition of this $1.1 million grant from the state government was that the Marion council purchase the land on which the road is to be built at a cost of $665 000. This means that the net contribution to this significant project for the Hallett Cove residents is only $435 000. That is hardly anything to write home about.

It was pleasing that on Monday 5 September the Minister for Local Government announced a further contribution of

$1.25 million from the federal government for this project. So, the commonwealth is now offering $4.65 million. The local member, Kym Richardson (who was elected at the recent federal election), has worked very hard to ensure that the people who reside in Hallett Cove have adequate shopping facilities. They recognise that $4.65 million is a reasonable contribution. I understand that Mr Makris stands prepared to offer an increased proportion of money to ensure that this development proceeds. The only part of this whole equation that is holding up this development is the state government. I am happy to work with the state government—

The Hon. P. Holloway: That's rubbish.

The Hon. A.J. REDFORD: —to ensure that this project goes ahead. The Hon. Paul Holloway says that that is rubbish, that it is not the state government that is holding it up. I am interested to hear the Hon. Paul Holloway's explanation as to why there have been delays in this project, given that the Marion council has offered a substantial amount and the commonwealth is prepared to offer a significant amount, too. I would be most interested to know who the state government is blaming for these substantial delays about which the residents of Hallett Cove are complaining. They are complaining in their droves: in the local paper and by way of the petition that has just been tabled in the Legislative Council.

As an indication of what the state government's position is, it is set out in an article in *The Guardian Messenger*, as follows:

> The State Government last week acknowledged the shortfall but said it would not commit to more funding. 'We have our money on the table already', a spokesman for Transport Minister Patrick Conlon said.

I hope that because of the pressure I am bringing to bear through speeches such as this and the pressure that is being brought to bear through petitions that have been tabled in the parliament that the state government might seriously rethink its position and might see fit to increase its contribution for the benefit of the 7 000 residents of Hallett Cove and the 4 000 or 5 000 residents of Sheidow Park and Trott Park.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: The Hon. Paul Holloway asks: 'What is the Liberal position?' I assure the honourable member that there will be a Liberal position if this government continues to display complete inaction.

The Hon. P. Holloway: How much money will you commit?

The Hon. A.J. REDFORD: My answer to that is simple. That is a hypothetical question. Is this government saying to me through the Hon. Paul Holloway's interjections that it is going to wait until the election before it makes a commitment? If that is what he is saying, the disappointment that the Hallett Cove residents are currently experiencing will deepen. In a bipartisan fashion, I urge this government—indeed, I beg this government—to treat the Hallett Cove residents with the respect they deserve, to get on with the negotiations and to make an announcement so that we can start construction some time this year on this long-awaited project. The Makris Group is reported as saying that it will seriously consider an increased injection of funds, and I hope something will come of that.

The Hon. Terry Cameron raised this issue in this place in June 2005. I raised this issue in this place in July 2005. I know perhaps a little more about what is going on within the government than the Hon. Paul Holloway might understand. In a bipartisan fashion, all I am saying is: please, on behalf of Hallett Cove residents, make a decision so that we can get on with our lives and understand what the future holds for us.

I have received quite a large number of letters from different people about this project. I will read a couple of them into *Hansard*. A letter from a number of people from Teamsters Way, Hallett Cove, states:

> Dear sir, can you please do something, within your power, to influence the people making decisions, in the matter of the Marion South Plan. In particular, the Hallett Cove Shopping Centre. The residents of Hallett Cove and surrounding areas need help to get finance for the joining road, so the centre and council buildings in the south plan can go ahead. It's been two years already, and we need it for our enormously growing area, as sooner as it's getting later. Yours truly and thanking you, John, on behalf of the residents of Teamsters Way, Hallett Cove.

I am happy to take the Hon. Paul Holloway through the area, I am happy to show the Premier through the area, and I am happy to show the Hon. Pat Conlon through the area, so they understand the frustration of the people of Hallett Cove. I received another letter from Mr Kenneth Wade of Fastnet Court, Hallett Cove. It states:

> Dear sir, I am writing to bring to your attention a problem that exists at Hallett Cove. For more than 10 years we have been trying to get a decent shopping centre in our area. Now, as part of the 'Marion South Plan', we have the opportunity to build a shopping centre plus a regional community centre, a retirement housing estate and to improve traffic flow into and out of Hallett Cove and Trott Park. The new road system will also improve the safety aspect for children and parents attending the Hallett Cove R-12 school.
>
> The one problem preventing the plan from going ahead is a shortfall of funds required to complete the roadworks which must be secured and started before the shopping complex will proceed. The population of this area has almost doubled in the last decade and it is still growing. We need these new facilities NOW! Our nearest shopping centres are at Marion and Colonnades at Noarlunga Centre. I repeat WE NEED THESE FACILITIES NOW!
>
> I am asking you to join with us and to pressure the government to provide the money necessary to complete this project. On behalf of the residents of Hallett Cove, I thank you for your assistance in this matter. Yours faithfully, Kenneth R. Wade.

Again, it is an indication of just how strongly the residents of Hallett Cove feel about this project.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: I have confined my remarks to the development of the shopping centre. I have made that very clear in all correspondence I have issued. They are separate issues. I think the honourable member would understand that we are probably talking from the same sheet in relation to some other aspects of the Marion South Plan, in particular some of the proposed development of open space. I do not think the honourable member will find that my views are any different from the honourable member's in relation to that issue. The honourable member need not play politics with this, just as I have tried not to play politics with this.

The honourable member needs to understand that my main concern is a proper and reasonable shopping facility for the people of Hallett Cove. We can isolate that out of the Marion South Plan and deal with some of the other issues at a later stage, but the Hallett Cove Shopping Centre is a significant issue and stands and falls on its own. A requirement for the upgrade of Lonsdale Road, and the connection between Sheidow Park and Trott Park, is an essential element of the upgrade of Hallett Cove. I do not want to be diverted away from that into other less relevant areas. We need to deal with this as a matter of priority. I would hope the honourable member opposite agrees with that.

I also point out that this does have the support, as I said earlier, of Mr Kym Richardson, the local federal member for

Kingston, who won narrowly at the last federal election. He has worked tirelessly to encourage his federal colleagues to make a decent and reasonable contribution. I am sure the Hon. Paul Holloway will acknowledge that the commonwealth has been more than generous in its contribution. All I am asking is that the state government pay its fair share. I will continue to ask it as politely as I can. I can give my guarantee that, if or when the state government announces a fair and reasonable contribution, I will be the very first person to congratulate the government.

I know there are some issues—particularly the issue in relation to access between the proposed shopping centre and the school—but I have no doubt that, in terms of the overall scheme, they can be resolved very quickly. This is not new. This has been going on for some time. The Marion council has conducted surveys in relation to what people want in the area. Indeed, the indication is that the residents of Hallett Cove are quite aware of the Marion South Plan and its implications.

