LEGISLATIVE COUNCIL

Wednesday 31 May 2006

The PRESIDENT (Hon. R.K. Sneath) took the chair at 2.17 p.m. and read prayers.

LEGISLATIVE REVIEW COMMITTEE

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

Report received.

HOSPITALS, STATISTICS

The Hon. G.E. GAGO (Minister for Environment and Conservation): I lay on the table a copy of a ministerial statement relating to hospital statistics made today in another place by the Minister for Health (Hon. J. Hill).

QUESTION TIME

DNA TESTING

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Minister for Police a question on the DNA database.

Leave granted.

The Hon. R.I. LUCAS: Yesterday, I directed a question to the minister regarding when the Police Commissioner had first raised with former minister for police Foley and Attorney-General Atkinson the Commissioner's concerns about DNA legislation and his recommendation that significant changes be made to it. The *Hansard* notes that the minister replied:

> My understanding is that the Commissioner of Police wrote to my predecessor on 31 January this year.

In response to a further supplementary question, the minister confessed that his understanding was that the 31 January letter to which he referred was the first formal advice that had been given to the Rann government.

On 8 November 2004 Dr Hilton Kobus, the Director of the Forensic Science Centre, wrote to the Commissioner on the subject of the DNA database. As I said, this is some time prior to these issues supposedly being raised in early 2006. My questions to the minister are:

1. Did Dr Hilton Kobus, the Director of the Forensic Science Centre, write to the Police Commissioner on 8 November 2004 on the subject of the DNA database?

2. Did Dr Kobus raise any concerns in that letter about, first, a significant backlog in the destruction of DNA samples as required by the DNA legislation; secondly, the need for clarification of the legislation as it relates to the management of the DNA database; and, thirdly, inadequate resources being available to manage the DNA database? I hasten to say that the opposition does not have a copy of the said letter and is therefore unaware of exactly what is raised in Dr Kobus' letter.

3. Will the minister table a copy of Dr Kobus' letter in the parliament and, if not, why not?

The Hon. P. HOLLOWAY (Minister for Police): Obviously these matters pre-date my time as Minister for Police. I can only check the record and see what information is available. However, I do point out for the benefit of the council that, of course, the Auditor-General's Report refers to issues with the DNA database—that is, the Auditor-General's Report for 2005. Of course, those concerns were more widely known, but what was in the Commissioner's letter to my predecessor at the end of January was as a consequence of the Police Commissioner's dealing with those matters. As I understand it, that is where the Commissioner expressed his concerns about the complexity of the legislation and issues in relation to destruction. That was really the first time, as I understand it, that that sort of policy issue came to the fore. Whether there were specific letters prior to that, I will have to check with the Commissioner of Police.

Certainly, I think the point that needs to be understood is that it was really as a result of these matters coming to light that the Police Commissioner directed more resources, and it was clear—as a result of that activity, as I understand the position—that that is when these difficulties became obvious to police management. That is when the Police Commissioner raised the broader policy matter.

The Leader of the Opposition has obviously tried to misrepresent the position, and that is why I want to make sure that he does not get away with that sort of mischief-making for which he is notorious. There is a policy issue here that will ultimately be settled. If difficulties are created, it is worth reflecting that the legislation was passed by this parliament, so all of us who were in parliament at the time are responsible for it. As that article in *The Advertiser* I think very correctly showed, there are issues of efficiency in terms of policing on the one hand; while, on the other hand, there are questions of privacy, civil liberty and so on. Ultimately, it is up to this parliament to strike a balance in relation to the DNA records. They are broad policy issues which are very important and which go right to the heart of democracy, the law and so on. Ultimately, it is only this parliament that can deal with those sorts of issues. That is at the top level. Of course, there are matters in relation to administering them—

The Hon. R.I. Lucas: What are you going to do?

The Hon. P. HOLLOWAY: I note that the Leader of the Opposition had the courage to say that he would keep his options open and consider it. We know the leader's position: he will sit on the fence. As I have indicated before, this matter will go before cabinet and caucus, and whatever changes—and there will have to be some changes—are made will come before this parliament. When this legislation comes through parliament later this year—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, we will see how soft. At the end of the day, all of us in this parliament will have to make a decision on what happens regarding retention of DNA tests. Ultimately, that is the policy issue which the Police Commissioner has raised. Do not let the Leader of the Opposition get away with his attempts to try to muddy all the waters in relation to what the issues really are.

BUILDING ADVISORY COMMITTEE

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the Building Advisory Committee.

Leave granted.

The Hon. D.W. RIDGWAY: The Building Advisory Committee is a subcommittee of the DPAC, a committee which is required under the Development Act 1993. The Building Advisory Committee includes a number of profes-

sional members from various sections of the building industry such as builders, local government staff, building surveyors and planners, and provides professional opinions and advice to the minister responsible for the Development Act through the Building Policy Branch of Planning SA. The committee members are appointed for two years and can continue if the DPAC considers this appropriate. Some members have been sitting on this committee for 10 years. The Building Advisory Committee has been in place for some 20 years.

The two-year period for the past committee expired in December and, to date, the new committee has not been appointed. In fact, expressions of interest have not been sought, which normally happens in October. The minister was recently questioned by the President of the Australian Institute of Building Surveyors (South Australian Chapter) over the matter, and he has stated that all committees are suspended when the government is in caretaker mode. This only started in February, not October last year, when expressions of interest for membership of this committee for the next period should have been sought in consultation with past members. The act clearly states that the advisory committee—that is, the DPAC committee—must—I repeat: must—establish the relevant committees with the criteria for membership determined by the minister.

One of the committees is the Building Advisory Committee, and there are a couple of other committees. Clearly, the minister is in breach of his own act by not establishing this particular committee. Why has the minister not established a Building Advisory Committee consistent with this particular act?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): The honourable member is the new shadow minister for urban development and planning, and I congratulate him on his appointment because he at least shows a lot of enthusiasm in this area. I have attended a number of functions during the 12 months or so that I have been the minister, and the deputy leader has also been present, so he does have a genuine interest in this. Notwithstanding that, the honourable member was probably not the shadow minister at the time that the sustainable development bill was introduced into this place, otherwise he would be aware that a number of changes were proposed and, ultimately, they will be brought back in new legislation.

Pending those changes to the act and the review about the appropriate composition of some of the bodies that were set up under the Development Act, we have to await that legislation, but of course—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: It is not really arbitrary. In relation to advice from the Building Advisory Committee, I can assure the honourable member that I am in regular contact with key members from the development, planning and building industry all the time to get their feedback. I will look at the issues raised by the honourable member. As I said, if we cannot get this new legislation into the parliament very soon, then obviously we will have to make some temporary arrangements in relation to that matter. I will come back to him on that.

GLENSIDE HOSPITAL

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about drug and alcohol consumption by patients at Glenside.

Leave granted.

The Hon. J.M.A. LENSINK: I remind the council that questions were asked in this place and in the other place in November last year, and in this place again on 2 and 3 May.

The Hon. Carmel Zollo interjecting:

The Hon. J.M.A. LENSINK: Indeed, we have not yet had a response to those questions; we are still waiting.

The PRESIDENT: Order! The honourable member will continue with her explanation.

The Hon. J.M.A. LENSINK: On 3 May, in response to questions I asked of the minister in relation to this topic, the minister chided me when she said:

> To suggest that they [the staff at Glenside] are somehow turning a blind eye to a fairly significant problem is nothing short of a disgrace. . . if the honourable member has evidence or allegations of any mispropriety whatsoever she has a responsibility to draw that to my attention.

I am aware of an incident in November last year in which a fellow by the name of Danny Bradley breached his conditions. Mr Bradley was charged with the murder of his de facto in March 1996 and was found by the court to be unfit to stand trial, pursuant to section 269M of the Criminal Law Consolidation Act. He was subsequently ordered to be committed to the mental health system for life. His initial order was to be detained at James Nash House in secure custody. He has since been transferred to Glenside and has progressively been granted wider leave privileges, including unaccompanied leave, to enable him to visit his mother. Mr Bradley was granted unescorted leave for the period 18 to 23 November last year. One of the conditions of his leave was that he was not to consume alcohol or illicit drugs. On return from leave he stated that he had been to a hotel but had consumed only mineral water. However, a blood alcohol reading demonstrated that his blood alcohol level was 0.078 some five hours after the incident. My questions are:

1. Is the minister routinely advised by her department of breaches of leave privileges by Glenside detainees?
2. Will the minister assure the parliament that public safety was not compromised by this particular incident or, indeed, any incidents in relation to alcohol or illicit drugs by Glenside detainees?
3. When will the minister ask for a review of practices at Glenside in relation to drug and alcohol consumption?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I have spoken before in this place about these issues. It is always a challenge to balance individual needs with community needs. The aim of our mental health system is to get people well enough through rehabilitation services to re-enter and function well in, and contribute to, society. When clinicians assess that a person is stable, often they are placed in open wards. Most of these patients comply with their detention orders voluntarily. I underline that—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Most patients comply voluntarily with their detention orders. I am advised on a regular basis of the status of clients at Glenside, and I am advised when clients abscond from Glenside. Also, I have been advised that the number of clients who have absconded from Glenside has decreased over the past few years. Absconding is predominantly from open wards and involves ground leave. Further, I am advised that clinical risk assessments are made as to whether a person could become a danger to themselves or others. That assessment is done on a case by case basis.

I have mentioned before in this place—and I can only emphasise again—that the government's approach to mental health is about affirming the rights, dignity and civil liberties of mental health consumers and their carers, while balancing this with the broader interests of the community, particularly in relation to safety. That is this why this government has established a Health and Community Services Complaints Commissioner, who can be called on independently to assess health services and make sure they are delivered in a safe and proper way. I will not add to the stigmatisation—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: They need to listen, Mr President.

The PRESIDENT: The minister will not be repeating herself next week if we listen now.

The Hon. G.E. GAGO: I will not add to the stigmatisation of mental health issues by commenting on individual cases and allowing people to be named in this place in this way. I am, however, prepared to discuss systemic issues. I have given a commitment to work with the department to make any necessary improvements, and I do not resile from that. I have asked members in this place, including the opposition spokesperson for mental health, to help to reduce the stigmatisation of mental illness by not using people's names in this chamber. I have said before that, if a member has any concerns and details of a particular case on which they want information, they are free to contact me and I am more than willing to follow up the issue. The honourable member has not done that in this case.

Often people with mental illness are some of the most vulnerable in our community, and she has used this person yet again—political opportunism at its worse. If she was genuinely concerned about the potential harm to our community, why would she wait until question time in this chamber to raise these issues? It is a disgrace! I invited her to contact my office if she had any security concerns at all. She has failed to do it and has not contacted me or my office, as far as I am aware. Instead, she has used this as a political issue.

I take this opportunity to read from a letter on this issue from the Chair of the Royal Australian and New Zealand College of Psychiatrists, dated 11 May. The second paragraph states:

> On behalf of the college branch I would like to congratulate you on the response you gave, as you stated naming individual consumers in the house breaches privacy and adds to the stigmatisation of mental health consumers. You also wisely [my emphasis] note that these vulnerable individuals can readily turn into a political football. Your distinction between the terms 'absconded' and 'escaped' is also appreciated in the quest for destigmatisation language.

I could go on, but I will not. I invite members opposite, if they have any concerns in relation to particular mental health consumer cases, to contact me or my office at any time and I will be more than happy to follow up the matter. I have taken the details of the case and will follow it up and will provide a response to the honourable member.

The Hon. J.M.A. LENSINK: By way of supplementary question, what actions has the minister taken during the term of her appointment as minister to ensure that these breaches do not occur?

The Hon. G.E. GAGO: As individual cases are brought to the attention of me and my department, they are investigated through a rigorous process, of which members are well aware. Any issues that are identified through that process are actioned, and those actions are implemented. We continue to improve safety at Glenside. As I have already reported here today, we have reduced the number of consumers absconding from Glenside. Obviously, some of the strategies we are putting in place are working.

The Hon. NICK XENOPHON: As a supplementary question: what specific practices and protocols exist at Glenside to ensure that patients are not consuming alcohol or illicit drugs, particularly given the effects these substances could have on their medication; and does this involve random drug and alcohol testing?

The Hon. G.E. GAGO: We have put in place a number of measures; for example, we have closed wards at Glenside. We do drug test all patients on admission, because, clearly, people are very ill at the time of their admission. We need to be able to identify the specific medications or drugs that are in their system because of the potential interaction they may have with the medications that we wish to introduce in a therapeutic way. In open wards we will drug test if the patient is demonstrating behavioural changes or any other unexplained changes to their behaviour that might suggest that they are taking either drugs or alcohol.

In these cases, it is a clinical judgment. I know that these things have been reported in this place previously, but I repeat that it is a clinical judgment. The sorts of testing that we provide include urine testing. Obviously, in chronic areas these sorts of things are done much more often when clients are known to be chronic substance abusers. Hundreds of drug tests are carried out at Glenside each year. Glenside tests for marijuana (THC), all opiates and methamphetamines (which involves a drug urine screen). Currently, we are looking at introducing new techniques that use a breath testing as well as a sweat testing technique.

I am advised by psychiatrists that, if we were to run regular random drug testing without reason, we could risk shifting our relationship from that of a therapeutic model of care to a policing model, which, clearly, has the potential for undermining that therapeutic environment. Also, in terms of other measures that we have introduced, I point out that we have a drug and alcohol co-morbidity coordinator who works with staff and who trains all staff to counsel clients appropriately. If people are found to be taking drugs, we also provide counselling and continue to work with them to overcome their problem.

It is not just a matter of testing people: we try to do something in a way that helps prevent that substance abuse behaviour. This treatment clearly depends on working in partnership with the client to get them well. Obviously, if we move to a position where staff are seen as authoritarian police, again, we risk compromising that. It is a fine balance; and, at times, it is difficult to balance. Clearly, our objective is to get people well, and to have them cooperate with counselling and rehabilitation in relation to substance abuse.

The Hon. NICK XENOPHON: I ask a supplementary question arising out of that answer. In the past 12 months, what proportion of patients admitted to closed wards tested positive for illicit substances and what were those substances; and, overall, how many tests have been carried out on how many patients in the past 12 months and what were the results of those tests in respect of those various illicit substances?

The Hon. G.E. GAGO: I am happy to take that supplementary question on notice and bring back a response.

The Hon. J.M.A. LENSINK: I ask a further supplementary question. Will the minister advise whether the procedures and protocols differ between those who are detained under section 269 of the Criminal Law Consolidation Act as opposed to those who have been detained under the Mental Health Act?

The PRESIDENT: Order! That question hardly arises from the answer given by the minister.

SALINITY

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about salinity.

Leave granted.

The Hon. R.P. WORTLEY: Recently, the minister informed the parliament of some important research that is being facilitated by the Centre for Natural Resources Management. Science, technology and innovation are critical to improving NRM capabilities. Multidisciplinary science and research (as applied to this project) will improve our understanding of problems. Technology will provide the means to overcome these problems and innovation will enable the creative use of knowledge to develop new industries and management practices that will help South Australia move beyond our current NRM situation into a future of sustainable landscapes and deal with the challenges posed by salinity.

It is an unfortunate fact that salinity in water in many irrigation areas is expected to rise over the next few years. We are seeing this happen now in some water resources throughout the state. This is a real question about something which is important to the state. Irrigation water contains salt, and in many landscapes the extra salt exceeds the rate at which natural drainage removes salt from the landscape. Eventually, the extra salt raises soil salinity above the level which crops can tolerate. My question is: will the minister advise the council of any new work that is being done to assist farm productivity in a more saline environment?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his very good question and for his ongoing interest in these important matters. Natural resource management is about communities working together to seek and implement landscape scale approaches to maintain and enhance the health of whole systems.