At page 10, the survey asks a question about the development of a new road link between Hallett Cove, Trott Park and Sheidow Park. It shows that nearly 90 per cent of the residents of Hallett Cove strongly support or support to an average extent the development of a new road between Hallett Cove, Trott Park and Sheidow Park. Indeed, the support is not just from the residents of Hallett Cove but also from the residents of Sheidow Park, Trott Park and O'Halloran Hill. I know the local member for Mitchell (Mr Hanna) strongly supports this, and I would hope that the Labor candidate for Mitchell (Rosemary Clancy) would also strongly support it so that we can get the government to make a decision whereby the people of Hallett Cove and various surrounding areas can have these facilities. These facilities include a larger library, a youth facility and a hall and meeting rooms—facilities that are sorely needed. There is strong support for the expansion of the Hallett Cove shopping centre.

I have used this opportunity to demonstrate to the government that there is very strong support for this proposal. I urge the government to join with me in supporting the plan and I hope that the government, which currently makes more than $400 million a year out of poker machines (more than $1 million a day), can find a lousy $2 million or $3 million to pay for an adequate and appropriate road system so that we can all get on with the proposal.

Indeed, I think a letter to my political opponent sums it up pretty well, and I will read it. It is a letter from Mr Joe O'Loughlin. It is headed 'State Budget: Building South Australia', and it states:

> Our family supported the Labor Party for many years. This gradually changed to the point where we are mostly swinging voters. This change occurred over time when the Labor government consistently failed to support any of seven capital projects that would have meant more jobs for South Australians, better long-term tourism infrastructure and a better future for voters.
>
> The huff and puff of politics, without substance, has shown up with many glaring examples over many years. An example: At one time *The Advertiser* ran an article on Don Dunstan wherein he claimed the Labor government could prove, by using government statistics, that they had reduced the number of unemployed tradespeople in this state. Unfortunately, on the next page, *The Advertiser* also ran another article showing how thousands of tradespeople had migrated to Queensland from South Australia to work in a construction industry focused on tourism!

He goes on to say in relation to this project:

> The federal government has offered financial support towards the changes in the Lonsdale Highway that will be necessary for the Hallett Cove redevelopment to proceed. Also necessary is financial, as well as verbal, support from the Labor government. The proposed changes to the highway will not only provide easier access to Hallett Cove but will significantly improve the safety of all residents seeking to gain access to the highway. While the Hallett Cove population has increased along with adjacent areas, the average age of voters has also increased. Easier access to a reasonably sized shopping centre is a basic need.
>
> As an older voter I lean more toward action rather than rhetoric so I am looking forward to your government helping me make my next voting decision.

So there is the encouragement. Potentially, this is something that the government can claim as an achievement, and I urge the government to support the project, and support it quickly, so that these people can get on with their lives and understand that their future in Hallett Cove is an important part of public policy consideration. I commend the motion.

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

DOG FENCE (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): 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.

It is with great pleasure that I introduce the Dog Fence (Miscellaneous) Amendment Bill 2005.

As many Members will appreciate, the Dog Fence in this State is essential for protecting the sheep industry from the predation by dingoes. What Members may not realise is that the fence also provides a boundary outside of which the dingo is recognised as a legitimate wildlife species.

The Dog Fence in South Australia is two thousand, one hundred and seventy eight kilometres long, and is a part of a continuous fence that starts on the cliffs overlooking the Great Australian Bight, winding its way for more than five thousand, four hundred kilometres across South Australia, New South Wales and Queensland.

In this State, the Dog Fence consists of not only the traditional netting fence but also of five hundred kilometres of solar and/or solar-wind powered electric fence. This approved electric Dog Fence is an outcome of research carried out by the Board that tested various types of solar-powered electric fencing and demonstrated the efficacy of a 1200mm high 10-wire electric fence. Electric fences, because of their lower height, provide for easier migration of large native herbivores.

The Dog Fence today is owned and maintained by both Local Dog Fence Boards and private owners. Landowners on whose land the fence is situated may elect to form a local dog fence board, which owns and manages that designated section of the fence, or may elect to individually retain full ownership and management.

There are six Local Dog Fence Boards consisting of Fowlers Bay, Penong, Pureba, Central, Marree and Frome. Four station owners have decided to still own and maintain their sections of the fence. The State Dog Fence Board is constituted under the Act to ensure that the Fence is properly maintained and is kept in dog-proof condition, and that wild dogs in the vicinity of the fence are controlled. The entire fence is inspected at least every second week by patrolmen employed by the local boards or by the station owners themselves.

The South Australian Dog Fence is maintained by the State Dog Fence Board with an annual budget of $800 000 for the 2 180 kilometres of fence ($367 per kilometre). This compares favourable with the Fences in the other two states where the New South Wales Dog Fence of 584 kilometres has a budget of $2 055 per kilometre, and Queensland's Fence of 2 600 kilometres has a budget of $596 per kilometre.

As I have previously reported to this House, I had the privilege of joining the State Dog Fence Board and local dog fence board members recently for an inspection of some 342 kilometres of the dog fence stretching from Fowlers Bay through to Pureba. I was very impressed by the state of the fence and the work being done by the various dog fence boards and the community.

This Bill is the culmination of a review of the *Dog Fence Act 1946*, and advice was sought from stakeholders and the broader community on which, if any, sections of the Act should be replaced or rewritten to better reflect today's thinking, and whether any new provisions should be included.

Community consultation occurred through regional meetings, which were convened in Keith, Mannahill, Ceduna, Port Augusta and Adelaide. These well attended meetings helped shape the proposed amendments I am introducing today.

Landowner support and involvement is essential to maintain a dog-proof fence. The provisions of the *Dog Fence Act* must remain flexible enough to retain landowner participation given trying conditions for many on the land while still ensuring that the fences remain dog-proof.

The current provisions of the *Dog Fence Act* restrict activities to maintaining a dog fence in the northern areas of the State. The Bill will broaden the scope of the Dog Fence Board to enable it to maintain dog fences in other parts of the State. Landowners in some areas of the State have long been seeking the capacity for the Dog Fence Board to be involved in maintaining fences other than in the northern areas of the State, such as to keep wild dogs inside park areas.

Many of the amendments in the Bill are consequential to this.

The Bill will update the definition of a wild dog to include a dog that is any cross of a dingo or a feral dog.

The Bill will revise the term of appointment of Board members to be up to 4 years in lieu of the current fixed four-year term. This change will allow for the staggering of members' terms so that not all of the terms of office expire at the same time.

Although the Dog Fence Board has been consulting with stakeholders before moving or rebuilding a fence, the Act does not require the Board to consult at all. The Bill will now require the board to consult with the occupier of the land, or the owner of the fence, before making any changes to the fence.

To properly maintain a dog fence, the Bill will allow the Board or an authorised person, for the purposes of the Act, to remain on the land where a dog fence is situated. To provide further support to members and staff, the Bill will indemnify members of the board, a member of a local board or an authorised person when acting in good faith under the Act.