An honourable member interjecting:

The Hon. G.E. GAGO: For those who are interested in these matters, unlike members opposite who obviously are not, these are landscapes, catchments and ecosystems, including estuaries and coastal waters. Through research and close monitoring of crop productivity in saline conditions we can provide farmers with information to help them to modify farming practices and embrace future sustainable landscapes.

One current project is specifically about managing horticultural production under a more saline environment. The project seeks to address issues that farmers need to consider as part of irrigated crop management under more saline conditions. There can be yield losses in vegetables from damaged foliage associated with salinity sprinkler irrigation. It is important to improve our understanding of why losses in perennial crops are greater after, rather than during, saline irrigation and how this can be remediated. The project aims to identify irrigation techniques to minimise salinity effects in vegetables. It is also looking for perennial crop varieties tolerant to boron and salt in the lower root zone and at the causes of post-salinity yield loss in perennial crops. To date, the project has found that a 15 per cent flush of freshwater after saline irrigation can increase tuber production in potatoes by 30 per cent.

As we know, potatoes are one of the staples of world food production. The potato already has a reputation of providing high yields of nutritious food on smaller amounts of land, often in vary harsh conditions and climates. The potato is grown in approximately 130 countries around the world; indeed, it is so hardy that it grows from below sea level in Holland to almost 1 400 feet up in the Himalayas, and it is also grown in climates as diverse as the Arctic Circle and the African deserts. Therefore, research—

Members interjecting:

The Hon. G.E. GAGO: I am going through this detail, Mr President, so that members opposite understand the extent and importance of this problem. This is not something occurring only in our backyard; it is a world-wide issue. This is truly important research but, as I said, members opposite are obviously not interested. Research that demonstrates how to increase the crop's productivity in saline conditions may have world-wide application. The project is now also investigating the effects of fresh water flush on onions, and it is hoped that a report on this aspect will be available after July 2006.

The project is funded by a grant of $550 000 from the Department of Water, Land and Biodiversity Conservation which sourced the funds from the National Action Plan for Salinity and Water Quality. It is managed through the South Australian Research and Development Institute and links with the Cooperative Research Centre for Irrigation Futures. The project also collaborates with the Tri-State Salinity Project, linking with Victoria and New South Wales.

This project contributes to one of the many ways we approach salinity management in South Australia by providing information about how we can improve productivity in a saline environment. Other approaches include increasing water efficiency in irrigation areas, increased productivity in non-irrigated crops and pasture, and planting new and protected remnant native vegetation as well as engineering solutions where appropriate.

BREAK EVEN SERVICES

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Families and Communities, questions relating to the funding of Break Even Services.

Leave granted.

The Hon. NICK XENOPHON: On 24 and 25 May this year the Independent Gambling Authority held a review into codes of practice, gaming machine and licensing guidelines, and what the authority termed 'stage 2 issues', which included a number of suggested reforms to alleviate problem gambling. Various interested parties were invited to make written and oral submissions to the authority in the lead-up to the hearings, including members of the gambling industry and also gambling counsellors.

At the hearing a number of representatives from the Break Even Services counselling agencies—including organisations such as Relationships Australia, Anglicare and Wesley Uniting Care—gave evidence. It was revealed in the course of that evidence that there was a meeting with representatives of the Department of Families and Communities on 3 April

2006 to discuss what to include in a joint proposal (by the department and the Break Even agencies) to the authority's hearings. They also raised the possibility of the department providing an amount of some $4 000 for the writing and collating of data for the submission. It was indicated by a departmental representative (and I have the minutes):

> A government department cannot provide funds to assist in the provision of negative comment about government.

As a result of that statement the Break Even agencies did not have the resources to collate and compile what they wanted to do in terms of a submission to the authority.

Following that, the Break Even agencies raised this issue with the authority at the public hearing and, in response to those concerns, the minister indicated that the meeting was facilitated by the department in response to their request for funding and that there was never any guarantee that funding would be provided. This is contrary to the impressions of Break Even service providers, who convened the meeting on the basis that the department had already indicated that they were going to make a submission independent of any issue to do with the provision of funds. My questions are:

1. Does the minister concede that resources should be provided to gambling service providers, whose resources are already stretched, for submissions to such an important inquiry as held by the Independent Gambling Authority?

2. Can the minister indicate whether it is departmental policy to provide funding only to organisations that provide positive comments about its function rather than independent objective comments, whether positive or negative?

3. Can the minister give an assurance that Break Even agency funding will not be withheld or cut back if members raise genuine and valid concerns about resources and support provided by the department?

4. Were the statements made on behalf of the department made with the knowledge or approval of the minister and, if not, will the minister disassociate himself from such statements in relation to a government department not providing funds to assist in the provision of negative comment about government?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): The honourable member has made a number of unusual comments, shall we say, in his questions. I will refer his questions about funding of Break Even services to the Minister for Families and Communities in the other place, and bring back a response.

CRIME STATISTICS

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Police a question about the latest crime statistics from the Australian Bureau of Statistics.

Leave granted.

The Hon. J. GAZZOLA: I understand that the latest data from the Australian Bureau of Statistics shows significant falls in some key crime categories in South Australia during 2005. Will the minister provide details of the ABS reported crimes and victims report for 2005?

The Hon. P. HOLLOWAY (Minister for Police): I am delighted to be able to provide that information for the honourable member and the council. The latest report from the Australian Bureau of Statistics suggests that crime rates are continuing to fall in South Australia. According to the bureau's reported crimes and victims report, South Australia's crime rate fell in overall terms by 7.3 per cent in 2005. This followed a 7.2 per cent fall in 2004, meaning crime rates in South Australia have fallen by 14.5 per cent over the past two years.

In particular, unlawful entry with intent and motor vehicle theft offences fell significantly last year. The ABS data shows that the number of offences of unlawful entry with intent involving the taking of property fell by more than 3 250 last year to 13 738—a 19.3 per cent decrease. The figures for motor vehicle theft show the number of offences fell to 9 033 last year, compared to 10 511 the previous year, which represents a 14.1 per cent fall. This category of offence has also fallen sharply from a high of 13 464 back in 2000.

The ABS data for 2005 includes: murders down from 28 in 2004 to 20 in 2005; attempted murders down from 52 to 49; driving causing death, up from 11 in 2004 to 15 in 2005—obviously a very small number; assaults up from 14 880 in 2004 to 15 404 in 2005; and sexual assault down from 1 793 in 2004 to 1 655 in 2005. Also, armed robbery was up from 505 in 2004 to 515 in 2005, but unarmed robbery was down from 734 to 656 in 2005. One can see if one looks across the broad statistics that, despite a few slight increases in some areas, overall the crime rate has fallen by a very significant figure.

I would suggest that that fall in crime rate is no accident. I think it is the product of a well resourced police force. South Australia now has 3 993 police on the beat and, of course, the government has committed to increasing that number by 100 per year, a net increase over the term of this government. The Premier, indeed, has just launched the third recruitment drive to attract more London bobbies into South Australia as part of the government's commitment. This will build on what is already the largest police force in South Australian history.

The significant falls recorded in those major offences is evidence that the government's focus on being tough on crime and increasing police numbers is delivering results. The Rann government's top priorities have included tougher penalties for a range of offences and increasing the number of police on the beat in South Australia, all aimed at reducing crime and increasing the safety and security of our community. However, while the recorded number of offences in many categories of crime is a satisfactory outcome, the government certainly will not be resting on its laurels. There is still much work to be done. As I said, there are slight increases in a couple of areas, particularly in areas such as assault and armed robbery. The government remains strongly committed to working with South Australia Police in further reducing crime rates and making South Australia even safer.

The Hon. R.D. LAWSON: I have a supplementary question. Does the minister agree with the Attorney-General's statement on the television news service that falls in crime rates have nothing to do with this government's policies?

The Hon. P. HOLLOWAY: I am not sure that the Attorney said that they had nothing to do with the government's policies, but I have made my views clear. At present, we have the largest police force in South Australia's history: it is 3 993. It fell to as low as 3 400 during the middle of the term of the previous government. Certainly, it did increase in the latter period. When the previous government realised the huge mistakes it had made in cutting back the police force, it did increase it.

I will compare some of those crime statistics. If we look back to the days when the previous Liberal government allowed police numbers to fall to record lows, we can see, for example, in the case of murder, the ABS figures show a high

of 39 in 1999; in the case of unlawful entry with intent, the ABS figures show a high of 36 302 offences in 2000 under the Liberals; and in the case of robberies, the ABS data puts the total robberies at 1 681 in 2001 compared to just 1 171 last year.

These statistics (which have only recently been released) are undeniable. If you put the effort in through policing, you will have an impact. I would not claim that it is the only factor. In fact, as I have said publicly, the cooperation from the public is always important in relation to reducing crime, and programs such as Crime Stoppers have also made a very significant contribution to addressing crime in our community. However, for that public cooperation to be successful, we do need a well resourced police force; and that is exactly what we have had under the first four years of this government, and those resources will continue to grow into the future.

NUCLEAR POWER

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about nuclear power.

Leave granted.

The Hon. CAROLINE SCHAEFER: Yesterday, the Premier stated that there will be no nuclear power plant in South Australia—period, full stop, ever. Therefore, given that our coal supplies at Leigh Creek run out conservatively in 12 years, what processes does the minister have in place for producing more coal and/or alternative sources of energy; and when will we see those plans tabled in this place?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): The point the Premier was making yesterday is that it would be total economic lunacy to suggest that we have nuclear power in this state. A nuclear power plant, a large basic plant, would cost $2 billion. As the Premier said yesterday, it would add to the price of everyone's electricity. This state and this country are very fortunate in having significant energy resources. It is one of the great energy powerhouses of the world. What we could say in relation to generating electricity is that the wholesale price of gas in this state is approximately $3.25 a gigajoule. In the US, the price is approximately $US6 to $US8 for the same quantity. When we are fortunate to have cheap sources of energy in this state, why would we contemplate using more expensive forms of energy?

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. Wortley interjecting:

The Hon. P. HOLLOWAY: Actually, that is a good question: 'What did the honourable member do?' I can tell members that in the past we had one state-owned electricity body—the Electricity Trust of South Australia. So, if we needed more power, that body went out and planned for it. The previous government split that up—it totally dismembered and privatised the energy industry. Now we are reliant—

Members interjecting:

The PRESIDENT: Order! There is too much energy being shown on the floor.

The Hon. P. HOLLOWAY: —on private industry doing that.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Of course, a number of plans are involved.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I can give you my perspective on it. The appropriate minister is the Minister for Energy in another place. I am sure the sort of thing about which he will be pleased to tell members—and I am happy to refer the question to him—is the international gas pipelines and the work the state has done in relation to connection. In the north of this country we have huge sources of gas. Work is being done in relation to bringing down some gas from Papua New Guinea. AGL has been involved in a proposal there. There are other sources, and there have been long-term proposals that will become available to this country from the North West Shelf and, ultimately, from the Timor Sea. Currently, there are proposals in relation to bringing gas from Papua New Guinea. Of course, there is further exploration. We released a block offshore in the Otway Basin exploration territory fairly recently.

In relation to resources within this state, there are significant coal resources. In fact, in the Arckaringa Basin we have one of the last great undeveloped coal resources in the world. Potentially, there is a huge resource in that area. The reason it has not been developed in the past is its remoteness. There are issues with energy generation for the future in terms of concerns about greenhouse warming, and so on. This state leads the country by a significant margin in terms of the amount of wind generated power; I think it is something like 40 to 50 per cent. Similarly, more solar power is generated. Something like 40 per cent of alternative energy is generated in this state because we are fortunate to have suitable conditions here.

Also, at this time we have Geodynamics drilling the hot dry rocks in the Cooper Basin. Once that is successful, a 40 megawatt pilot plant will be installed, which will be used to supply electricity for the Moomba gas plant and which will remove the need to burn gas at that plant. Obviously, that holds great prospects for the future. We are the state that leads this country in relation to hot dry rock technology. It is still experimental, but one could reasonably expect that in 10 to 15 years those results will come to fruition.

The Hon. D.W. Ridgway: You have no plan.

The Hon. P. HOLLOWAY: Members opposite removed all the integrated structure we had through ETSA by dividing it up and privatising it. They should be the last people to come in here and lament the fact that all that infrastructure is gone. This government and my colleague the Minister for Energy have been looking—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Well, he has far fewer problems than you have, I can tell you. The government has been addressing these issues. We are seeking to ensure that we lead the world in relation to alternative energy forms while still making our vast resources available to the world.

CANNABIS OFFENCE

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Police, representing the Attorney-General, a question about a criminal sentence for a cannabis grower.

Leave granted.

The Hon. D.G.E. HOOD: On Tuesday 23 May 2006 (last week), Judge Andrea Simpson of the District Court sentenced a man for growing 36 cannabis plants; and, in addition, for

diverting power past the meter box to support the hydroponic set-up for the plants in his house. Two rooms of the house the man was occupying in Salisbury were dedicated to growing cannabis. I put a conservative estimate of the potential crop value, based on the judge's own figures, at $79 000. In the judgment her honour recounted that the maximum penalties for the two offences are imprisonment for 10 and two years respectively and/or fines of $50 000 and $10 000. The offender had an extensive criminal history, starting with burglary and theft at the age of 12 years, use and possession of cannabis at 17 years, producing a dangerous drug when aged 23 years, and dishonesty offences between 1996 and 1999, as well as many other offences.

This man was given a suspended sentence. He was given 18 months' gaol with 12 months' non-parole but, as I say, it was a suspended sentence. On my maths that is 12 per cent of the combined maximum penalty, even though this man had relevant prior offending history for drug and dishonesty offences. This man is likely not to serve a day in gaol if he serves out his suspended sentence. I also note that no fine was imposed at all. My questions to the Attorney-General are:

1. Does the government consider that this sentence is appropriate for the offences committed?

2. Is the government seeking an appeal against this sentence?

The Hon. P. HOLLOWAY (Minister for Police): I thank the honourable member for his questions. I will refer them to the Attorney so that he can consider the matters raised by the honourable member, and I will bring back a reply.

RECREATIONAL TRAILS AUDIT

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about a recreational trails audit.

Leave granted.

The Hon. J.S.L. DAWKINS: I understand that last year the Department for Environment and Heritage engaged a private company to undertake a recreational trails audit at a cost of $30 000. This audit was to include aerial mapping as a key component. My information is that the company was deregistered by the Australian Securities and Investments Commission (ASIC) in May 2005, resulting from a failure to lodge company returns since 2002. In addition the company and its principal have apparently failed to furnish the Australian Tax Office with business activity statements (BAS) in that period. I am also advised that the company's status with WorkCover is in doubt.

Furthermore, I understand the company that owns the aeroplanes used in the mapping process is also a deregistered company. If the minister is unaware of the details of these companies, I can provide them to her. My questions to the minister are:

1. Is the Department for Environment and Heritage continuing to engage the first-mentioned company to undertake the recreational trails audit?

2. If that is the case, what action will the minister take in relation to that company?

3. Will the minister indicate the extent to which the audit has been carried out?

4. Will the minister also indicate the amount of money paid to the company?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his important questions and will take them on notice and bring back a response.

OUTBACK RESCUE CAPABILITIES

The Hon. B.V. FINNIGAN: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about improvements to outback rescue capabilities.

Leave granted.

The Hon. B.V. FINNIGAN: I believe that South Australia's State Emergency Service (SES) has a new initiative to provide quicker incident responses in isolated regions of the state. Will the minister advise the council of the details of this initiative?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for this important question. Several community response teams—CRTs as they are to be known—are being established in remote areas of the Far North of the state. They will provide a rescue resource within isolated communities that normally could not sustain a fully operational SES unit. CRTs are small community groups of at least four people who undertake SES rescue training appropriate to enable them to provide a first response level of assistance.

The teams are provided with basic rescue equipment in a purpose-built trailer. These first response groups are not intended to replace but rather complement mainstream emergency service crews. As part of the SES's commitment to a safer community for all South Australia, the pilot CRT program commenced at the Hawker SES unit last year, and it has been well received. This concept is now improving remote area community safety, and it has led to the consultative risk assessment of several other remote communities which often do not have timely access to front-line emergency services as are available in more populated areas.

Following a fatal land search near Arkaroola last year, the SES was approached by the Arkaroola Village management with a request for land search operations training for its staff to enable them to commence a structured search while waiting for resources to arrive, which is a minimum of three hours by road. This training did occur, which led to a risk assessment being conducted there. Arkaroola is approximately 600 kilometres north of Adelaide and is a significant Outback tourism destination encompassing rugged terrain and dirt roads. Possible scenarios faced by this community could be: road crash rescues, which may involve considerable dire consequences, for example, if a tourist bus were involved; appropriate information and staging in advance of land search operations; and also recovery of any injured hikers.

There has been a tremendous level of support from Arkaroola Village towards this project, with the manager of the village being an active participant in the training. Further to this, the National Parks and Wildlife rangers from Vulkathunha in the Gammon Ranges (15 kilometres from Arkaroola) are also undertaking training to enhance further the community response in this area. This is a significant resource to have in this area of South Australia.

Further risk assessment has identified Innamincka, with the potential for another CRT in this area. Initial planning to instigate this project is about to commence. Early community consultation has provided very positive feedback and involvement of the community. The Arkaroola CRT team has undertaken training over a four-month period, fitting in with the day-to-day operations of the Arkaroola Village. A formal

handover of equipment was made to the community response team at Arkaroola this morning, with an exercise being run at the same time to showcase the team's skills.

The rangers at Vulkathunha were also involved in the exercise. SAFECOM is also engaging Outback indigenous communities through a risk assessment process. Both the CFS and the SES are developing strategies to provide appropriate emergency services to these communities.

LIFE JACKETS

The Hon. M.C. PARNELL: I seek leave to make a brief explanation before asking the Minister for Police, representing the Minister for Transport, a question about life jacket regulations.

Leave granted.

The Hon. M.C. PARNELL: In recent years, boating deaths in Australia have averaged around 80 per year. The majority of fatalities have involved small power boats. While statistics are incomplete, it appears that the vast majority of people killed in boating accidents were not wearing life jackets. In December last year, in a well-publicised case, a Mount Gambier man was saved by his life jacket after his boat capsized off the coast, and the life jacket helped him to swim to shore after almost 12 hours in the sea. In South Australia the only requirement is for life jackets to be carried on board: it is not compulsory for them to be worn. To address this problem, the Victorian state government recently introduced regulations to make the wearing of a life jacket compulsory on power boats up to 4.8 metres long. My questions to the minister are:

1. What steps is the government taking to address the issue of preventable boating fatalities on South Australian waters?

2. Will the government consider introducing regulations to make the wearing of life jackets compulsory on recreational power boats, either generally or at least for children who are passengers on such boats?

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

MATTERS OF INTEREST

HICKS, Mr D.

The Hon. R.P. WORTLEY: I stand today to remind the South Australian parliament that Guantanamo Bay detainee 002, David Hicks, does still exist. Whether David Hicks is a young misguided adventurer or a terrorist, he does not deserve to face—alone—the greatest superpower the world has known since the Roman Empire. Yes, he is alone: David is the only Western man amongst the other 500 prisoners incarcerated in the worst prison known to the western world. This is an international embarrassment to Australia. The Guantanamo Bay prison has been widely condemned by the leaders of other western nations, the United Nations, respected jurists, and religious leaders.

The values Australia claims to stand for, based on human rights and respect for the rule of law, are explicitly undermined by allowing David Hicks to be held for over four years and denying him the right to basic standards of international justice. Australia needs to show the world that we do accept universal values by giving David the right to a fair trial. Despite the international outcry over Guantanamo Bay, David Hicks still remains in a legal black hole. He has been denied rights under international law and held in conditions that amount to cruel, inhuman or even degrading treatment, which has led to severe psychological distress.

David Matthew Hicks was born in South Australia on 7 August 1975. He is an Australian citizen and is being held prisoner by the United States government at Guantanamo Bay. He has been detained—initially without charge—for more than four years as an unlawful enemy soldier, having served with the Taliban and al-Qaeda in Afghanistan. His trial before a US military commission was due to begin in November 2005; however, proceedings have been delayed.

Described by his father, Terry Hicks, as an adventurer, David travelled to Albania where he joined the Kosovo Liberation Army and served with it for two months. However, he saw no fighting. After his return to Australia, David converted to Islam and began to study Arabic. He then travelled to Afghanistan where he allegedly fought alongside the ruling Taliban. In November 2005, the ABC's *Four Corners* program broadcast for the first time a transcript of an interview with Hicks conducted by the Australian Federal Police in 2002. In this interview, Hicks acknowledges that he had trained with al-Qaeda in Afghanistan, learning guerrilla tactics and urban warfare. He also acknowledged that he had met Osama bin Laden. He denied engaging in any actual fighting against US or allied forces. He claimed to have disapproved of the 11 September attacks.

I am not suggesting for one minute that David Hicks is innocent; however, I do believe he should be granted the right to a fair trial and brought back to Australia. He is an Australian citizen and therefore our responsibility. Hicks was formally charged by the US military commission on 26 August 2004 with conspiracy to attack civilians, attempted murder, and aiding the enemy. He has pleaded not guilty to all charges.

The Howard government has been the most slavish backer of the Bush administration's war on terrorism and has declared that the US military tribunals will be fair. According to an article in the 4 May edition of *The New York Times*, the Howard government has refused US requests to take custody of Hicks and put him on trial in Australia. One of the reasons is that the 30-year-old has not committed any crime under domestic law. The Australian government has no interest in securing the release of David Hicks from Guantanamo Bay, despite the US military opening the way for his return.

John Howard's puppet-like support for the Bush administration is using the war on terrorism to justify his own political agenda, internationally and in Australia. Australia is unable to prosecute Hicks under its anti-terrorism laws because they did not exist when Hicks allegedly trained with al-Qaeda in late 2000 and early 2001. New laws were not conceived until after the 11 September attack. The new laws on terrorism which outlawed membership of al-Qaeda were passed in November 2002, a year after he was captured. Therefore, to train with al-Qaeda was not a criminal offence. Due to these laws not being in place when Hicks was allegedly training, he would not be able to be convicted in Australia.

David Hicks will be one of the first detainees to face trial by a military commission. The military commission process

itself is currently being challenged in the US court system as its legality and capacity to offer defendants the right to a fair trial is seriously under question. A military commission will not be a fair trial. Why did the administration create a system where fundamental rights are removed? It is because they have a vested interest in convictions. David Hicks will be prosecuted by the military, he will be defended by the military, and he will be tried by the military. He will not get a fair trial.

David Hicks is not charged with killing anyone. The American people would not tolerate this happening to an American citizen, and I feel that the federal government's position on dealing with David Hicks does not sit easily with its pledge to 'respect, and urge others to respect, those human rights laid down in the International Covenant on Civil and Political Rights that can never be compromised, even in states of emergency.'

Time expired.

INTERNET AUCTIONS

The Hon. R.D. LAWSON: I was recently contacted by constituents who advised that they had successfully bid for a Samsung 50-inch plasma television on eBay, the well-known American internet auction site. They had bid a little over $3 000, including $145 postage and handling as well as a $50 postage insurance payment. The location of the seller of this plasma screen TV was in Queensland, and my constituents made payment through PayPal, a payment system used by eBay. The web site from which they purchased this television set showed that the seller had 100 per cent feedback—that is, the number of positive responses from previous buyers from the seller.

My constituents received emails from the seller, first, advising that the item was ready for shipping and that they needed payment, and then, after payment was made and my constituents did not receive delivery, another which said that they were experiencing a high volume of orders and were trying to do everything possible to get through everyone's orders as soon as possible. Bear in mind, Mr Acting President, that they had previously said the item was ready for shipping. Subsequently, the item did not arrive.

My constituents were in communication with a number of other persons who had had dealings with this web site and it turns out that they too had been ripped off and the goods not delivered. Of more concern is the fact that before payment was made by my constituents another person who had been ripped off by the same merchant had filed a fraud report with the eBay company indicating what had happened. Notwithstanding that, eBay did not warn its customers of this fact and my clients accordingly authorised the remission of the funds. They have reported the matter to the Queensland police who, whilst expressing sympathy, have not done too much, it would appear, to close down this operator. As I mentioned, my clients have now been in contact with a number of other people who have been ripped off, and by that I mean people who paid for goods from this supplier but who have not received the product they ordered and paid for.

The eBay company does operate what it calls a 'purchase protection program', but the limit of that is $400 less $25 to cover processing costs. So my clients have been offered, in full and final settlement of their claim against eBay, the sum of $375. That is not acceptable. This is not an unusual instance, if one looks at the situation in America. I refer to a report of the Australian Competition and Consumer Commission. It states:

> While the Internet is increasingly used for shopping it also offers a new channel for e-con artists to exploit consumers. Buying and selling at Internet auctions is accessible and convenient, but their very anonymity has made them a vehicle for one of the most pervasive forms of fraudulence on the net.

I do not believe that South Australian consumers are being sufficiently warned of the dangers of this type of transaction. The eBay company is making an enormous amount of money out of the success of internet auctions, yet it seem to take a position that it is merely a third party and, if people are being ripped off, that is too bad. Certainly my constituents have not received satisfactory answers from eBay. This is a matter that I will be pursuing with the South Australian Minister for Consumer Affairs, because I believe that South Australian consumers deserve better support.

SOLAR SCHOOLS PROGRAM

The Hon. B.V. FINNIGAN: I rise today to speak about the South Australian Solar Schools Program. Last week I was fortunate in being able to attend the launch of the Keith Area School Solar Schools Program initiative, and I was able to see first-hand the benefits of the program and the school community's enthusiasm for it. I was welcomed by Sue Lewis, the principal of the Keith Area School. In attendance were representatives of the education department, the Tatiara council, the chairman of the governing council, and of course a number of staff and students of the Keith Area School—in particular, a number of senior and junior students who had been involved in various environmental programs at the school.

The Solar Schools Program is part of the state's energy efficiency action plan that was launched in May 2002. The plan includes a target for government agencies to reduce their energy consumption by 25 per cent within 10 years. The Department of Education and Children's Services has a strong commitment to ecologically sustainable development initiatives, including energy efficiency.

The South Australian Solar Schools Program is an important aspect of the state's energy efficiency action plan, as solar energy is, of course, a renewable form of energy and a non-polluting source of energy. It also reduces greenhouse gas emissions into the atmosphere. The South Australian Solar Schools Program commenced in 2004 and is a partnership involving the South Australian government, schools and preschools around the state, and the commonwealth through the photovoltaic rebate program. The Solar Schools Program supports the strategic plan of the state which aims to take solar power to 250 schools and preschools by 2014. Funding for the program amounts to $1.25 million over two years.

The Solar Schools Program is providing sites with a two-kilowatt grid connected solar panel system, and Keith Area School is part of the program. Schools like the Keith Area School apply for funding from the program, and a third of the cost is contributed by the school itself. The government has provided solar energy to 74 country and metropolitan sites and, with 23 more schools having their solar panels installed in the coming months, it brings the total to 97.

The Solar Schools Program has a number of benefits for the school: ecological, financial and educational. Obviously, on the ecological front, by using solar panels it is providing an alternative, environmentally sustainable and cost-effective energy source which reduces the emissions of carbon dioxide.

There is also the potential for the program to save the area school in its energy costs through the solar panels and the energy that is generated by them.

Another important part of this program is the educational aspect which I saw first-hand. There is a computer on site which provides minute by minute information on the status of the electricity being generated, as well as historical data. I was able to see the students looking at this computer which was showing the energy generated through the solar panels. We were able to see that, because it was overcast that particular day, it meant that not much energy had been produced that day, and so on.

It is a very good program which enables students to see first-hand the application of solar energy in their own school and the generation resulting from those panels. The area school spoke about a number of other initiatives of an environmental nature. One was the habitat program and also a native animal breeding enclosure. The students working on that program are breeding local native wildlife, which was very good to see and something about which they were clearly enthusiastic.

I congratulate the Keith Area School on being part of the solar panels initiative and thank all those who extended a very warm welcome to me last week when visiting the school for the official launch of the solar panels for the solar schools initiative. I also congratulate them on the other important environmental educational programs that they have running at Keith Area School.

GENETICALLY MODIFIED CROPS

The Hon. CAROLINE SCHAEFER: Some years ago I was staggered by a CSIRO report which stated that Western Australia loses an area the equivalent of the size of a football oval to dryland salinity every day of the year—and that is every day of every year. Imagine then an Australia where wheat and other cereals would grow and rehabilitate saline soils. Imagine an Australia where plants have a natural immunity to the most common pests so that spraying of toxic pesticides would be minimised. Imagine an Australia where we had mildew resistant grapevines and, indeed, frost tolerant cereal plants. Imagine food which contained added and tailored additional vitamins and minerals, or other additives, which might lower blood pressure and cholesterol or combat obesity, to name a few.

These technologies are entirely possible with a certain amount of research right now. However, they would be greatly speeded up if we were to embrace the use of genetic modification in plants. We already use GMs to reduce pesticide use in cotton and to grow a particular carnation, but all states across Australia have stopped short of growing other commercial crops on the premise of objection by our overseas customers. It is alleged that, in particular, the European Union will not trade with a nation that produces GM crops. It is interesting then that I have recently learnt that in fact six countries in the European Union grow their own GM crops and, indeed, in 2005 they were Spain, Germany, Romania, France, the Czech Republic and Portugal. Since there is total free trade between nations in the EU, those six countries are free to trade their products anywhere within the European Union.

So much for the fiction that they will not tolerate GM production. One is then forced to speculate as to whether they are using this issue as a trade barrier. There are now 21 countries throughout the world producing GM crops; 90 million hectares of land is being used for genetically modified crops; and 8 million farmers are engaged in their production. I am very proud that in South Australia we have the site of the only centre for plant genome technology in the Southern Hemisphere. We have some of the world's best plant scientists at Waite, but research for them, when they have limited opportunity for broadacre field trials and no chance of seeing their work reach commercial reality, must be like swimming with one hand tied behind their back.

It is estimated that the grains industry in South Australia would increase its profitability nationally by $135 million per annum in increased yields alone, let alone the other benefits I have stated. Similarly, just last week dairy farmers in Victoria have done a backflip on their assessment of the use of GMs for perennial rye grass, as it would increase their pasture production by 25 per cent and save them many millions in halting the spread of pasture borne viruses.

These pieces of legislation are up for review within the next 12 months across Australia. It is important, therefore, I believe, that ministers within this state and across Australia have a fair, open and unbiased debate as to whether we are in danger of keeping our stable door closed when the rest of the world's horses have bolted on this issue. I hasten to add that there will need to be safeguards if we embrace this technology. There will have to be a good scientific look at the halting of the terminator gene. I do not believe that any state can go it alone on this. As passionate as I am about states' rights, I believe it is most important in this case that a national position be taken. However, it fascinates me that, while we deny the use of plant genome technology, we have no such compunction when it comes to the use of human genetic manipulation.

BAPTIST COMMUNITY SERVICES

The Hon. D.G.E. HOOD: Baptist Community Services (SA) Inc. (formerly known as WestCare) has been a welfare arm of the Baptist churches across South Australia for over 90 years. BCS provides a wide range of services to people who are disadvantaged, marginalised and homeless across the aged, gender and cultural spectrum. Noteworthy services include the provision of food and a place of support during the Depression years; welcoming assistance in a variety of ways to migrant ethnic groups in the post-war years; and a homely and supportive environment for those who have been marginalised in general.