Where a local dog fence board is formed, the ownership of that part of the dog fence is vested in that local board. However, some landowners adjacent to the fence consider it more desirable that they manage their section of fence. The Bill will allow the local board to vest ownership of the fence back to the adjoining landowner with the agreement of that landowner. This amendment is in response to the specific request of some pastoralists.

The Dog Fence Board funds its operations, including the maintenance of the Dog Fence, from rates on land and this amount is matched dollar for dollar by Treasury. This scheme will continue but the Bill will update key aspects of the scheme. The maximum amount that the Dog Fence Board can pay to a fence owner to maintain a kilometre of fence will increase from the current $225 to $250. Where the Dog Fence Board imposes rates on land, the maximum amount will increase from $1 to $1.20 per square kilometre.

For a number of years the Dog Fence Board has adopted a policy of aggregating certain parcels of land into a single holding for rating purposes. The Bill will formalise this arrangement and provide that a holding will include parcels of land that are farmed as a single enterprise.

In recovering rates, there has been no mechanism that allows the Dog Fence Board to take into account extenuating circumstances for the payment of those rates by the occupier of that land. The Bill will provide the Board with the authority to extend the time for payment as it sees fit.

Consultation with local boards, the South Australian Farmers Federation and interested communities including indigenous groups has resulted in a Bill that retains community involvement and the commitment to maintaining dog-proof fences.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Dog Fence Act 1946*

4—Substitution of long title

This clause amends the long title of the principal Act to reflect changes made by this Bill.

5—Amendment of section 4—Interpretation

This clause amends or adds definitions of certain terms used in the provisions amended by this Bill. In particular the concept of primary and secondary dog fences is explained.

6—Amendment of section 6—Members of board

This clause makes a consequential amendment to section 6 of the principal Act to reflect the existence of primary and secondary dog fences.

7—Amendment of section 7—Term of office

This clause amends the term of office of a member of the board so that a term does not exceed 4 years rather than be 4 years.

8—Amendment of heading to Part 3

This clause is consequential.

9—Substitution of sections 18 and 19

This clause provides for the substitution of sections 18 and 19 of the principal Act, and allows for the creation of secondary dog fences to further restrict the movements of wild dogs within the area inside existing dog fence, which becomes the primary dog fence.

10—Amendment of section 20—Construction of fence to complete dog fences

This clause makes a consequential amendment and also requires that the board consult with owners or occupiers of land prior to issuing a notice under section 20 of the principal Act.

11—Amendment of section 21—Replacement of parts of dog fences

This clause makes a consequential amendment.

12—Amendment of section 22—Duty of owner to maintain dog fence and destroy wild dogs

This clause makes consequential amendments.

13—Amendment of section 23—Powers and duties of board as to dog fences

This clause amends section 23 of the principal Act to empower the board, or a person authorised by the board, to enter and remain on land on which a dog fence is situated in order to exercise the powers and functions referred to in the section. The clause also makes a number of consequential amendments.

14—Amendment of section 23A—Dog fences on Crown land

This clause makes a consequential amendment.

15—Amendment of section 24—Payments to owners of dog fences

This clause increases the amount payable to owners of the dog fence to $250 per kilometre of fence, and makes a number of consequential amendments.

16—Amendment of section 24A—Provisions as to ownership of dog fences

This clause amends section 24A of the principal Act to enable the Governor to vest (on the recommendation of the board and with the agreement of the owner) part of the fence in the owner of the land on which the fence is situated. The fence may also be revested in a local board, with the consent of the board. The clause also makes a number of consequential amendments.

17—Amendment of section 25—Imposition of rates on ratable land

This clause increases the rate payable by owners of certain land to $1.20 per square kilometre, defines ***holding*** for the purposes of the section and makes a consequential amendment.

18—Amendment of section 27—Payment and recovery of rates and special rates

This clause enables the board to extend the time for payment of rates.

19—Amendment of section 27A—Contribution by councils as alternative to rating by board

This clause amends an obsolete reference.

20—Amendment of section 28—Charge to be payable by occupiers of land outside dog fence
This clause makes a number of consequential amendments.
21—Amendment of section 35A—Local dog fence boards
This clause makes a consequential amendment.
22—Amendment of section 37—Inspection of dog fences by Government employees
This clause makes a consequential amendment, and enables a government employee to enter and remain on premises for the purposes of the section.
23—Insertion of section 38
This clause inserts a provision shifting personal liability from the board, a member of a local board, and certain other people to the board (in the case of a member of the board, or a person acting at the direction of the board) or, in any other case, to the Crown.
24—Amendment of section 43—Penalty for damaging or removing a dog fence
This clause makes a consequential amendment.
25—Amendment of section 44—Employer liable for damage done by employee
This clause makes a consequential amendment.
26—Amendment of section 44A—Gate or ramp is part of a dog fence
This clause makes a consequential amendment.
27—Amendment of section 45—Penalty for leaving gate open
This clause makes a consequential amendment.

The Hon. A.J. REDFORD secured the adjournment of the debate.

CORRECTIONAL SERVICES (PAROLE) AMENDMENT BILL

The House of Assembly, having considered the recommendations of the conference, agreed to the same.

DEFAMATION 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.

This Bill is to reform the law of defamation in accordance with model provisions agreed to by all State and Territory Attorneys-General in November, 2004. Attorneys-General had attempted to reach agreement on uniform defamation law reform since 1979, without success. This agreement, then, was a long time coming.

Protecting freedom of expression and protecting personal reputation from unjustified aspersions are not new ideas. They can be traced back through the common law for hundreds of years. However, the balance between these competing interests, and the degree to which people could express themselves freely, have changed over time. And the means and speed with which people communicate have changed dramatically in recent years. The Government puts this Bill forward as representing a reasonable and fair balance between the competing interests and a reasonable and fair way of accommodating the changes brought about by technology.

We have all heard about some defamation litigation that has dragged on interminably at great expense to all parties and the court system and at considerable emotional cost to some parties. Some of us have been shocked by the size of some awards of damages, especially some made interstate. This Bill contains provisions that are intended to provide incentives for early settlement of disputes about defamation and to encourage early corrections, apologies and replies to correct errors, put both sides of a story and restore damaged reputations. It would also cap the damages that may be awarded for non-economic loss.

From the point of view of commercial publishers and people who have a national reputation, the differences between the defamation laws of each State and Territory have caused difficulties. The differences between jurisdictions have come about because States and Territories have modified and supplemented the common law by statute in their own differing ways. The mass media, book publishers, internet service providers and others have urged all Australian governments to make the law of defamation the same, or at least consistent, throughout Australia.

The Bill will not entirely displace the common law. Rather, it will modify and supplement it in a way that is appropriate to modern means of communication, and in a way that has been agreed by all the State and Territory Attorneys-General and drafted in consultation with Parliamentary Counsels' Committee.

I implore Members to approach this Bill with goodwill and not to undermine the uniformity that will be achieved if State and Territory Parliaments pass Bills in accordance with the model.

The Bill would repeal the old defamation provisions that, for a long time, have been in our *Wrongs Act 1936* (recently renamed the *Civil Liability Act 1936*). Instead, we would have a stand-alone Act called the *Defamation Act 2005*.

The explanation of the clauses of the Bill adopt most of the explanatory notes drafted by an interstate Parliamentary Counsel in consultation with Parliamentary Counsel's Committee. They are very detailed and cover much of what I would normally say in my second reading speech, such as background information relevant to particular clauses. I will not repeat them. However, I mention some of the major points.

For the first time, there will be a statement of objects in our statutory defamation provisions. They are set out in clause three. They are:

- to enact provisions to promote uniform laws of defamation in Australia;
- to ensure that the law of defamation does not place unreasonable limits on freedom of expression and, in particular, on the publication and discussion of matters of public interest and importance;
- to provide effective and fair remedies for persons whose reputations are harmed by the publication of defamatory matter; and
- to promote speedy and non-litigious methods of resolving disputes and the publication of defamatory matter.

Decisions about whether matter that has been published is, or is not, defamatory will continue to be decided according to the common law. This will allow for the law to change gradually and incrementally as the meaning of words and actions and the standards of society change. The majority of submissions, including all those made by mass media organisations, supported this.

At common law, a libel was actionable without proof of actual damage - slander was actionable only if the defamed person proved that actual damage resulted from the slander. The distinction originated in the days when words spoken were transient. They were published by the speaker only to the people who were close enough to hear. Now spoken words are often broadcast to thousands, if not millions, of people and are recorded by electronic means for future reproduction and republishing. Commonwealth legislation treats matter published by radio or television as potentially libellous, rather than slanderous. The submissions received indicated that the distinction is now considered anachronistic. The majority of States and Territories have already abolished it by statute. The Bill would abolish the distinction between libel and slander in South Australia.

The New South Wales experiment of making each imputation conveyed by a defamatory statement a separate cause of action will not be followed. The common law position that a publication gives rise to one cause of action no matter how many imputations it conveys would be maintained by the Model Bill and this Bill.

Australian Governments received conflicting submissions and opinions about the right of corporations to sue for defamation. Some thought that there should be no change in the common law. Others thought that corporations should never be able to sue for defamation. Some thought there should be some restrictions on corporations suing. A compromise provision was agreed by all State and Territory Attorneys-General. It is similar to a provision that was enacted in New South Wales in 2002. Small corporations and not-for-profit corporations will continue to be able to sue for defamation. The common law that public corporations, such as local government councils, and government corporations like those established under the Public Corporations Act 1993, cannot sue for defamation will be retained. Small corporations will continue to be able to sue for

defamation, but larger corporations will not. A small corporation is one that employs fewer than 10 people and is not related to any other corporation. For the purpose of counting the number of employees, part-time employees will be counted as an appropriate fraction of a full-time employee. For the purpose of determining whether a corporation is related to another corporation, the test used in the Corporations Act 2001 will be applied. The common law right of natural persons who are so closely associated with a corporation that they are identified by the defamatory matter will be preserved. The rights of corporations to sue for other causes of action, such as injurious falsehood, or under the Trade Practices Act will not be affected.

The defences to actions in defamation are as important as the elements of the cause of action. One of the most contentious issues has been whether a person should ever be liable for publishing matter that is true. At common law, and in South Australia, the position has always been that a defendant who proves that the published matter was true has a complete defence. Traditionally, this has been known as *the defence of justification*. This is also the law in Victoria, Western Australia and the Northern Territory, New Zealand and England. In New South Wales the defendant has a defence only if it is also proved that the matter was published in the public interest. In Queensland, Tasmania and the Australian Capital Territory the defendant must prove that the matter was published for the public benefit. In November, all State and Territory Attorneys-General agreed that their Bills should contain a statutory defence that reflects the common law defence of justification, and thus, this aspect of the South Australian law will not change.

The Bill would allow the common law defence of qualified privilege to continue to operate.

In addition, the Bill contains statutory defences of:

- contextual truth;
- absolute privilege;
- publication of public documents;
- fair report of proceedings of public concern;
- qualified privilege that is wider than the common law defence of qualified privilege;
- honest expressions of opinion;
- innocent dissemination, which will protect people such as newsagents, booksellers, librarians and internet service providers who unwittingly publish defamatory matter without negligence on their part; and
- triviality.

These are explained in the explanation of the clauses.

Unlike the Model Bill, this Bill does not include schedules of publications that are to be protected. This is because we have not, as yet, identified any specific publications, or any specific bodies whose publications, should be protected additionally to those who would be protected by the more general provisions of clauses 25, 26 and 27 of this Bill.

Our *Limitation of Actions Act 1936* sets limitation periods of two years for slander and six years for libel. The general view of people who made submissions was that the limitation period is too long in some jurisdictions, including in South Australia. The Bill would set a limitation period of one year for commencement of civil defamation actions. Early correction, restoration of reputation and resolution of defamation disputes is in the interests of the parties and the public. The shortening of the limitation period will help to achieve the object of providing effective remedies. Also, as the distinction between libel and slander would be abolished by this Bill, there would be no need for two different limitation periods. However, the court would have power to extend the time to up to three years in certain circumstances set out in Part 5 of Schedule 1 of the Bill.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

Sets out the name (also called the short title) of the proposed Act.

2—Commencement

This clause provides that the proposed Act will come into operation on 1 January 2006.

3—Objects of Act

Clause 3 sets out the objects of the proposed Act.

4—Interpretation

Proposed section 4 defines certain terms used in the proposed Act. In particular, the following terms are defined:

The ***general law*** is defined to mean the common law and equity.

The term ***matter*** is defined to include the following:

- an article, report, advertisement or other thing communicated by means of a newspaper, magazine or other periodical;
- a program, report, advertisement or other thing communicated by means of television, radio, the Internet or any other form of electronic communication;
- a letter, note or other writing;
- a picture, gesture or oral utterance;
- any other thing by means of which something may be communicated to a person.

5—Act binds Crown

The proposed Act binds the Crown in all its capacities.

Part 2—General principles

Division 1—Defamation and the general law

6—Tort of defamation

The proposed Act does not affect the operation of the general law in relation to the tort of defamation except to the extent that the proposed Act provides otherwise (whether expressly or by necessary implication). The proposed section also makes it clear that the general law as it is from time to time is to apply for the purposes of the new legislation as if existing defamation legislation had never been enacted or made. This provision removes any doubt about the application of the general law particularly in those Australian jurisdictions in which the general law has previously been displaced by a codified law of defamation.

The proposed Act does not seek to define the circumstances in which a person has a cause of action for defamation. Rather, the proposed Act operates by reference to the elements of the tort of defamation at general law. Accordingly, if a plaintiff does not have a cause of action for defamation at general law in relation to the publication of matter by the defendant, the plaintiff will not (subject to the modification of the general law effected by proposed section 7) have a cause of action for the purposes of the proposed Act.