In recent years the breadth and scope of services provided by BCS has grown to include the provision of meals, emergency assistance, accommodation, counselling, respite care, mental health services, adventure services, indigenous services, refugee services, youth services, and training and employment assistance to the disadvantaged, marginalised and homeless individuals and families. BCS is now a significant provider of community services and community development initiatives across metropolitan and regional South Australia. Specific programs currently running through the BCS program include mental health services, indigenous services and youth care, and I would like to comment on each of those.

First, the types of mental health services offered include individualised support packages (with a focus on recovery, rehabilitation and community living), accommodation services, social support programs, recreational programs, and training and development of peer workers. Of the $22 million

of one-off expenditure into the community mental health scheme in 2005, BCS received non-recurrent funding of approximately $1.4 million. This has been earmarked to provide individualised support packages and run a project to train and recruit peer workers involved in the industry.

However, BCS has more areas of need that require further funding, including increased funding to assist people to live in the community without reducing funds for necessary acute services; the development of a system which is funded to offer ongoing support for people with mental health issues to live in the community; improved access to psychological and rehabilitation programs; and increased appropriate public and supportive housing.

Secondly, the BCS indigenous services comprise various programs supported by indigenous staff. Those services can include the Karpandi Women's Day Care Centre; emotional, social and practical support for indigenous people; advocacy; mothers' groups; counselling; art and craft programs; cultural camps for elders, men and young women; health services; and referral to other appropriate services. It is quite comprehensive.

The indigenous services are tailored around client needs. These may include personal development, support programs and wellbeing services. It is apparent that there are many issues that face indigenous people who receive services through BCS, and that is something they genuinely need. Ultimately, to focus on any one issue does not acknowledge the complex nature of this marginalised group situation. For example, homelessness, drug and alcohol abuse, family violence, poverty, mental health problems, and other difficulties accessing accommodation and employment are some of the common issues that BCS observe daily in the life of those who use their services. Employment of indigenous staff at BCS at the coalface is extremely important to ensure an equitable service to indigenous clients. In terms of BCS involvement in youth care, they provide a diverse range of integrated youth services which assist young people who are experiencing disadvantage and homelessness.

These services address client needs from different perspectives and may deal with prevention, crisis intervention, case managed accommodation and support and complete packages of care tailored specifically for individuals right around South Australia. While issues are tackled at different levels, the client groups generally include young people's experience of multiple and complex support needs. Programs are aimed at servicing these needs and include education and hands on training for young people, whilst providing opportunities to build confidence and self-esteem.

Baptist Community Services faces many challenges, including the need to identify, recruit and train more carers to assist in supporting disadvantaged people. It feels it is important to harness community capacity and resources to take reasonable but greater ownership and responsibility for solutions to homelessness and the disadvantaged in our society. A government is judged by how it looks after those most disadvantaged and requiring genuine help in our society. One would hope that the state government continues to provide funds for Baptist Community Services and in that way it can continue its terrific work in the community.

ORGAN DONATION

The Hon. T.J. STEPHENS: I rise today to speak about the issue of organ donation. It is rare to find an act of human kindness and generosity greater than that of the donation of an organ to another human being so they may continue to live. It is truly one of the most unselfish and compassionate of acts. We have seen the generosity of people like Nick Ross, who made a kidney donation to his ailing employer, the late Kerry Packer. Remember Mr Packer's comment that it was one of the greatest gifts one could give?

I wish to address today the donation of tissue after death and some of my concerns regarding this delicate matter. Members will recall that organ donation received much publicity when the late and great David Hookes was tragically killed more than two years ago. After David's death, the David Hookes Foundation was established with the objectives of: increasing the number of organ donors; increasing the public awareness of the need for organ donors; and educating families to support the decision of their loved ones to donate organs. I wish to share some important facts about organ donation that can be accessed on the David Hookes web site: www.davidhookesfoundation.com.

As at January 2005 there were approximately 1 600 Australians awaiting a transplant. One in five of those on the waiting list will die before an organ becomes available. In 2004 there were 218 donors, who helped 782 people, who were able to be removed from the waiting lists. In 2003 there were 619 organ transplants from 179 donors, but in the same year just under 100 died, sadly, while waiting. One organ donor can save or dramatically improve the life of up to 10 people.

Current legislation is state and territory based and is covered by human tissue legislation. In essence, the legislation states that a person can choose to be a donor and donation may proceed until the wish is reversed or where the family maintains a sincerely held objection. Interestingly, and in what I think is a commonsense ruling, in Western Australia a family cannot legally override consent. Where the deceased's wishes are not known, consent for organ donation rests with the next of kin. Whilst 96 per cent of Australians are supportive of organ donation, only 54 per cent who die become donors because in 46 per cent of cases the family refuse to consent.

I am particularly passionate about the David Hookes Foundation's objective of educating families to support the decision of their loved one to donate organs. It is vital that we speak openly with our family about our choice to donate tissue after death, as this goes some way to avoiding confusion and heartache in what is already the most trying of circumstances. In South Australia the rules for the donation of tissue after death are detailed in the Transplantation and Anatomy Act 1983. A specific section of part 3 of the act stipulates that the senior available next of kin of the deceased person has a right to object to tissue removal from the deceased person.

While I am mindful that some people do not wish to donate due to religious or cultural beliefs, I struggle to understand why some people object to their deceased loved one donating organs when they have already indicated their choice to do so on their driver's licence. When a person completes a will, their final wishes are unable to be changed after they die. I am firmly of the view then that, when a person indicates their intention on their driver's licence to donate their organs after death, this too should be respected and should be the sole basis for the decision to remove organs from the deceased. At the same time, I respect that many people have differing views to me on this most sensitive of matters but, nevertheless, I strongly encourage debate on the issue.

My hope is that this parliament will shortly revisit debate on the matter; and, hopefully, members will be able to exercise a conscience vote on whether an individual should be given sole responsibility to give consent for their organs to be donated. I strongly encourage members to discuss the subject with their family and friends and consult with members of the community to gauge public interest in an amendment to the current act. It cannot be denied that this is a matter of life and death.

DRUGS

The Hon. A.M. BRESSINGTON: Today, I rise to speak on a matter that is near and dear to my heart, and one that I hope will also be of interest to members when the time comes to consider their stance on illicit drugs and the impact that the problematic use of these substances has on silent victims, the children of problematic drug users. Five years ago I was approached by a grandmother who had taken over the care of her eight-year old grand-daughter because of the drug abuse of her daughter, the child's mother. This little girl had been moved from pillar to post since she was three-years old when her father was sent to prison for armed robbery—a drug-related crime.

The mother, who was not able to live alone and support her habit, attached herself to a number of partners who were also addicts. The mother was a prostitute in Hindley Street, and she was also involved in numerous drug-related offences. During the time that she lived with the mother, the little girl was exposed to a lifestyle that most of us would never contemplate exists. On numerous occasions she was responsible for calling the ambulance when her mother had overdosed on heroin; she was left alone of a night time or with strangers while her mother went out to work; and, on numerous occasions, she would ring her grandmother, asking her to bring over food because she was hungry.

The grandmother made many attempts to have the child removed from the care of the mother, which were all unsuccessful. The little girl at the age of four spent an entire weekend hiding behind a rubbish bin in her lounge room with a knife in her sleeve while she witnessed her mother being tied to a chair, beaten, slashed and raped repeatedly by her current partner. When this little girl was eight years of age, her mother literally dropped off the face of the earth. The child had been living with the grandmother at this point for about three years but had regular contact with her.

Just after her eighth birthday, her father was released from gaol and made the decision that he wanted his daughter back. He began a new relationship with a woman who was six months pregnant to him and who had another daughter who was six years of age. The gentleman decided that it would be an opportunity to have a family and start over. Just six weeks after this little girl went to live with him and his newly-found family, the father killed himself. This little girl was flung into a grief process that was laden with guilt, because the night before her father's death they had argued and he had told her that he had wished that he had never brought her to live with them and that he wished she never existed.

Before starting school, the child's behaviour had been difficult to say the least. She was known as a bully. She was infamous for her violent and abusive tantrums. When she returned to her grandmother after the death of her father, the behaviour of this little girl had become so bad that the grandmother rang me to say that she felt that the only other option now was to put her into welfare because she was so unmanageable. The child had physically assaulted her grandmother. She had thrown a solid object at her and hit her in the head, which resulted in 10 stitches. The grandmother simply did not know what else to do.

After some discussion with my partner and my sons, I decided that we would take over the care of this little girl for 12 months. This would allow time for her to be able to talk about what had gone wrong in her life, and also to work on some strategies to assist her to adjust her behaviour. It would also give the grandmother time to work with us to support this child to recover from her life's experiences. On the first night in our home she was lying in bed and called out to me and asked whether we could talk. I sat on her bed and she began to tell me about the hole in her heart—a hole so big that sometimes it really ached. She asked me whether her mother would be able to come to live with us if she ever came back.

I had to say no and explain that her mother was a drug user and sick, and that having her live with us would not work with her still using drugs. Then she said to me that she must have been such a bad baby for both her mother and father to use drugs. She said that she could remember so many times when she had made them both unhappy and angry. She also stated that she knew that she had killed her father. She said that she had made him so angry the night before he died and that it was her fault that he had killed himself because he hated to get angry. It is heartbreaking to see just how children will assess situations to their own detriment, and how easily they take responsibility for the misery that their parents create.

After living with us for about three weeks, this little girl said to me one day, 'You work very hard to help people, don't you? I won't work this hard when I grow up. I'm going to do what my mum does.' I asked her what was so good about what her mum did for work, and she replied that she gets all dressed up in really neat clothes, does her hair up, puts make-up on and then comes home with lots of money. When I asked her whether she knew what work her mother did, she replied, 'Of course I do. She's a prostitute.' Then I asked, 'So, do you know what a prostitute does?' and she said, 'Yeah, has sex with men for money.' Here we have an eight-year-old way beyond her years who has already decided to recreate what she has seen. Naturally her role model was her mother and her behaviour previously had almost ensured that she would end up alone enacting out life as she knew it.

The most we can do as a society is to recognise that in many families generational drug use is a given, because children become desensitised to living with abuse and trauma. If we want a society that supports people to live well, we must take the responsibility for reducing the use of drugs and increasing the level of assistance available to people in crisis.

Time expired.

SOCIAL DEVELOPMENT COMMITTEE: INTERNATIONAL STUDENTS

The Hon. I.K. HUNTER: I move:

> That the report of the committee, on the impact of international education activities in South Australia, be noted.

The Social Development Committee would like to record its gratitude to the previous committee chaired by the Hon. Gail Gago for its work on this report. International education is an important and growing activity for South Australia. Currently, more than 90 South Australian education providers offer

courses for overseas students at all levels of study from primary school to vocational training and university. Nearly 18 000 overseas students are studying here in South Australia with at least a further 8 500 studying in South Australian institutions offshore. The State Strategic Plan, which was released in 2004, set a target of doubling South Australia's market share of overseas students from 4.5 per cent in 2003 to 9 per cent by 2013.

In terms of student numbers, this would mean a tripling of onshore numbers to more than 40 000 overseas students. The Social Development Committee believes that with the right services in place South Australia can support this. The benefits to our economy and the community are extraordinary. International students already contribute more than $390 million per annum to the state's economy and this would likely increase. The presence of more international students in our institutions will also help to internationalise our state's education system, providing a more global and multicultural perspective for domestic and overseas students alike.

International students also promote future business arrangements and add to the cultural diversity and vibrancy of our community. They also provide an opportunity to increase skilled immigration in areas of expected future labour shortages in accordance with our state population policy. It should be noted that, while we acknowledge the importance of offshore international education operations and the opening of the Carnegie Mellon University's Adelaide branch in May 2006, the focus of this particular inquiry was on recommending enhancements to onshore provision by South Australian operators.

Before continuing, I would like to acknowledge the members of the Social Development Committee: the Hon. Dennis Hood, the Hon. Stephen Wade, Mr Adrian Pederick MP, Ms Lindsay Simmons MP, and the Hon. Trish White MP. I would also like to thank the staff of the committee: the research officer, Ms Susie Dunlop, and the secretaries, Ms Robyn Schutte and Ms Kristina Willis-Arnold.

The committee heard from 32 witnesses and received 17 detailed written submissions from universities, schools, students and people supporting international students, such as homestay parents. The inquiry revealed that significant progress has already been made towards expanding international education in South Australia resulting in a market share growth of twice the national rate. The committee's recommendations hope to add to what has already occurred and make best use of existing resources and infrastructure.

Critical to our success to date has been the work of Education Adelaide, an organisation that promotes Adelaide as an education destination brand to overseas markets. Education Adelaide represents one of South Australia's major advantages over other states and territories. However, it needs to be said that our incredible growth has been from a relatively poor starting point and that as a state we do face some challenges. Compared to the Eastern States we remain a relatively unknown destination. There is also increasingly fierce interstate and international competition for international students.

The committee has therefore recommended a number of marketing and recruiting initiatives such as expansion of scholarship programs. The committee has also recommended greater promotion and clarity of pathways for overseas students graduating from high school to encourage them to take up further and higher education in their state. The expansion of arrangements between TAFE SA, private education providers and universities to enable students to receive credits for prior study is also recommended. Targeting students who are already here and encouraging them to stay throughout their studies is a very cost-effective marketing strategy compared to the high cost of marketing and recruitment overseas. Similarly, we need to seize the opportunity that working holiday-makers, backpackers and tourists present to promote study in our state in a cost-effective way.

Another finding of the committee was that some sectors—in particular, the vocational education and training sector—will need to expand more rapidly than others to achieve targets. There is considerable room for growth in both VET and our TAFEs and we must take advantage of this, especially in light of some staff and physical capacity restraints in our universities. We have, therefore, recommended the development of cooperative ventures in a range of areas including infrastructure, staff, and professional development and training. The committee also found that the federal government's Skilled Independent Regional (SIR) Visa is a major incentive for students choosing to study in South Australia. Under this scheme, South Australia (including Adelaide) is classified as a regional destination, and overseas students studying here receive additional migration points. The committee believes that it is important that South Australia retain this advantage.

Perhaps the most pervasive finding of our inquiry was that formal marketing and incentive schemes can only go so far. In the international education market word-of-mouth is an extremely powerful marketing tool. This means we must ensure that our international students are happy not only with the education they receive but also with their overall experience of life here in South Australia. This is the key to sustainable growth. Mistakes have been made elsewhere where the drive for growth has not been tempered with a need to ensure that the students' overall life needs and expectations are met. To this end, we have recommended the development of a more comprehensive feedback survey or mechanism about all aspects of international students' experiences of living in our state so that problems can be identified and addressed in an ongoing manner—whatever those sectors may fall under.

It was no surprise to the committee that housing is central to a positive experience for international students. Recent South Australian research shows that 80 per cent of international students feel that their accommodation needs are being met; however, if South Australia is going to triple overseas student numbers, student housing provision must continue to increase. The committee heard of many new initiatives that have commenced or are planned; for example, the new Adelaide University village which now has places for over 400 overseas students, complete with 24-hour security, internet access, computer pools and free tutorials. Also, Education Adelaide has commissioned the Centre for Economic Studies to prepare a long-term accommodation forecast, and this report is due for public release shortly.

The committee found that we need more independent and semi-independent housing options for school students aged 18 and over, given the lack of homestay placements. Also, many older school students prefer to live more independently. The Department of Education and Children's Services has implemented a highly successful pilot project to provide semi-independent housing for school students aged over 18 at Alexandra Lodge in Rose Park at a cost comparable to homestay. The committee commends this work and recom-

mends further investigation and expansion of this kind of accommodation. An independent review of homestay arrangements was commissioned by DECS and completed in September last year, and the committee supports the recommendations of this review. Many of those recommendations focus on improved checks and balances to ensure that the quality of homestay placements is currently being met and implemented.

At the other end of the spectrum some international students, mainly postgraduate students, come here with their own children. A major financial burden for them is having to pay full fees for their children to attend public schools. In the ACT, at least, these children are treated as domestic students while their parents are studying here. We believe that our state government should look into a similar system so that we are not deterring full fee-paying and high-quality postgraduate research students, who typically pay $15 000 per annum or more in university fees (not to mention their other spending) for the sake of a few thousand dollars in school fees. Parents accompanying their young children as international students in our primary schools are also often paying high fees to learn English from a private college when many of the schools their children attend have existing infrastructure to provide this for a lesser amount.

The committee has also recommended the development of a volunteer buddy system for these parents, as well as for overseas students across the education system, to assist them with language issues and, at the same time, encourage social connections with local students and parents. The committee also received a considerable amount of evidence about the crucial role played by student associations in providing support and social opportunities for international students. Many contributors expressed concern about the potentially damaging effect on services resulting from voluntary student unionism (VSU), which will come into effect in July this year. Many felt that a reduction in student association services will damage Australian universities' ability to attract overseas students because of the adverse effect on the overall university and life experience of students. The committee believes that these concerns are well founded, especially given the heavy reliance by overseas students on organised activities and services because they do not have existing support networks in the community. The committee believes that it is crucial that the services provided by student associations are retained.

In conclusion, South Australia has much to offer overseas students and has made significant progress towards becoming a top education destination for students from all over the world. We have many strengths, including quality education, affordability and additional migration points. Nevertheless, there is room for continued improvement and development if this state is to gain and maintain a competitive edge in an increasingly competitive market. I believe that the Social Development Committee's recommendations will make a significant contribution to achieving this aim.

Motion carried.

SOUTH AUSTRALIAN CERTIFICATE OF EDUCATION

The Hon. S.G. WADE: I move:

That the Social Development Committee inquire into and report on reform of the South Australian Certificate of Education—

1. With particular reference to the seven principles for reform laid down in the SACE review—responsive, credible, inclusive, worthwhile, futures-oriented, connected, supportive; and
2. Any other related matter.

The most valuable gift families and communities can give their youth is a strong education, one that equips them to function as full citizens; able to make their own life choices. In 2004 and 2005, the government undertook a review of the South Australian Certificate of Education. The Minister for Education and Children's Services bills the 244-page report as the biggest review of the state's senior secondary education system since the current SACE was introduced in 1992. The minister says that the new SACE will integrate years 11 and 12 studies with work, TAFE, university and international courses. An advisory committee representing all school sectors and the Northern Territory government is to be established to examine the report's proposals to develop a five-year implementation plan in collaboration with school communities. The reforms are to be supported by a $54.5 million funding package.

However, the review has received a mixed reception. In March, Mr Rob Crewther, a former SSABSA member and Adelaide University physics lecturer, suggested that the review ran the risk of dumbing down the curriculum and could force universities to run remedial courses for first-year students. He said that the review's title *Success for All* could turn out to be success for nobody.

Dr Tony Gibbons, a member of the Flinders University Institute of International Education, is reported as saying that the new review required a great deal of further investigation and elaboration. He said that adapting curricula to students' individual learning and cultural needs was completely unworkable. Mr Garry Le Duff, of the Association of Independent Schools of South Australia, while supporting the proposed reforms, said that there would be steep additional costs for educators and compliance costs for schools. The then opposition education spokesperson, Vickie Chapman, raised concerns that the reforms could undermine competition and discourage students from striving to be their best.

In May, in this council, the Hon. Andrew Evans asked a question addressing a number of concerns raised by the review, due to its similarities to the Western Australian outcomes-based education system. One concern was that South Australia might be forced to introduce two distinct certificates in the event that the new SACE may prove to be unworkable. The Hon. Mr Evans highlighted the need to maintain education standards so that we do not put at risk the overseas student market in this state, where students seek internationally recognised qualifications. Those warnings are particularly relevant given that the house has just received a report from the Social Development Committee which highlights the benefits to this state from the education of overseas students.

The SACE is the culmination of secondary education and the door to employment or further education and training. Reform of the certificate needs to be undertaken with care. It would be irresponsible for us to rush off into full implementation of the review if that were to risk the future of students. The opposition has decided to propose a reference to the Social Development Committee on the SACE to give all stakeholders the opportunity to express their hopes and concerns, to explore the implications of the proposed SACE reforms, and to ensure the best outcome for the young people of South Australia.

The SACE review itself put forward seven principles as the foundation for reform of senior secondary education: they

are that the new SACE needs to be responsive, credible, inclusive, worthwhile, futures oriented, connected and supportive. In this reference the opposition suggests that the reform proposal should be assessed against its own seven principles. I commend the motion to the council.

The Hon. I.K. HUNTER secured the adjournment of the debate.

CONTROLLED SUBSTANCES (EXPIATION OF SIMPLE CANNABIS OFFENCES) AMENDMENT BILL

The Hon. D.G.E. HOOD obtained leave and introduced a bill for an act to amend the Controlled Substances Act 1984. Read a first time.

The Hon. D.G.E. HOOD: I move:

That this bill be now read a second time.

Much has been said in this council and the other place about the present mental health crisis. Fingers are being pointed as to who in the government is responsible, or who outside the government is responsible. I believe that one of the most responsible ways of dealing with the situation is to deal with illicit drug use.

At present the illicit drug commonly known as cannabis is in my sights. I have made comments before and since my election about my concern toward areas of the law concerning cannabis where the growing, production and possession of cannabis is effectively legal. My first target via this bill is the $150 expiation fee for one cannabis plant. When you compare the street value of a crop from one plant with the expiation fee, you have less than a 1 per cent levy, if I may call it that, on the growing of the plant. The Police Commissioner, Mal Hyde, indicated as much on or about 25 October 2000, when *The Advertiser* in an exclusive interview with him stated:

> One plant can produce about 500 grams (of cannabis) and when you multiply that by 10 you are looking at a person—for the sake of a $150 fine—being able to produce $30 000 to $40 000 worth of cannabis.

So it is a very profitable pursuit for the individual, and the $150 fine serves as no deterrent whatsoever. Mr Hyde went on to say:

> Quite clearly there is no disincentive there to stop people from engaging in something which is quite illegal.

Our courts sentence those who grow fewer than 20 plants to penalties that, again, pale into insignificance by reference to the commercial value of that which is being produced. I note in the 2004 Office of Crime Statistics report that: firstly, for all forms of drug offending the ratio of suspended sentences to immediate sentences of imprisonment was inordinately higher than for any other category of offence; secondly, in the Magistrates Court the average fine for possession or use of cannabis was $203; thirdly, the average fine for producing or manufacturing cannabis was $291; and fourthly, that the average fine for selling or possessing cannabis for sale was $376.

I believe that this trend is not good enough. It is a tacit endorsement for the behaviour. This bill alone will not reverse that trend, but with this and other bills—or with the help of other parties and other members of this chamber and, indeed, in another place—we will, at long last, start reining in cannabis use in this state.

If passed, this bill will eliminate the right to expiation for growing cannabis plants. Again I refer to *The Advertiser* interview with the Police Commissioner, Mal Hyde. The article states:

> He says the existing cannabis laws are 'schizophrenic' and the system of fines for growing up to three plants [as was then the case] should be abolished. . . In an exclusive interview with *The Advertiser*, Mr Hyde revealed he was opposed to the current legislation because it suggested that growing the drug for personal use was acceptable.

The article further states:

> 'The law is schizophrenic—on the one hand, it's illegal to use cannabis, and then we tacitly acknowledge that you're able to produce cannabis for your personal use,' he said. 'I think you can't have it both ways.'
>
> Mr Hyde said the current system—where anyone growing up to three plants [currently one plant] is given an instant $150 fine—sent 'mixed messages' to the public. 'There are many people in the community who believe that it's legal to use cannabis because of the expiation nature of the scheme', he said. I think one of the problems we've got in dealing with illicit drugs is we don't have a clear and consistent message within the community. We actually confuse the message.

He went on to say:

> The legislation really does need to be looked at. . . I think we have ended up with our own home-grown problems as a result of the legislation.

Mr Hyde then went on to say that he felt that a cottage industry had developed around hydroponically grown plants which had led to violent crimes, amongst other criminal matters. The article continues:

> Earlier this year, the laws were changed, reducing from 10 to three the number of plants which could be grown without criminal charges being laid. Mr Hyde said the reduction was a significant difference—'but I really don't support any home-grown product'.

Neither do I. I believe that my constituents and the majority of South Australians believe likewise.

Members may think that my quote of Commissioner Hyde seems somewhat dated, given that it was a few years ago now, but it is useful to note that it came in the context of activity in this place when the then Liberal government sought to reduce the personal use limit from 10 to three plants, but in this place the regulations to achieve that were ultimately defeated. Ultimately the Liberal government prevailed and, unless I am mistaken, later further reduced the plant limit to the current one plant limit.

I note for the benefit of members siting on the other side that the Hon. Mr Brokenshire, the then police minister, and also a backbencher in the other place, Mr Hamilton-Smith, were quoted by Greg Kelton in *The Advertiser* of 16 June 2001 as supporting tougher cannabis laws; namely, that the then three plant limit be reduced to nil plants. There is a history of the Liberal Party supporting this position. These calls came within a year of the then Liberal government's achieving through this place the reduction of the 'personal use' category from 10 to three plants. Even though it had been reduced from 10 to three plants, several prominent members of the party were looking to eliminate it completely.

In a media release earlier this year, the Attorney-General threatened to increase the expiation fees in this area to double the current level—that is, to $300—but, as yet, we have not seen that reform. I think that doubling the fine is a step in the right direction, but it certainly does not go far enough—$300 is the equivalent of a speeding fine for many people. In my view, a person needs to come before the court and—as I am about to set out—be subjected to the various and sometimes non-financial sentencing options that are available to the court. I believe that the time has come to exterminate the current concept enshrined in the legislation; that is, the basic

concept of 'personal use' of cannabis. This bill goes some of the way towards that end by removing the right of people to grow their own cannabis plant for what was arguably 'personal use' in the first place.

I am not concerned about the flow-on effects as to the case flow management in the courts, and I will explain why momentarily. The procedure under the Summary Offences Act will continue to be available to offenders, whereby they can reply to their summons and plead guilty—if they are guilty—in writing to the court registry without needing to attend court. In many instances these cases will not go to court, but nonetheless the seriousness of the offence will be registered. In any event, people who do go to the extent of growing their own cannabis, in my view, need to appear before a court in many cases. The very exercise of someone going to court as a result of growing cannabis signals to offenders the seriousness of their behaviour. The court also has the sentencing option whereby it can, if necessary, direct an individual to undergo rehabilitation options which, without the compulsion of the law, they might not otherwise have bothered undertaking off their own back, if you like.

In Queensland and Western Australia, schemes exist through the law to direct people to counselling about their cannabis use. This is intended for people who are encountering the criminal justice system for the first time. This form of diversion would add to the Drug Diversion Court operating in this state. There are limitations to what I can do as a non-government member in this place. I call upon the government to implement such rehabilitation via the correctional services program. At present, an offender sentenced to a bond to be of good behaviour or a suspended-sentence bond can be supervised by community corrections. A community corrections officer can compel a person to attend courses such as anger management, alcohol or substance abuse management and domestic violence counselling.

Whilst these are important issues, I believe that rehabilitation in respect of cannabis use or addiction ought to be elevated to the same level. Hence I am calling upon the government to implement something similar to the ACT's 'Effective Weed Management' program or the programs that exist in Western Australia, or perhaps even Queensland, through the correctional services system so that we are doing what we can before a person becomes a serial offender to end cannabis dependence in this state.

I turn to further sound reasons for taking a tougher stance against cannabis use. A report in *The Australian* of 6 April this year stated:

> Many experts say there is now little doubt cannabis causes not only psychotic illnesses such as schizophrenia, but also depression and anxiety disorders, particularly when smoked by young people.

Further in the same article:

> University of Sydney psychiatry professor Ian Hickie—

a man whom I have actually met—

> said. . . 'There's definitely an issue of making younger people more aware of these direct links that a lot of the so-called common party drugs are in fact dangerous for your mental health.

The Perth weekly, *The Sunday Times*, of 16 April this year reported that the Australian Medical Association had confirmed a strong link between cannabis use and depression.

Then, on 19 April this year, *The Melbourne Herald-Sun* reported that the New South Wales Mental Health Review Tribunal found that four out of five (80 per cent) mentally ill patients committed to an institution in New South Wales, or who needed compulsory treatment, had regularly smoked cannabis between the ages of 12 and 21. I will repeat that: four out of five mentally ill patients committed to an institution in New South Wales or who needed compulsory treatment had regularly smoked cannabis between the ages of 12 and 21. It is becoming increasingly difficult for anyone to claim that this is not a very harmful substance.

In fact, I could provide much more research but, in order to keep it brief, I will give a few snippets of further evidence which has been provided by research and which is now well-established fact. First, marijuana users are six times more likely to develop schizophrenia than non-users; secondly, babies born to mothers who use marijuana during pregnancy have 11 times the risk of getting childhood leukemia; thirdly, marijuana users are four times more likely to report symptoms of depression than non-users; fourthly, of those who use marijuana three to 10 times, 20 per cent go on to use cocaine or similar drugs, and of those who use marijuana 100 times or more throughout their entire life, 75 per cent go on to use cocaine or similar drugs; fifthly, the American Psychiatric Association lists the harmful effects of marijuana as psychotic disorders, hallucinations, anxiety disorders, impaired judgment, delusions and aggressive behaviour; and, sixthly, there is four times more cancer causing tar in marijuana than there is tobacco smoke—something of which I was not aware until recently.

In light of such serious health consequences of this illicit substance, the question must be asked: why do we have an expiation fee for the use of this substance in our state? It is irresponsible and unfair, not only for people using the substance but also for the significant impact of the associated health costs on the community at large. The incidence of schizophrenia and other mental health related conditions, as well as depression and the like, have increased significantly in our community over the past 20 years or so. Given the evidence I have just quoted, the experts seem to agree, at least in part, that it is due to the widespread use and availability of cannabis. As a state I believe the time has come for us to act decisively.

Indeed, a government that is serious about the health of its citizens ought not to be giving tacit approval to the use of a drug posing serious physical and mental health problems. Cannabis fits squarely within that category. Unless I am corrected by members about the present view of SAPOL and the state of the cannabis trade in this state, I believe it is fair to say that South Australia is the cannabis capital of Australia. Certainly, that is a tag which I am not happy to wear and of which I am not proud as a South Australian. I believe this bill takes us some way towards shedding that reputation and dealing with a situation that has been a blight on this state for some time.

The simple fact is that for many years we as a community thought this substance was harmless as a natural substance and the like with the arguments put forward, but the reality is that, in light of the evidence I have presented today and in the light of evidence that is widely discussed in all forms of media and the community in general, this is a harmful substance. I urge this chamber to act in such a way so that we can do something decisive for the health of people influenced by this substance, and, indeed, in order to lighten the load on the health system. I commend the bill to the council. I seek leave to have the 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
Part 2—Amendment of *Controlled Substances Act 1984*
4—Amendment of section 45A—Expiation of simple cannabis offences
Part 3—Transitional provision
5—Transitional provision
The Parliament of South Australia enacts as follows:
Part 1—Preliminary
1—Short title
This Act may be cited as the *Controlled Substances (Expiation of Simple Cannabis Offences) Amendment Act 2006*.
2—Commencement
(1) Subject to subsection (2), this Act will come into operation on assent.
(2) If this Act is assented to before section 1 of the *Controlled Substances (Serious Drug Offences) Amendment Act 2005* comes into operation, this Act will come into operation immediately after that section comes into operation.
3—Amendment provisions
In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.
Part 2—Amendment of Controlled Substances Act 1984
4—Amendment of section 45A—Expiation of simple cannabis offences
(1) Section 45A(8), definition of *artificially enhanced cultivation*—delete the definition.
(2) Section 45A(8), definition of *simple cannabis offence*, paragraph (a)—delete paragraph (a).
Part 3—Transitional provision
5—Transitional provision
The amendments to the *Controlled Substances Act 1984* made by this Act do not apply in relation to an offences committed before the commencement of this Act.