At general law, a plaintiff has a cause of action for defamation against a defendant if the defendant publishes defamatory accusations or charges (referred to conventionally as ***imputations***) about the plaintiff to at least one other person (other than the defendant or his or her spouse). The courts have expressed the test for determining what is defamatory in various ways. Perhaps the most familiar description is that of Lord Atkin in *Sim v Stretch [1936] 2 All ER 1237* at p1240 - matter that tends to lower the plaintiff in the estimation of right-thinking members of society generally. Nowadays, the word "ordinary" is usually used, rather than "right-thinking". "Defamatory" can be described as tending to damage the plaintiff's reputation, or tending to lead to his or her exclusion from society. Words, gestures etc, however insulting or objectionable, that tend to produce neither of these effects, are not actionable.

Usually a defamatory statement imputes that the person about whom it is said is morally blameworthy. However, a statement, although not imputing moral blameworthiness, may be defamatory if it dishonours the person.

7—Distinction between slander and libel abolished

The general law distinction between libel and slander is abolished.

At general law, libel is the publication of defamatory matter in a written or other permanent form while slander is the publication of defamatory matter in a form that is temporary and merely audible. If a matter is libellous, the plaintiff does not need to prove that he or she sustained material loss (or ***special damage***) in order for the matter to be actionable. However, if a matter is slanderous, the plaintiff must usually prove special damage in order for the matter to be actionable. The abolition of this general law distinction means that all publications of defamatory matter are actionable without proof of special damage.

The distinction has already been abolished in most Australian jurisdictions under existing law. The only exceptions are South Australia, Victoria and Western Australia.

Division 2—Causes of action for defamation

8—Single cause of action for multiple defamatory imputations in same matter

A person has a single cause of action for defamation in relation to the publication of defamatory matter even if more than one defamatory imputation about the person is carried by the matter.

The proposed section reflects the position at general law that the publication of defamatory matter is the foundation of a civil action for defamation and reflects the existing law in all of the States and Territories, other than New South Wales.

9—Certain corporations do not have cause of action for defamation

A corporation cannot assert or enforce a cause of action for defamation of the corporation. The only exceptions to this general rule will be a corporation that is not a governmental or public authority and that either is operated on a not-for-profit basis, or has fewer than 10 full-time equivalent employees and is not related (in terms of section 50 of the Corporatioins Act (C/W)) to another corporation. The proposed section will not preclude any individual associated with a corporation from suing for defamation in relation to the publication of matter about the individual that also defames the corporation.

10—No cause of action for defamation of, or against, deceased persons

Proposed section 10 provides that no civil action for defamation may be asserted, continued or enforced by a person in relation to the publication of defamatory matter about a deceased person (whether or not published before or after the person's death). The proposed section also prevents the assertion, continuation or enforcement of a civil cause of action for defamation against a publisher of defamatory matter who is deceased.

South Australian law, and the existing laws of the States and Territories (except Tasmania), preclude a civil action for defamation in relation to a deceased person, or against a deceased person. This reflects the position at general law.

Division 3—Choice of law

11—Choice of law for defamation proceedings

This proposed section provides for choice of law rules where a civil cause of action is brought in a court of this State in relation to the publication of defamatory matter that occurred wholly or partly in an Australian jurisdictional area. An ***Australian jurisdictional area*** is defined to mean—

(a) the geographical area of Australia that lies within the territorial limits of a particular State (including its coastal waters), but not including any territory, place or other area referred to in paragraph (c), or

(b) the geographical area of Australia that lies within the territorial limits of a particular Territory (including its coastal waters), but not including any territory, place or other area referred to in paragraph (c), or

(c) any territory, place or other geographical area of Australia over which the Commonwealth has legislative competence but over which no State or Territory has legislative competence.

Examples of areas over which the Commonwealth, but not a State or Territory, has legislative competence include places in relation to which the Commonwealth has exclusive power to make laws under section 52(i) of the Commonwealth Constitution and the external Territories of the Commonwealth.

The proposed section creates two choice of law rules.

The first choice of law rule applies where a matter is published only within one Australian jurisdictional area. The choice of law rule in that case will require a court of this State to apply the substantive law applicable in the Australian jurisdictional area in which the matter was published.

The second choice of law rule applies if the same, or substantially the same, matter is published in more than one Australian jurisdictional area by a particular person to two or more persons. The choice of law rule in that case will require a court of this State to apply the substantive law applicable in the Australian jurisdictional area with which the harm occasioned by the publication as a whole has its closest connection. In determining which area has the closest connection with the harm, the court may take into account any matter it considers relevant, including—

· the place at the time of publication where the plaintiff was ordinarily resident or, in the case of a corporation that may assert a cause of action for defamation, the place where the corporation had its principal place of business at that time; and

· the extent of publication in each relevant Australian jurisdictional area; and

· the extent of harm sustained by the plaintiff in each relevant Australian jurisdictional area.

The second choice of law rule is based on the recommendation made by the Australian Law Reform Commission in its report entitled Unfair Publication: Defamation and Privacy (1979, Report No 11) at pages 190–191. As indicated in that report, the Australian jurisdictional area with which the tort will have its closest connection will generally be where the plaintiff is resident if the plaintiff is a natural person resident in Australia. In the case of a corporation, it will generally be where the corporation has its principal place of business.

These choice of law rules will be needed when an Act limits or excludes civil liability for defamation in a particular jurisdiction. For instance, a common statutory provision in State and Territory law is one that protects a public official or public authority of the State or Territory from civil liability for actions taken in good faith in the exercise of statutory functions. These provisions are of general application and therefore include, but are not limited to, civil liability for defamation.

Under existing law, choice of law for defamation matters is largely determined by the general law. Under the general law, the law of the place in which a defamatory matter is published must be applied to determine liability for that publication. If the matter is published in more than one place, then there is a separate cause of action for each publication. In that circumstance, different laws may need to be applied for each different publication depending on the place of publication.

Part 3—Resolution of civil disputes without litigation

Division 1—Offers to make amends

The Division sets out provisions dealing with offers to make amends for the publication of matter that is, or may be, defamatory. The provisions may be used before, or as an alternative to, litigation.

New South Wales and the Australian Capital Territory make similar provision for offers to make amends under their existing laws. The other Australian jurisdictions have provisions in their rules of court and other civil procedure legislation that provide for the making of offers of compromise or payments into court. However, these provisions tend to be available only once litigation has commenced.

12—Application of Division

Division 1 applies if a person (the ***publisher***) publishes matter (the ***matter in question***) that is, or may be, defamatory of another person (the ***aggrieved person***). The proposed section also makes it clear that the Division operates discretely from any rules of court or any other law in relation to payment into court or offers of compromise. However, the Division will not prevent the making or acceptance of other settlement offers.

13—Publisher may make offer to make amends

Proposed section 13 enables a publisher to make an offer to make amends to an aggrieved person.

14—When offer to make amends may be made

The offer cannot be made if 28 days or more have elapsed since the publisher has been given a concerns notice by the aggrieved person that the matter in question is, or may be, defamatory or if a defence in an action for defamation brought by the aggrieved person has been served. The proposed section also enables a publisher to seek further particulars from the aggrieved person if the concerns notice does not particularise the defamatory imputations carried by the matter in question of which the aggrieved person complains.

15—Content of offer to make amends

This proposed section specifies what an offer to make amends must or may contain. It also confers certain powers on a court in relation to the enforcement of an offer to make amends that is accepted by an aggrieved person.

16—Withdrawal of offer to make amends

Proposed section 16 enables a publisher to withdraw an offer to make amends. It also enables a publisher to make a renewed offer to make amends after the expiry of the periods referred to in proposed section 14 if the renewed offer is a genuine attempt by the publisher to address matters of

concern raised by the aggrieved person about an earlier offer and is made within 14 days after the earlier offer is withdrawn (or within an agreed period).

17—Effect of acceptance of offer to make amends

If the publisher carries out the terms of an accepted offer to make amends (including paying any compensation under the offer), the aggrieved person cannot assert, continue or enforce an action for defamation against the publisher in relation to the matter in question even if the offer was limited to any particular defamatory imputations.

18—Effect of failure to accept reasonable offer to make amends

Under proposed section 18, it is a defence to an action for defamation against the publisher if the publisher made an offer of amends that was not accepted and the offer was made as soon as practicable after the publisher became aware that the matter in question is or may be defamatory, the publisher was ready and willing to carry out the terms of the offer, and the offer was reasonable in the circumstances.

19—Inadmissibility of evidence of certain statements and admissions

Proposed section 19 provides that (subject to some exceptions) evidence of any statement or admission made in connection with the making or acceptance of an offer to make amends is not admissible as evidence in any criminal or civil proceedings.

Division 2—Apologies

20—Effect of apology on liability for defamation

An apology by or on behalf of a person will not constitute an admission of liability, and will not be relevant to the determination of fault or liability, in connection with any defamatory matter published by the person.

Part 4—Litigation of civil disputes

Division 1—General

21—Permission required for further proceedings in relation to publication of same defamatory matter

If a person has brought defamation proceedings for damages in South Australia or elsewhere, the permission of the court is required for further defamation proceedings for damages to be brought against the same person for the same or like matter.

Division 2—Defences

22—Scope of defences under general law and other law not limited

Proposed section 22 provides that a defence under Division 2 is additional to any other defence or exclusion of liability available to the defendant apart from the proposed Act (including under the general law) and does not of itself vitiate, limit or abrogate any other defence or exclusion or liability. The proposed section also provides that the general law applies to determine whether a publication of defamatory matter was actuated by malice. At general law, a publication of matter is actuated by malice if it is published for a purpose or with a motive that is foreign to the occasion that gives rise to the defence at issue. See Roberts v Bass (2002) 212 CLR 1 at 30–33.

23—Defence of justification

Under proposed section 23, it is a defence to the publication of defamatory matter if the defendant proves that the defamatory imputations carried by the matter of which the plaintiff complains are substantially true. The term ***substantially true*** is defined in proposed section 4 to mean true in substance or not materially different from the truth.

The defence reflects the defence of justification at general law where truth alone is a defence to the publication of defamatory matter.

24—Defence of contextual truth

This proposed section provides for a defence of contextual truth. The defence deals with the case where there are a number of defamatory imputations carried by a matter, but the plaintiff has chosen to proceed with one or more, but not all of them. In that circumstance, the defendant may have a defence of contextual truth if the defendant proves—

- the matter carried, in addition to the defamatory imputations of which the plaintiff complains, one or more other imputations (***contextual imputations***) that are substantially true; and
- the defamatory imputations about which the plaintiff complains do not further harm the reputation of the plaintiff because of the substantial truth of the contextual imputations.

There is a defence of contextual truth under the existing law of New South Wales.

At general law, the truth of each defamatory imputation carried by the matter published that is pleaded by the plaintiff must be proved to make out the defence of justification unless it can be established that the imputations were not separate and distinct but, as a whole, carried a "common sting". In that case, the defence of justification is made out if the defendant can show that the "common sting" is true. See Polly Peck (Holdings) Plc v Trelfold [1986] QB 1000 at 1032. The defence of contextual truth created by the proposed Act, unlike the general law, will apply even if the contextual imputations are separate and distinct from the defamatory imputations of which the plaintiff complains.

25—Defence of absolute privilege

Proposed section 25 provides that it is a defence to the publication of defamatory matter if the defendant proves that the matter was published on an occasion of absolute privilege. The proposed section lists, on a non-exhaustive basis, certain publications that are protected by this defence. These include—

- the publication of matter in the course of the proceedings of a parliamentary body of any country; and
- the publication of matter in the course of the proceedings of an Australian court or Australian tribunal; and
- the publication of matter on an occasion that, if published in another Australian jurisdiction, would be an occasion of absolute privilege in that jurisdiction under a provision of a law of the jurisdiction corresponding to the proposed section.

The defence of absolute privilege at general law extends to certain parliamentary and judicial proceedings and certain ministerial communications. The privilege is described as being absolute because it cannot be defeated even if the matter was untrue or was published maliciously.

The proposed section extends the defence of absolute privilege to the publication of matter that would be subject to absolute privilege under the corresponding law of another Australian jurisdiction.

26—Defence for publication of public documents

It is a defence to the publication of defamatory matter if the defendant proves that the matter was contained in—

- a public document or a fair copy of a public document; or
- a fair summary of, or a fair extract from, a public document.

The proposed section provides that the defence is defeated if, and only if, the plaintiff proves that the defamatory matter was not published honestly for the information of the public or the advancement of education.

The proposed section defines ***public document*** to mean—

- any report or paper published by a parliamentary body, or a record of votes, debates or other proceedings relating to a parliamentary body published by or under the authority of the body or any law; or
- any judgment, order or other determination of a court or arbitral tribunal of any country in civil proceedings and includes—
- any record of the court or tribunal relating to the judgment, order or determination or to its enforcement or satisfaction; and
- any report of the court or tribunal about its judgment, order or determination and the reasons for its judgment, order or determination; or
- any report or other document that under the law of any country—
- is authorised to be published; or
- is required to be presented or submitted to, tabled in, or laid before, a parliamentary body; or
- any document issued by the government (including a local government) of a country, or by an officer, employee or agency of the government, for the information of the public; or
- any record or document open to inspection by the public that is kept—
- by an Australian jurisdiction; or

· by a statutory authority of an Australian jurisdiction; or

· by an Australian court; or

· under legislation of an Australian jurisdiction; or

· any other document issued, kept or published by a person, body or organisation of another Australian jurisdiction that is treated in that jurisdiction as a public document under a provision of a law of the jurisdiction corresponding to the proposed section.

The existing laws of a number of States and Territories make provision for a statutory defence along these lines. However, the scope of the statutory defences differs in each jurisdiction.