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

STATUTES AMENDMENT (PROHIBITION ON MINORS PARTICIPATING IN LOTTERIES) BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill for an act to amend the Lottery and Gaming Act 1936 and the State Lotteries Act 1966. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

On 1 June last year I moved a bill in identical terms with respect to these matters. Essentially, this bill has two elements. It seeks to amend the Lottery and Gaming Act and the State Lotteries Act to increase the age at which a person can play lotteries (as defined in those acts) to 18 years. By way of background, the current position is that the State Lotteries Act applies to Lotteries Commission products, such as X-Lotto, Powerball, Keno, scratchies and all the games that the Lotteries Commission sells in hotels, newsagents, its outlets and even pharmacies.

In relation to the Lottery and Gaming Act, there are definitions with respect to the threshold at which the act applies, and, in relation to lotteries, my understanding is that it is for an amount of more than $2 000, in terms of the prize, so it does not apply to the so-called chook raffle. I deliberately made a distinction so that members can decide whether they want to increase the age for playing lotteries to be simply confined to Lotteries Commission products, or to extend it to lotteries generally where there is a lower threshold for which a licence needs to be granted. That is something I am more than happy to explore in the committee stage (should this bill pass the second reading stage) and to provide an explanatory memorandum to all members who may be interested. My understanding is that, under the Lottery and Gaming Act, minor lotteries not exceeding $2 000, bingo up to $200 and sweepstakes not in excess of $10 are exempt from the legislation.

Last year I raised issues about the *Star Wars* scratchies promotion, when the Lotteries Commission was heavily promoting in the media its new scratchies game featuring *Star Wars* characters. I was quite encouraged last year by the then shadow gambling minister (Robert Brokenshire) who said that his position was that the age should be increased to 18 years of age in terms of playing Lotteries Commission products. I also note that an answer I received several years ago from the government indicated that the government was not opposed to increasing the age at which one could purchase Lotteries products (and I took that to mean Lotteries Commission products) to 18.

In relation to community support for that, I refer to excerpts from submissions made to the Independent Gambling Authority in relation to its 2006 review of codes of practice and broader issues with respect to alleviating the harm caused by gambling. The South Australian Heads of Christian Churches Gambling Task Force stated:

The task force wishes to raise the broader matter here concerning the sale of Lotteries products to persons aged 16 and 17 years of age. We continue to be deeply concerned that this is still legal despite the fact that, as we understand it, the board of SA Lotteries, almost all Lotteries agents and gambling counselling services support a legislative change to increase the minimum age for purchase of Lotteries products to 18 years. The task force urges the IGA to instigate whatever action it can to have legislation amended to increase the minimum age for sale of all gambling products, including lotteries products, to 18 years.

Obviously the Independent Gambling Authority cannot purport to change legislation as even its codes are subject to disallowance as though they were regulations, so it is incumbent on the parliament to make a determination in respect of this. It is my understanding that SA Lotteries itself is supportive of the concept that the age be increased to 18 years or, at the very least, they do not have a problem with it. The Australian Newsagents Federation Limited (SA Branch) made this submission:

The federation is, however, aware and concerned that the gambling age for SA Lotteries products remains at 16 years of age. The federation has repeatedly asked for that age limit to be raised to 18 years of age, in line with all other forms of gaming. This proposition has been, and is still, supported by every group and individual the federation has approached over the past four years; however, government has apparently failed to take any initiative in this area. The federation is concerned at the government's apathy on this issue.

The bill is quite straightforward. There is a threshold issue for members to determine, should this pass the second reading stage, as to whether they simply wish it to apply to lotteries products or whether they wish it to apply to lotteries more broadly, with the thresholds referred to. I previously referred in this place to the research carried out by Dr Paul Delfabbro from the University of Adelaide's Psychology Department, who is highly regarded generally. He has particular expertise on this issue and has undertaken work for the Department of Human Services under the previous Liberal government and, as I understand it, has also undertaken research work for the Independent Gambling Authority.

It is not desirable, given the potential impact that exposing younger people to lotteries and gambling products can have in terms of problematic gambling behaviour in future, that these products should be sold to those under the age of 18 years. This is something the government has made noises about for several years, and it is about time there was some

action. When you have welfare organisations and no objection coming from the Lotteries Commission itself, and from those who sell lotteries products, there ought to be an increase from the age of 16 years to 18 years, particularly in relation to the SA Lotteries products of Lotto, Keno and Powerball, and there ought to be legislative change.

It makes good sense that, given the concerns about youth gambling in this state, if you increase the age it could make an appreciable difference in terms of young people not developing or being at as great a risk of developing gambling problems in future. That is the essence of this bill, and I urge members to support it, given that the government, unfortunately, has not seen fit to act on this, despite extensive lobbying from various groups, including those who sell lotteries products in this state.

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (INSPECTIONS BY UNION OFFICIALS) AMENDMENT BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill for an act to amend the Occupational Health, Safety and Welfare Act 1986. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

The issue of workplace safety has come into sharp and tragic focus in our community in recent weeks and months, the most recent incident being the tragic explosion near Gladstone and the loss of three lives and the devastating effect it has had not only on family members left behind but on the entire community in that region and on the state generally. I note the generosity of the South Australian community and the work of a number of people to raise funds to assist those who are the direct victims of that explosion. It is not an isolated incident, given the cost of workplace injuries in our state.

I refer to material on the WorkCover web site, where there is a discussion about the cost to the South Australian community of workplace accidents and workers compensation claims in the region of $2 billion a year. We know from one form of occupational hazard—asbestos exposure—something of which I am acutely aware with my involvement with the Asbestos Victims Association of South Australia, that an estimated 2 000 South Australians will die in the next 15 to 20 years as a result of asbestos exposure, about half the number of those deaths being due to contracting mesothelioma. That is a significant concern, given that we have overtaken Western Australia as having the highest per capita rate of mesothelioma in the world. My remarks will be brief, as I will seek leave to conclude them.

The essence of this bill is to reform the current law. Section 32(1) of the current act states:

A health and safety representative may, for the purpose of the health, safety and welfare of the employees in the work group that the health and safety representative represents—

(a) inspect the whole or any part of any relevant workplace—

(i) at any time after giving reasonable notice to the employer (which must state the name of any consultant who is to accompany the representative during the inspection and the purpose for which the consultant's advice is sought); or

(ii) immediately, in the event of an accident, dangerous occurrence or imminent danger or risk to the health or safety of any person;

This bill goes much further. Essentially, it provides access for a union official to enter premises for the purpose of the health, safety and welfare of employees. I know that may well be controversial with some members, but I think that it is a debate we ought to have given the occurrence of workplace accidents in this state, the number of deaths that have occurred in the workplace in recent months and the very deep community concern that issues of workplace safety are not being adequately addressed. Of course, there is the broader issue, a secondary issue, namely, the economic issue, the cost to the community.

Obviously, it not only makes good sense because you save the emotional hurt and anguish of someone being hurt in the workplace (and particularly those who have been killed in the workplace and the devastation that that causes to their families) but also it makes good economic sense to tackle this issue, because ultimately it means that the entire community does not bear the costs of death and injury in the workplace. This bill goes much further than the current law. In some respects, it has been modelled on the New South Wales occupational health and safety legislation, which contains broader powers than our current act.

I acknowledge that this bill goes somewhat further in that it is broader. It allows for a union official to enter the workplace. It makes it clear, however, that if a union official exercises a power under this section for an improper purpose related to an industrial claim or a dispute significant penalties will apply. I believe that primarily this should be about safety. This should be about giving access for the purpose of inspecting premises. It should be under the current legislation, which I believe is too narrow. If there is an imminent danger, and if there is appropriate access for union officials to enter premises where there is a concern about safety to ensure compliance, that could well have a very positive effect in reducing workplace injuries, particularly death, and that is something that this bill aims to achieve.

I know that the government has been talking about this, and that it has added extra inspectors. That is all well and good, but there is nothing like having this broader level of compliance, if you like, by giving broader powers for union officials to enter premises. I am not a supporter of compulsory unionism. I do not necessarily agree with all that the unions do; but, clearly, this a case where unions have a very powerful and constructive role to play, and this legislation provides that framework for the union movement to do that. I acknowledge the role of Janet Giles from SA Unions. She has been a persistent, vocal and effective campaigner in relation to workplace safety issues, and I commend her for that.

This is about ensuring that unions have a positive role to play for the purpose of the health and safety of employees. Last night I hosted a meeting for a group which will be formed and which will be called Voice of Industrial Deaths (VOID). Andrea Madeley is a mum whose son Danny was killed almost two years ago in a horrific industrial accident. She is still waiting for answers in relation to that accident. I believe that at some stage in the future the matter will proceed by way of a prosecution. I expect that will be the case, so I will not comment further.

More than 30 people attended that meeting. Invariably most who attended were family members who had lost a loved one in an industrial accident—all of them horrific and devastating. They are all waiting for answers to what had occurred. One case related to the death of a man's son which occurred some eight years ago. Whilst it was an open

meeting, it was good to see that the member for Unley attended. I am grateful that he did attend, because he is a member of the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation. His interest was most valued.

I know that a number of government members expressed an interest in that meeting. I believe that there is a lot of goodwill on both sides of the chamber in that something more needs to be done in terms of occupational health and safety. This bill is but a small step, but I believe it would be a very useful step to ensure compliance. If a union official sees that elements in a workplace do not comply with occupational health and safety laws, I could not imagine a union official worth his or her salt not reporting that to the relevant authorities and not kicking up a fuss about it. That is what this legislation is about.

The current law is too restrictive and too narrow. It is simply a joke in terms of providing the relevant access that union officials ought to have for the purpose of health and safety and the welfare of employees in a workplace. I urge members to consider speedy passage of this legislation, because I fear that the devastating human toll of workplace injuries and death will continue unabated. Let us at least take some steps that will make an appreciable difference to reduce that toll.

The Hon. R.P. WORTLEY secured the adjournment of the debate.

CIVIL LIABILITY (SOLATIUM) AMENDMENT BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill for an act to amend the Civil Liability Act 1936. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

I have disclosed before and I will disclose again that I am a member of the Australian Lawyers Alliance, which is the unfortunate new name for the Australian Plaintiff Lawyers Association. This is a group which represents plaintiff lawyers in this state. I also disclose that I am still the principal of a law firm that practises in personal injuries law and I have some knowledge of the Civil Liability Act, which I seek to amend. Currently, in this state if a spouse is killed, the maximum payment is $4 200; if it is a child, the maximum payment for solation is $3 000.

To put this in perspective, these payments are for solace; they are compensation for the loss of a loved one. As I understand it, these amounts have not been amended for a generation, some 30 years. You can seek to take legal action to obtain a greater amount if you have what is defined broadly as nervous shock: in other words, a psychiatric injury arising out of the death of your loved one, whether it be your child or your spouse or partner. In such cases, you must overcome a number of legal hurdles, and there are a number of authorities in respect of that. The Civil Liability Act amendments of some 2½ years ago have further circumscribed the circumstances in which a person can claim for nervous shock. This payment is made as a matter of course where there has been a death.

The point has been made by Peter Humphries (a well-known plaintiff lawyer), who raised this issue in the context of a claim for the Eyre Peninsula bushfire victims, that these amounts of compensation are woefully inadequate. Of course, no amount of compensation will bring back a loved one, but I think there ought to be an appropriate reflection in the community with an amount of compensation that is at least not insulting. That is what this bill is about. It seeks to increase the $3 000 limit for the loss of a child to $60 000 and for the loss of a spouse from $4 200 to $75 000.

Peter Humphries made the point in the media—and I think it is a very good point—that, as the law currently stands, the limits of compensation for solation in this state are so low that the undertaker's fees often amount to more than the amount of compensation that is provided under this particular section. I think that is inadequate. I believe it is appropriate that there be a debate in this place to reflect the community debate on what is an appropriate level of compensation.

These are the preferred figures. I do not know what the government's view of this is, neither do I know the opposition's, but there ought to be a significant upward revision of these amounts, because the current levels of compensation are simply outdated. They have been in place for many years, they have not been indexed, and, whilst nothing will bring back a loved one who has been killed in an accident as a result of the fault of another—which, of course, is a threshold requirement with respect to this legislation—at least we ought to have a level of compensation that is not insulting to those who are left behind.

The Hon. R.P. WORTLEY secured the adjournment of the debate.

TOBACCO PRODUCTS REGULATION (CLEAN AIR ZONES) AMENDMENT BILL

The Hon. SANDRA KANCK obtained leave and introduced a bill for an act to amend the Tobacco Products Regulation Act 1997. Read a first time.

The Hon. SANDRA KANCK: I move:

That this bill be now read a second time.

Today is World No Tobacco Day. This year's theme is 'Tobacco: deadly in any form or disguise'. Let us be clear about the dangers of tobacco. The web site of the US group Campaign for Tobacco-Free Kids gives some shocking figures from the US in regard to second-hand smoke, including an extra half a million visits per annum to doctors because of asthma, more than 115 000 episodes of pneumonia, 2 million childhood cases of middle ear inflammations, and so on. For people who are interested in this topic, I think it is worthwhile that they have a look at this web site. I expect that on a pro rata basis we would have similar figures in Australia.

This web site also informs of research undertaken at the Cincinnati Children's Hospital Medical Center, with more than 4 000 children aged between six and 16 being tested. They found that 84 per cent of those tested had detectable levels of cotinine (a by-product of nicotine) in their blood—clear evidence of exposure to side-stream smoke. When you consider that only 43 per cent of them came from homes with an adult smoker, such figures demonstrate how pervasive cigarette smoke is in the wider community. The study found a negative correlation between exposure to second-hand smoke and scores on standardised intelligence testing.

What is worse is that even extremely low levels of second-hand smoke exposure resulted in a decrease in intellectual performance by these children. The authors of the study said, 'We are unable to recommend a safe level of exposure.' Last Monday's *Advertiser* reported in a small article, 'South

Australia's state government is the third worst performer in combating smoking in Australia,' this information having been contained in a report card released by the AMA and the Australian Council on Smoking and Health. To add insult to injury to South Australia's reputation, the article went on to report that we had made no improvement from being the third worst last year.

Other states and countries continue to rush forward while South Australia, once a leader in creating safe, smoke-free areas, lags behind. In Italy, increased fines apply to smokers who light up near children or pregnant women, and there is good reason for this: non-smoking women who are pregnant but who are exposed to side-stream smoke have an increased risk of giving birth to underweight babies. From 1 January this year, smoking is no longer permitted in any bar in Tasmania. Even the Wrest Point casino is now a smoke-free zone, with smoking not allowed in its public areas, foyers, walkways, restaurants, hotel rooms, bars and gaming areas. Of course, here in South Australia we give exemptions at our casino—particularly for those who spend the most, the high-rollers.

The Hon. Nick Xenophon: They are immune from cancer, apparently.

The Hon. SANDRA KANCK: Apparently they are, and no-one breaths in their side-stream smoke. So it can be done, and it is being done elsewhere in Australia. The government can stand up to the business interests of gaming and tobacco and say 'yes' to clean air for citizens and casino staff.