27—Defences of fair report of proceedings of public concern

It is a defence to the publication of defamatory matter if the defendant proves that the matter was, or was contained in, a fair report of any proceedings of public concern. The proposed section also provides that it is a defence to the publication of defamatory matter if the defendant proves that—

· the matter was, or was contained in, an earlier published report of proceedings of public concern; and

· the matter was, or was contained in, a fair copy of, a fair summary of, or a fair extract from, the earlier published report; and

· the defendant had no knowledge that would reasonably make the defendant aware that the earlier published report was not fair.

The proposed section provides that the defence is defeated if, and only if, the plaintiff proves that the defamatory matter was not published honestly for the information of the public or the advancement of education.

The proposed section defines ***proceedings of public concern*** to mean—

· any proceedings in public of a parliamentary body; or

· any proceedings in public of an international organisation of any countries or of the governments of any countries; or

· any proceedings in public of an international conference at which the governments of any countries are represented; or

· any proceedings in public of—

· the International Court of Justice, or any other judicial or arbitral tribunal, for the decision of any matter in dispute between nations; or

· any other international judicial or arbitral tribunal; or

· any proceedings in public of a court or arbitral tribunal of any country; or

· any proceedings in public of an inquiry held under the law of any country or under the authority of the government of any country; or

· any proceedings in public of a local government body of any Australian jurisdiction; or

· certain proceedings of a learned society or of a committee or governing body of such a society; or

· certain proceedings of a sport or recreation association or of a committee or governing body of such an association; or

· certain proceedings of a trade association or of a committee or governing body of such an association; or

· any proceedings of a public meeting (with or without restriction on the people attending) of shareholders of a public company under the Corporations Act 2001 of the Commonwealth held anywhere in Australia; or

· any proceedings of a public meeting (with or without restriction on the people attending) held anywhere in Australia if the proceedings relate to a matter of public interest, including the advocacy or candidature of a person for public office; or

· any proceedings of an ombudsman of any country if the proceedings relate to a report of the ombudsman; or

· any proceedings in public of a law reform body of any country; or

· any other proceedings conducted by, or proceedings of, a person, body or organisation of another Australian jurisdiction that are treated in that jurisdiction as proceedings of public concern under a provision of a law of the jurisdiction corresponding to the proposed section.

At general law, fair and accurate reports of proceedings of certain persons and bodies are subject to qualified privilege. For example, the general law defence extends to proceedings in parliament and judicial proceedings conducted in open court. As the defence at common law is a defence of qualified privilege, it can be defeated by proof that the publication of the defamatory matter was actuated by malice.

The existing laws of most States and Territories make provision for a statutory defence along the lines of the general law defence. However, the scope of the statutory defences differs in each jurisdiction.

The proposed section extends to a larger class of proceedings than the general law defence. Also, the new defence limits the circumstances in which the defence can be defeated to situations where the plaintiff proves that the defamatory matter was not published honestly for the information of the public or the advancement of education.

28—Defence of qualified privilege for provision of certain information

Proposed section 28 provides for a defence of qualified privilege that is based on the provisions of section 22 of the Defamation Act 1974 of New South Wales. The proposed section provides that it is a defence to the publication of defamatory matter to a person (the ***recipient***) if the defendant proves that—

· the recipient has an interest or apparent interest in having information on some subject; and

· the matter is published to the recipient in the course of giving to the recipient information on that subject; and

· the conduct of the defendant in publishing that matter is reasonable in the circumstances.

The proposed section lists a number of factors that the court may take into account in determining whether the conduct of the defendant was reasonable. These factors largely mirror the factors relevant at general law as stated by the House of Lords in Reynolds v Times Newspapers Ltd (2001) 2 AC 127.

As the defence created by the proposed section is a defence of qualified privilege, it can be defeated on the same grounds as the defence of qualified privilege at general law. For example, the proposed section makes it clear that the defence may be defeated if the plaintiff proves that the publication was actuated by malice.

The defence is broader than the defence at general law because the interest that the recipient must have or apparently have is not as limited as at general law. It has been said of the New South Wales provision that "[w]hat the section does is to substitute reasonableness in the circumstances for the duty or interest which the common law principles of privilege require to be established". See Morosi v Mirror Newspapers Ltd [1977] 2 NSWLR 749 at 797.

The proposed section, however, adds to the factors referred to in the New South Wales provision in two important respects. Firstly, it requires the court to take into account whether it was in the public interest in the circumstances for the matter published to be published expeditiously. The New South Wales provision limits the court to a consideration of whether it was necessary in the circumstances for the matter published to be published expeditiously. Secondly, it requires a court to take into account the nature of the business environment in which the defendant operates. The New South Wales provision does not include this factor in its list of factors.

29—Defences of honest opinion

This proposed section provides for a number of defences relating to the publication of matter that expresses an opinion that is honestly held by its maker.

The proposed section distinguishes between three situations. The first situation is where the opinion was that of the defendant. The second situation is where the opinion was that of the defendant's employee or agent. The third situation is where the opinion was that of a third party (the ***commentator***).

In each situation, the defence is made out if it is proved that the opinion related to a matter of public interest and the opinion was based on proper material.

Proper material, for the purposes of the proposed section, is material that—

- is substantially true; or
- was published on an occasion of absolute or qualified privilege (whether under this Act or at general law); or
- was published on an occasion that attracted the protection of a defence under the proposed section or proposed section 26 or 27.

A defence will be defeated if, and only if, the plaintiff proves that—

- in the case of a defence in the first situation—the opinion was not honestly held by the defendant at the time the defamatory matter was published; or
- in the case of a defence in the second situation—the defendant did not believe that the opinion was honestly held by the employee or agent at the time the defamatory matter was published; or
- in the case of a defence in the third situation—the defendant had reasonable grounds to believe that the opinion was not honestly held by the commentator at the time the defamatory matter was published.

The defences, at least in relation to opinions personally held by the defendant, largely reflect the defence of fair comment at general law. However, the proposed section clarifies the position at general law in relation to the publication of the opinions of employees, agents and third parties. The existing laws of New South Wales, Queensland, Tasmania, Western Australia and the Northern Territory make statutory provision (whether partly or wholly) in relation to the defence of fair comment.

30—Defence of innocent dissemination

Proposed section 30 provides that it is a defence to the publication of defamatory matter if the defendant proves that—

- the defendant published the matter merely in the capacity, or as an employee or agent, of a subordinate distributor; and
- the defendant neither knew, nor ought reasonably to have known, that the matter was defamatory; and
- the defendant's lack of knowledge was not due to any negligence on the part of the defendant.

A person will be a subordinate distributor of matter for the purposes of the proposed section if the person—

- was not the first or primary distributor of the matter; and
- was not the author or originator of the matter; and
- did not have any capacity to exercise editorial control over the content of the matter (or over the publication of the matter) before it was first published.

The proposed section also lists a number of circumstances in which a person will generally not be treated as being the first or primary publisher of matter.

The defence largely follows the defence of innocent dissemination at general law. See, for example, Thompson v Australian Capital Television Pty Ltd (1996) 186 CLR 574. However, the provision seeks to make the position of providers of Internet and other electronic and communication services clearer than it is at general law. For example, the provider of an Internet email service will generally not be treated as being the first or primary distributor of defamatory matter contained in an email sent using the service. Accordingly, a service provider of that kind will be treated as being a subordinate distributor for the purposes of the defence unless it can be shown that the service provider was the author or originator of the matter or had the capacity to exercise editorial control over the matter.

31—Defence of triviality

It is a defence to the publication of defamatory matter if the defendant proves that the circumstances of publication were such that the plaintiff was unlikely to sustain any harm.

The existing laws of the Australian Capital Territory, New South Wales, Queensland, Tasmania and Western Australia already provide for the defence.

Division 3—Remedies

32—Damages to bear rational relationship to harm

A court, in determining the amount of damages to be awarded in any defamation proceedings, is to ensure that there is an appropriate and rational relationship between the harm sustained by the plaintiff and the amount of damages awarded.

33—Damages for non-economic loss limited

Proposed section 33 provides for the determination of damages for non-economic loss for defamation. A limit on the amount of damages for non-economic loss is imposed ($250 000). The proposed section also provides for the indexation, by order of the Minister published in the Gazette, of the maximum amount that may be awarded as damages for non-economic loss. A court will not be permitted to order a defendant to pay damages that exceed the maximum damages amount under the proposed section unless it is satisfied that the circumstances of the publication of the matter to which the proceedings relate are such as to warrant an award of aggravated damages.

The existing laws of the States and Territories do not currently impose a cap on damages for non-economic loss that may be awarded in defamation proceedings.

34—State of mind of defendant generally not relevant to awarding damages

A court, in awarding damages, is generally to disregard the malice or other state of mind of the defendant at the time the matter to which the proceedings relate was published.

35—Exemplary or punitive damages cannot be awarded

A court cannot award exemplary or punitive damages for defamation.

The award of these damages is permitted under the existing laws of all of the States and Territories other than New South Wales.

36—Factors in mitigation of damages

Proposed section 36 lists some factors that a court may take into account in mitigation of damages. The list is not intended to be exhaustive.

The existing laws of a number of States and Territories make provision for similar mitigating factors, although there are differences between the jurisdictions as to the factors expressly recognised by legislation.

37—Damages for multiple causes of action may be assessed as single sum

This proposed section enables a court in defamation proceedings that finds for a plaintiff on more than one cause of action to assess damages as a single sum.

The existing law of New South Wales already confers this power on its courts.

Division 4—Costs

38—Costs in defamation proceedings

Proposed section 38 requires a court (unless the interests of justice require otherwise) to order costs against an unsuccessful party to proceedings for defamation to be assessed on an indemnity basis if the court is satisfied that the party unreasonably failed to make or accept a settlement offer made by the other party to the proceedings. The proposed section also provides that in awarding costs in relation to proceedings for defamation, the court may have regard to—

- the way in which the parties to the proceedings conducted their cases; and
- any other matters that the court considers relevant.

The proposed section is based on the provisions of section 48A of the Defamation Act 1974 of New South Wales.

Part 5—Miscellaneous

39—Proceedings for an offence do not bar civil proceedings

The commencement of criminal proceedings for an offence under section 257 of the *Criminal Law Consolidation Act 1935* does not preclude the commencement of civil proceedings or the determination of those proceedings.

40—Proof of publication

Clause 40 facilitates the proof in civil proceedings for defamation of publication in the context of mass produced copies of matter and periodicals.

41—Giving of notices and other documents

Clause 41 provides for how notices may be given under the proposed Act.

42—Regulations

Clause 42 confers a power to make regulations for the purposes of the proposed Act.

Schedule 1—Related amendments and transitional provisions

Part 1—Preliminary

1—Amendment provisions
This clause is formal.
Part 2—Amendment of *Civil Liability Act 1936*
2—Amendment of section 3—Interpretation
This clause removes the definition of ***newspaper*** from section 3 of the *Civil Liability Act 1936*. That definition is redundant because of the proposed repeal of Part 2 of the Act.
3—Repeal of Part 2
Part 2 of the *Civil Liability Act 1936* is repealed.
Part 3—Amendment of *Criminal Law Consolidation Act 1935*
4—Amendment of section 257—Criminal defamation
Section 257(2) of the *Criminal Law Consolidation Act 1935* provides that a person charged with the offence of criminal defamation has a lawful excuse for the publication of the relevant defamatory matter if he or she would have a defence to an action for damages for defamation in respect of the publication. As a consequence of the amendment proposed by this clause, in determining whether the person charged with the offence has a lawful excuse, regard may be had only to the circumstances happening before or at the time of the publication.
Part 4—Amendment of *Evidence Act 1929*
5—Substitution of section 33
This clause recasts section 33 of the *Evidence Act 1929*. Under proposed new section 33, a person who is required to answer a question, or to discover or produce a document or thing, in civil proceedings for defamation is not excused from answering the question or discovering or producing the document or thing on the ground that the answer to the question or the discovery or production of the document or thing might tend to incriminate the person of an offence. However, under subsection (2), an answer given to a question, or document or thing discovered or produced, by a natural person in compliance with the requirement is not admissible in evidence against the person in any other action or proceedings
Part 5—Amendment of *Limitation of Actions Act 1936*
6—Substitution of section 37
This clause amends the *Limitation of Actions Act 1936* to provide that, generally, a civil action for defamation must be commenced within one year following the date of publication of the matter of which the plaintiff complains. However, a court is to extend this limitation period to a period of up to three years if it is satisfied that it was not reasonable in the circumstances for the plaintiff to have commenced the action within the one year period.

Under their existing laws, both New South Wales and the Australian Capital Territory provide for a one year limitation period that can be extended for a limited further period. In South Australia and Western Australia actions for slander are subject to a limitation period of two years. In other cases and in other jurisdictions, the limitation period is generally six years.

Part 6—Transitional provisions
7—Savings, transitional and other provisions
Clause 7 provides that, generally, the proposed Act will apply to defamatory matter that is published on or after the commencement of the proposed Act. However, the existing law will continue to apply to the following:

- a cause of action for defamation that accrued before the commencement of the proposed Act; and
- a cause of action for defamation that accrued after the commencement of the proposed Act, but only if—
  - the action is raised in proceedings that include other causes of action that accrued before that commencement; and
  - the action accrued no later than 12 months after the earliest pre-commencement action accrued; and
  - each action in the proceedings arose out of the publication of the same, or substantially the same, matter on different occasions.

8—Application of amendments to *Limitation of Actions Act 1936*
This clause provides for transitional arrangements in relation to the amendments made by Part 5 of Schedule 1 to the *Limitation of Actions Act 1936*. These transitional arrangements are in similar terms to those prescribed by clause 7 with respect to the application of the Act to defamatory matter.

The Hon. T.J. STEPHENS secured the adjournment of the debate.

ADJOURNMENT

At 5.37 p.m. the council adjourned until Thursday 15 September at 2.15 p.m.