South Australia can rebuild its reputation by passing the legislation I am introducing here today. There is a lot of science behind a move like this. It is now a proven and medically-recognised fact that cigarette smoke contains over 4 000 chemicals and 69 known carcinogens. My legislation increases the likelihood of children being able to breathe air that is not poisoned by tobacco smoke, and it does this in a number of ways. First, it gives the minister the power to regulate to prevent cigarette smoking in two specific locations at specific times. These are:

a) On the route of the credit union's annual Christmas pageant for the duration of the pageant and the two hours prior to its commencement; and
b) In the Royal Adelaide showgrounds at Wayville for the duration of the show.

Secondly, it prevents cigarette smoking within three metres of a bus stop. This is a two-edged sword aimed at ensuring that younger children waiting for buses are not exposed to side-stream smoke and also potentially putting some controls on teenagers having a covert smoke on their way to or from school. It also protects public transport users, whatever age they are. It is not unusual to see bus drivers having a quick puff of tobacco if they arrive at a stop ahead of schedule or at the end of one run before they begin their next. They leave the bus door open and, of course, the smoke enters the bus.

A government that is committed to increasing public transport patronage simply must include as many positive incentives for people to use buses, trains and trams as possible. People are put off the idea of using public transport because some of them know that on their routes they may have to run the gauntlet of smokers at the bus stop. This bill will remove that disincentive. Additionally, it provides the minister with the power, by regulation, to specify other locations and functions where a significant number of children are likely to be present—for instance, playgrounds, sporting grounds and beaches would be encompassed by this.

The bill itself is unchanged from the one I introduced in 2003 and, while it still goes further than the government has thus far been willing to go, I am open to it being amended by the minister to give even more depth and rigour to smoke-free protection in the state. I certainly look forward to hearing what the minister is proposing in her own bill later today. Personally, I would like to see smoking outlawed in cars where children are present, and having it policed in much the same way as the use of mobile phones while driving is policed. It is not a perfect law but once it is enforced, and people become aware that they may be caught out, it will have a deterrent effect.

When I introduced this bill in 2003, I talked about children learning through imitation. Kids are great observers and imitators and we adults are their role models. For this reason the most effective way of changing the behaviour of children is to aim the smoke-free message at adults. It is adults who need to be influenced to kick the habit. The magazine *New Internationalist* tells us that nearly a quarter of the world's smokers had their first cigarette before 10 years of age, so the removal of adult role models is a very important action. If passed, this legislation would reduce some of the direct exposure to second-hand tobacco smoke for children as well as reducing the number of negative role models they see.

There are some people who have an extremely low tolerance to environmental tobacco smoke, sometimes called side-stream smoke, and it impacts on their ability to lead a normal life in our community. In fact, I can give an example of a friend of mine who died, basically, because she accidentally took in someone else's side-stream tobacco smoke. From that point onwards her life went steadily downhill until she died about six months later. I have also had drawn to my attention the plight of a young woman with such a reaction who was uncertain about attending the Adelaide Fringe this year, having had an extremely bad health reaction to the inhalation of someone else's cigarette smoke at the 2004 Fringe.

While venues are designated and advertised as being smoke-free, that does not include the approach to the venue, where smokers tend to congregate. This is not just an annoying inconvenience for some non-smokers; it actually means that they are prevented from entering the venue. It is an issue of discrimination against people who have an invisible disability of hyper-sensitivity to tobacco smoke. The advice this young woman was given by Fringe organisers was to attend the less popular shows or attend shows at less popular times when she would encounter less queuing and not be forced to inhale the smoke of others. So, although they are in the minority in the community, it seems that smokers rule.

Australia is a signatory to the World Health Organisation's Framework Convention on Tobacco Control. Article 8 of this convention states:

> Each party shall adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.

Of course, it is this last one that I am particularly interested in. This bill provides an opportunity to meet some of our obligations under that convention. This bill is part of the harm minimisation approach to drugs the Democrats advocate. Make no mistake: we are talking about a drug. I introduced legislation similar to this in November 2003. Unfortunately,

most MPs apparently did not regard it as important enough to bother addressing it. I consider that the health and the lives of our children are very important, and I hope this time it will be seriously debated and passed.

The Hon. R.P. WORTLEY secured the adjournment of the debate.

FUEL SUPPLY

Adjourned debate on motion of Hon. N. Xenophon:

1. That a select committee of the Legislative Council be appointed to inquire into and report on—
   (a) The structure of the wholesale and retail market in South Australia for petrol, diesel and LPG fuels;
   (b) The impact of the 2003 closure of the Port Stanvac refinery and fuel storage facilities have had on the reliability and pricing of petrol and diesel for South Australian consumers;
   (c) (i) The agreement entered into between the government of South Australia and any entity or entities over the closure of the Port Stanvac refinery and fuel storage facilities;
   (ii) The effect of the closure of Port Stanvac on the price and availability of petrol and diesel in South Australia.
   (iii) The effect of the agreement on aiding or impeding wholesale competition for petrol and diesel in South Australia;
   (d) The nature and extent of competition in the wholesale petrol, diesel and LPG market in South Australia and the impact of such on the supply and pricing of these products to South Australian consumers.
   (e) The practices and conduct of oil companies operating in South Australia (including Mobil, Caltex, Shell and BP), and the impact of such on the supply and pricing of petroleum fuels in South Australia.
   (f) whether the South Australian industry, the farming sector, emergency and essential services operators have been affected by any issues relating to the supply of diesel and petrol since 2003, and, if so, whether such matters have been addressed satisfactorily, or need to be so addressed.
   (g) The potential impact on consumers of the price of petrol and diesel in South Australia of fuel storage facilities not controlled by major oil companies.
   (h) The potential role of government to facilitate wholesale competition for petrol and diesel in South Australian and any infrastructure issues relating thereto.
   (i) The environmental state of the Port Stanvac refinery site and the steps needed to ensure that the site is returned to an acceptable environmental state; and
   (j) Any other matters;
2. That standing order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only;
3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council;
4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating; and
5. That the evidence given to the previous Legislative Council Select Committee on the Pricing, Refinery, Storage and Supply of Fuel in South Australia be tabled and referred to the select committee.

(Continued from 10 May. Page 157.)

The Hon. T.J. STEPHENS: I rise briefly to indicate Liberal Party support for the continuance of this select committee, or I should say its revival. Our position is that we support the revival of committees that were established during the last parliament where the proponent of these committees is still keen for them to continue. A number of areas in respect of this committee—and I had the pleasure of sitting on it and attending a number of meetings—have certainly sparked a fair bit of interest.

The agreement entered into between the government of South Australia and any entity or entities over the closure of the Port Stanvac refinery and fuel storage facilities, the effect of the closure of Port Stanvac on the price and availability of petrol and diesel in South Australia, and the effect of the agreement on aiding or impeding wholesale competition for petrol and diesel in South Australia is an area that has piqued my interest.

I believe that the practices and conduct of oil companies operating in South Australia—including Mobil, Caltex, Shell and BP, and the impact of such on the supply and pricing of petroleum fuels in South Australia—is a matter that is close to the heart of all South Australians. Most important is the environmental state of the Port Stanvac refinery site and the steps needed to ensure that the site is returned to an acceptable environmental state—and any other matters. The evidence I have heard to date, and the reluctance of the Mobil Oil Company to tender any evidence, leads me to believe that we have a massive environmental problem on that site. I, for one, am looking forward to working toward a reasonable solution so that, hopefully, the health of South Australians will not be put at risk any longer. With those few words, I indicate that the Liberal Party is prepared to support the Hon. Nick Xenophon in this endeavour, and we look forward to working toward a productive outcome.

The Hon. I.K. HUNTER secured the adjournment of the debate.

ELIZABETH VALE SCHOOL

The Hon. NICK XENOPHON: I seek leave to move my motion in an amended form.

Leave granted.

The Hon. NICK XENOPHON: I move:

1. That, in the opinion of this council, a joint parliamentary committee be appointed to inquire into and report on—
   (a) the conduct of any Department of Education and Children's Services employee or officer involved in the selection process for the positions of principal and acting principal respectively, at the Elizabeth Vale School since December 2003, including any process relating to the appeal by the former principal, Ms O'Connor;
   (b) the conduct and involvement of the minister and ministerial staff in this matter;
   (c) the conduct of any Australian Education Union representative involved in the appointment process of a principal and acting principal respectively;
   (d) the conduct of any person identified above involved in the management or operation of the school since January 2006, with particular emphasis upon the
   (i) management of family grievances;
   (ii) provision of learning programs;
   (iii) management and duty of care of students;
   (iv) management of the school's budget;
   (v) level of consultation with the school's governing council
   (e) establishing appropriate selection guidelines and processes for future appointment of principals and acting principals in all public schools including increasing the level of community representation in the process; and
   (f) any other relevant matter.
2. That in the event of a joint committee being appointed the Legislative Council be represented thereon by three members, of whom two shall form a quorum of council members necessary to be present at all sittings of the committee.
3. That the joint committee be permitted to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the parliament; and
4. That a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence thereto.

On 29 April I chaired a meeting that was organised by a number of parents of the Elizabeth Vale School who were concerned about matters in relation to the selection process of a new principal, and the fact that Ms Lisa Jane O'Connor, the school principal, was not selected. That puts it in quite broad terms.

The Hon. Vicki Chapman also played a role as a principal speaker at that meeting. My parliamentary colleague, the Hon. Ann Bressington, was there. She has a particular interest in that area as it is where DrugBeat is based, and she has very close links to that community. Dr Duncan McFetridge, the shadow minister for education, was also present at the meeting. There were about 60 people at that meeting. They expressed concerns and some very passionate views were given about the process, the way the Education Department handled (or may not have handled) the process and whether or not it was appropriate.

I say at the outset that I propose to seek leave to conclude my remarks, given that currently a mediation process is either under way or in the process of being implemented. I received further confirmation of that from one of the advisers of the Minister for Education and Children's Services earlier today, and I am grateful for that advice. However, I do not resile from my position; that is, I believe that it is important that there be an inquiry with these terms of reference. I have moved it in an amended form because I note that the member for Morphett moved it in that form in the other place and, whilst there were some minor variations, I thought for the purpose of consistency that it is important that the motion be moved in identical terms. I have no difficulty with the relatively minor differences between my initial motion and the motion moved in the other place by Dr McFetridge.

Essentially this relates to broader issues, one being the method of selection of a school principal, including the method of advertising, the processes and also the input of a local community. One of the speakers at the public meeting, Karen Gordon from the school council, the parents' representative, made a number of points about her concerns. I understand that she is part of the mediation process, and that is a good thing. I do not think it is appropriate for me to comment much further on this particular motion, given that a mediation process will be put in place and it will be explored in the coming weeks. I sincerely hope that there will be a satisfactory resolution.

Clearly there are two sides to every story, but at this meeting I was struck by the number of parents who approached me, who spoke at the meeting and who felt that the previous principal, Ms O'Connor, did make a significant difference to their children's lives; that she turned children's lives around by the way in which she dealt with them and the way in which she managed the school as principal. Clearly she has a significant degree of support amongst sectors of the school community. Other views were critical of Ms O'Connor. I do not seek to personalise the debate, but clearly there are two sides. However, there are some fundamental issues about the school, the selection process in public schools generally for principals and the processes involved. I believe that an inquiry such as this would get to the truth of the matter.

Having said that, if this matter is resolved via mediation (as I hope it will be), then the concerns of those parents who approached the member for Bragg, the member for Morphett and, indeed, other local members, would no longer be an issue. It may well be that this motion will not have to be proceeded with if members of the school community feel that the process has been dealt with adequately through mediation. On that, I will be guided by the views of Karen Gordon from the school council who has been a spokesperson in many respects for members of the school community and whose views I would value. On that basis, I seek leave to conclude my remarks.

Leave granted; debate adjourned.

CRIMINAL LAW (SENTENCING) (VICTIM IMPACT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 May. Page 64.)

The Hon. R.P. WORTLEY: This bill amends section 7A of the Criminal Law (Sentencing) Act so that a person who has suffered injury, loss or damage resulting from a prescribed summary offence can furnish the trial court with a victim impact statement. A prescribed summary offence is a summary offence that has caused the death of, or serious harm to, a person. The amendment would apply to proceedings for an offence whether the offence was committed before or after the commencement of the amending act, provided the defendant has not been sentenced for the offence before the commencement of the act. The bill would also insert a new subsection (3b) into section 7A, so that where a victim asked for the defendant to be present in court when the victim impact statement was read out, the court must ensure that the defendant attends.

The government agrees with the principle underlying these amendments. However, it thinks that there are still matters which need to be worked through. For example, unlike section 9B of the act, new subsection 7A(3b) does not permit the prosecution and the defence to agree that the defendant may be absent. Nor does it allow a court to exclude the defendant from the courtroom when it considers that it is necessary in the interests of safety or for the orderly conduct of the proceedings. It is intended that a victim's request would override the court's view that a defendant should be excluded in the interests of safety. I would expect the courts to have a view on this and so they should be consulted.

At the election, the government promised several major reforms to improve the treatment of victims in the criminal justice system. The government will soon introduce a comprehensive package of amendments to fulfil its election promises. Under the government's proposed legislation, a new, independent office of the commissioner for victims rights will be created. The commissioner for victims rights will:

- personally, or through counsel, make submissions at the sentencing stage on the impact of the crime on victims and victims' families in cases resulting in the death or permanent total incapacity of the victim;
- make submissions to the Court of Criminal Appeal when it is asked to set guidelines for sentencing a particular type of offence;
- consult the Director of Public Prosecutions on the interests of the victims in general, and in particular cases about victim impact statements and plea bargaining arrangements;
- consult with the judiciary about court practices and procedures and their effect on victims;
- monitor the effect of the law on victims and victims' families;

- make recommendations to the Attorney-General arising from the performance of the functions of the commissioner.

Victims of crime will also be given the right to be properly consulted about any charge bargaining between the defence and prosecution. The government will also give victim of crime advocates the legal right to make victim impact submissions at the sentencing hearing in cases that result in the death or total permanent incapacity of the victim. The prosecution will be able to obtain and present community impact statements to the court during sentencing submissions.

The government is committed to justice for victims. Its proposed amendments reflect that commitment. The government supports the sentiment behind this bill, but it does not think it goes far enough in providing justice for victims. The government believes that it would be better for these important reforms for victims to be dealt with in a coordinated manner rather than a piecemeal approach.

The Hon. A.M. BRESSINGTON: I rise to make a second reading contribution on this bill. According to the victim impact statements in South Australia by Edna Erez, Leigh Roeger and Michael O'Connell, South Australia was the first Australian state to legislatively introduce victim impact statements. The new law took effect in January 1989, and requires that victim impact statement material be put before the court by prosecutors so as to inform the judge of any physical or mental harm and any loss or damage to property suffered by a victim as a result of a crime. In August 1979 the government established a committee of inquiry on victims of crime to review the needs of crime victims and to recommend the most effective response to these needs.

The committee, which reported in 1981, recommended, among other things, that prior to sentence the court should be advised as a matter of routine of the effects of the crime upon the victim. The committee observed that, on an accused pleading guilty, the sentencing court would not ordinarily receive information regarding the victim's physical, economic or mental wellbeing yet that information was relevant to the determination of the sentence. The provision of victim information during the sentencing process was justified by the Attorney-General on a number of grounds.

I believe that allowing victims to participate in the justice process may reduce feelings of retribution and any alienation and dissatisfaction that victims feel in their contact with the criminal justice system. The amendment to this bill provides the opportunity for victims who have suffered injury, loss or damage to furnish the trial court with a statement about the impact of that injury, loss or damage on themselves or their family. The value of allowing grieving family members to express their grief and loss openly and in front of the perpetrator in many cases may assist them to move past the feeling of being immobilised and having no constructive process to support them to heal emotionally. These are the reasons why I support this bill.

The Hon. R.D. LAWSON: I rise to indicate support for this bill, and I commend the Hon. Nick Xenophon for introducing it. It is a pity that the government seems to have adopted a somewhat churlish attitude to this important improvement in a system of victim impact statements. The Hon. Mr Wortley indicated that the government thinks that other things ought to be done: it wants to go further. If that is the case, I would like to see it move some amendments. I am sure the Hon. Nick Xenophon and the council during the committee stage would consider those amendments, if the government wishes to amend the bill.

It is interesting that the Hon. Mr Wortley mentioned things such as the establishment of a commissioner for victims' rights—something I seem to recall in the last parliament the Hon. Nick Xenophon was promoting and flagging, yet at that stage the Attorney-General was saying was entirely unnecessary. He said that we have a victims of crime coordinator who is fulfilling this function quite adequately and there is absolutely no need for any change. Now, of course, we hear the government saying that it wants to introduce a commissioner for victims' rights.

The Hon. Mr Wortley, in indicating the government's position today, has suggested that one of the infirmities of the bill is that the victim would appear to have a right to make a request which the court cannot override. I might not have entirely understood what he was saying in relation to that matter, but I think it is important that victims' requests be given paramount consideration in matters such as this. I think it is a pity that the government has adopted the rather dog-in-a-manger approach to this measure.

The Hon. Ann Bressington briefly outlined the history of victim impact statements in South Australia. Therefore, I will not repeat that material, but it is worth remembering that we in this state do have a proud history of supporting victims' rights under governments of both persuasions over very many years. I think it is undoubtedly the case that our understanding of the importance of victims' rights is something that has only fairly slowly evolved, but I believe there is now widespread community support for victim impact statements and acknowledgment of effective victims' rights. The Hon. Ann Bressington mentioned the importance of a victim impact statement from the victims' point of view.

I think we ought to recognise also that it is an important measure for the convicted person. The convicted person should have brought home to him (usually him) in the most graphic and personal way the consequences of his actions. He should confront that. I believe that is important. That is now an important function of a criminal trial. While I would always agree that the rights and interests of a victim are paramount in this particular situation, we ought to realise that the act of making a victim impact statement is not simply something for the therapy of the victim: it is an important public function of the criminal justice system to have brought home to the offender the nature and consequences of his actions.

There may be an opportunity to amend this legislation, which I would be very happy to discuss with the Hon. Nick Xenophon and which may enable victims to make a victim impact statement, not in the physical presence of the offender but by means of closed circuit television or other means, because there are occasions where a victim wishes to present a case forcibly to the offender, but the very fact of having to confront the offender in the courtroom might be itself another form of revictimisation.

The Hon. Nick Xenophon in his second reading contribution mentioned Julie McIntyre, the mother of a young man killed in a motor vehicle collision, as a result of which the driver of a vehicle was charged with a driving offence. That person pleaded guilty to that offence and was not required to be in court when the victim impact statement was read out. I spoke to Ms McIntyre about this tragic case and I too acknowledge the trauma she and her family suffered and admire her for her courage in persisting with a campaign for the introduction of a measure of this kind. She has been a

dedicated fighter for this cause and, although it will be of little real solace to her in the loss she and her family have suffered, this measure will in some way assuage some of the grief they have suffered.

It is also fair to say by general comment as a member of the legal profession that, initially, victim impact statements were not kindly regarded by either the judiciary or the criminal bar. They were seen as in some way altering the sacred nature of a criminal trial and as breaking down the notion that the victim was merely a witness in a criminal process. Whilst they would always suggest that the court did take into account the effect on victims of crimes, they fail to appreciate—although I think they do now appreciate—the important additional elements of a victim actually participating as a victim in the trial process. Very often the victims were not witnesses or might not be called as witnesses, especially in cases where the accused pleaded guilty.

The resistance that initially applied to victim impact statements has largely evaporated, and I welcome that development. I look forward to the committee stage of the bill and indicate that I will certainly support it, but I have an open mind towards amendments. If this procedure can be improved, I will be keen to take part in those discussions in committee.

The Hon. S.G. WADE: South Australia has a long tradition of promoting justice. Since the parliament was established almost 150 years ago, it has pioneered reforms to give greater justice to a number of groups in our community. My maiden speech highlighted this tradition of innovation in electoral law. This tradition of reform has also been evident in other areas of the law. The place of victims in the criminal law justice system is a case in point.

In 1988, South Australia became the first state in Australia to introduce victim impact statements under the Criminal Law (Sentencing) Act, which came into place in 1989. Under the British system of justice, on which our legal system is based, breaches of the criminal law are handled by the state rather than by the victim. It is the state which identifies the perpetrator, prosecutes the accused and presents the case against the defendant. The rationale for this approach is that criminal law offences are seen to be first and foremost offences against society as a whole. However, one of the consequences of this approach is that victims can become invisible in the court's proceedings and become no more than a witness in the witness box—just another witness to be examined who can only answer the questions put to them.

A victim is not just another witness. The impact that a crime can have on a victim is often profound and enduring. We must do what we can in managing the justice system to try to lessen that impact. Giving victims an opportunity to make a statement on the impact the crime has had on their life is an important part of redressing the impact. It is part of restorative justice.

While the state is the prosecutor—and I do not advocate any change to this approach—it is nevertheless important that a victim be given the right to speak their mind and put their situation to the court on the impacts the offence has caused them. In short, society has an interest in giving a voice to victims. It is a matter of justice. We need to ensure that the operation of victim impact statements is not allowed to undermine the intent of this parliament in relation to these statements.

The Criminal Law (Sentencing) (Victim Impact) Amendment Bill put forward by Mr Xenophon highlights a problem in the operation of the statements. Clause 4 of the bill proposes to amend section 7A of the act and states that the court must, if the person so requested when furnishing the statement, ensure that the defendant is present when the statement is read out to the court. This is a very sensible amendment.

It is often not easy for a victim to speak publicly about their ordeal. The absence of the defendant can undermine the effectiveness of the statement in alleviating the distress of the victim. As the Hon. Mr Xenophon asked in presenting the bill: is it appropriate that anyone charged should, at least at the time of sentencing, face the victim or the victim's family when the person is deceased and listen to a victim impact statement? I agree with Mr Xenophon that the defendant should be present and I support the amendment.

In closing, I pay tribute to the work of the Victim Support Service. The VSS is a community based, not-for-profit organisation that works with victims, including those who are desirous of preparing a victim impact statement. Each year the service provides direct services to 3 000 victims. I understand that in the calendar year 2004 demand for services increased by 4 per cent, continuing a growth in seven consecutive years. I commend the service for its work. Also, I commend the Hon. Mr Xenophon for bringing this amendment before the council, and I indicate my support for the bill.

The Hon. D.G.E. HOOD: For the reasons outlined by the Hon. Mr Wade, I indicate that Family First will support the bill. We commend the Hon. Mr Xenophon on the bill. It is a very worthwhile addition to the laws of our state.

The Hon. NICK XENOPHON: I thank members for their contributions to this bill, particularly those members who have expressed their support. The matters raised by the Hon. Mr Wortley, as I understand it, set out the government's position. My understanding is that the government has concerns about safety in this bill. Obviously, we will look into those concerns, but the security concerns that already exist are not amended by this bill. As expressed by the Hon. Mr Wortley, the government's position is that this is a piecemeal approach. I fundamentally disagree with that. This is sensible reform that stands alone.

I hope that government members will remember that, currently, if someone is killed or seriously injured in a workplace accident they have no right whatsoever to make a victim impact statement or to make the defendant or the directors of a company liable to attend before the court, and that needs to be rectified. I am grateful to the Hon. Ann Bressington for outlining the history of victim impact statements in the state. I am also grateful to the Hon. Mr Lawson for his expression of support, and the very sensible suggestion that there may need to be some amendments. He gave the example of closed circuit television cameras so that the victim is not re-traumatised by coming face-to-face with the defendant—perhaps a vicious offender, particularly in cases of violent, sexual assault.

The Hon. Mr Wade made a point about the visibility of victims, that they are not simply witnesses, and the profound and enduring impact of a crime. Notwithstanding the fact that Julie McIntyre's son, Lee, was killed, the charge was driving without due care. I can assure every member in this chamber the devastating impact the death of her son has had not only on Julie and her husband but also on Lee's partner, his child, his entire family and his workmates. That is why it is

important that we get on and implement this legislation. I am open to amendments being moved in committee that will improve the bill, but let us not delay this.

Let us not use the excuse that there is another omnibus bill coming forward and that we should all wait for that. I say with absolute respect to the Hon. Mr Wortley that I do not think that it is the case that the government is the font of all wisdom when it comes to fundamental reforms. This legislation ought to have bipartisan support. I hope that this legislation is implemented and passes the other house sooner rather than later.

Bill read a second time.

UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT (NATURAL RESOURCES COMMITTEE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 May. Page 157.)

The Hon. G.E. GAGO (Minister for Environment and Conservation): On behalf of the government, I respond to the Hon. Sandra Kanck's bill. The Upper South-East Dryland Salinity and Flood Management (USE) Program was established with clear and robust frameworks, which includes oversight of the ERD committee. The program board reports quarterly to both the South Australian and Australian governments through the Joint Steering Committee for National Action Plan for Salinity and Water Quality. In addition, through the Minister for Environment and Conservation, it reports to both the Public Works Committee and the Environment, Resources and Development Committee.

This bill seeks to move the oversight of the USE program from the Environment, Resources and Development Committee to the Natural Resources Committee. In moving this bill, the Hon. Sandra Kanck said that the ERD committee has a heavy workload (which it does, having been a former member of that committee) of planning issues, and that the Natural Resources Committee has more time to deal with this issue. It is also noted that, when the Upper South-East and Dryland Salinity Act was passed in 2002, the Natural Resources Committee was not established.

However, since the establishment of these reporting arrangements, the ERD committee has received regular quarterly reports and detailed briefings and submissions from a range of interested parties. This has provided the committee with the opportunity to examine and understand a wide range of landholder views and perspectives as well as scientific and environmental management knowledge. Although the membership of the committee has changed somewhat since the resumption of parliament, the chair, one other member and the secretary remain the same, thus providing some level of continuity. The ERD Committee is formed to deal not only with planning issues; it is charged to investigate matters relating to the environment, land use and conservation. The committee also investigates how the quality of the environment might be better protected and improved and gives consideration to the general development of the state. To date, the ERD Committee has very ably fulfilled its role of oversight of the Upper South-East program and provided advice to the minister.

There are many natural resource issues in our state to be considered. With the introduction of eight NRM boards by this government, we have entered a new era of working with local communities to proactively manage and conserve the natural environment. The boards are about to enter a new community consultation process to develop and manage plans for their regions and this will no doubt produce many exciting opportunities and innovative local proposals. I encourage the Natural Resources Committee to take an active interest in these and other natural resource issues throughout South Australia, and I have no doubt that the workload of the committee will be significant. The government considers that the oversight of this important environmental project should be retained by the ERD Committee. Therefore, the government opposes this bill.

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

TAXATION, PROPERTY

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

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

(Continued from 10 May. Page 160.)

The Hon. R.P. WORTLEY: The motion proposed by the Hon. Rob Lucas is to reinstate the inquiry into property taxes levied by state and local governments, which was commenced in the previous parliament. The scope of the inquiry includes: the level of property tax collections and options for moderating their impact and the impact of any future increases; inequities in the land tax system, including impacts on investment and rental markets; the efficiency, accuracy and equity of the property valuation system; tax alternatives to property taxes; the level of council rates and the scope to limit future increases ; and any other related matters.

Property-based taxes are widely used in both Australia and other OECD countries. In Australia, property taxes represent one of the few remaining broad-based taxes available to state governments, they are less distortionary than many other taxes and they have regard to the property owner's capacity to pay. The recent property market boom has been a national

phenomenon, the size and duration of which has exceeded expectations of market analysts and governments. Property markets are prone to strong cyclical forces and periodically a market correction occurs after periods of limited property value growth. This has been true of recent experience.

Strong growth in property values translates into improved net worth for individuals and businesses but also into higher revenue for state governments because of the extensive use of property-based tax collections. Inevitably, the cyclical nature of property market adjustments gives rise to increases in property tax bills, thus giving rise to calls for reviews of property tax arrangements. The government has already taken action to moderate the effects of the strong appreciation in property values on land tax. This government, like many before, has taken the view that discretionary tax adjustments (for example, the 2005 land tax reduction package) are the most effective way of dealing with property market spikes. Tax relief is, however, limited by the overall financial position of the budget and limited options for alternative ways of raising tax revenue.

The proposed inquiry also seeks to inquire into the capacity to replace property taxes with other unspecified taxes; however, property taxes account for about one-third of the state's taxation revenues, making revenue substitution difficult. State governments have long had to cope with inadequate taxing powers because of the commonwealth's exclusive right to levy taxes on goods (for instance, excise taxes) and the transfer of state income taxing powers to the commonwealth as part of wartime financial arrangements.

The range of taxes available to the states is further diminished as a result of national tax reform undertakings contained in the Intergovernmental Agreement for the Reform of Commonwealth-State Financial Relations (the IGA). The government announced in the 2005-06 budget a timetable for the abolition of various stamp duties, including mortgage and rental duty, share duty on non-quoted marketable securities and non-real property transfers. This is in addition to the abolition of financial institutions duty from 1 July 2001; lease and cheque duty from 1 July 2004; and debits tax from 1 July 2005. The capacity to substitute property taxes with other alternatives is constrained, to say the least.

The principal tax sources available to state governments are limited to pay roll tax, property taxes, various motor vehicle taxes, insurance duty and gambling taxes. The proposed review of property taxes is also intended to include council rates and sewerage charges because of the property-based nature of these charges. In relation to council rates, the fact is often ignored that the driver of growth in council rates is budgeted expenditure of councils, not property value growth. Each council sets its budget annually to raise a particular amount of revenue to fund its determined level of expenditure. Property values are then used as a basis to distribute the rate burden across individual ratepayers. Thus, councils adjust their rate in the dollar to achieve their revenue target.

Typically, the rate in the dollar levied by councils has fallen as property values have escalated during the property boom. Similarly, sewerage charges are largely determined by the size of the capital investment required to provide a sewerage system. Property values are considered to be the best available method for distributing the cost of sewerage services across SA Water's customer base.

To conclude, the government considers that there is limited scope for changes to the current arrangements but it is not going to divide over this issue of re-establishing the Legislative Council select committee into property taxes.

The Hon. M.C. PARNELL: I have some comments in relation to all three committees but I will deal with them separately and will try not to repeat myself. My argument in supporting the re-establishment of all three is basically the same—that is, that they were established by the previous parliament, they did not conclude their business and, therefore, represent unfinished business. Considerable resources have already been invested in these three committees, and to a certain extent that investment would be wasted if these committees were not to finish their business. Witnesses have already given evidence in the committees and, hopefully, the committees can conclude their business rapidly and in the life of this parliament.

The property tax committee is a creature somewhat different from the other two in that it is based on an issue rather than alleged behaviour; however, I believe that, the committee having been started by the previous parliament, we owe it to the people who participated in that committee to allow it to be re-established in this parliament.

The Hon. R.I. LUCAS (Leader of the Opposition): I thank those honourable members who indicated their support for the re-establishment of the committee. As I understand it, the government's position is that they oppose the re-establishment of the committee but they will not divide on this. I do not propose to recap the arguments for this committee, other than to say that there is significant unfinished business. Certainly, in the early stages of the committee a lot of evidence was taken from witnesses in relation to the valuation system, which is the foundation of property taxes in South Australia for state and local governments, and for a number of us this led to significant concerns about how the current system operates.

Hopefully, this committee will be able to suggest potential policy changes to improve the operation of the valuation system for the future. Certainly, in relation to this committee—and, indeed, to the others—one hopes that, in addition to analysing the position as it exists, wherever possible there will be recommendations for policy changes to improve (or to prevent, in other committees' terms of reference) the operation of the valuation and tax systems for future governments—whether that be the current or alternative government.

Motion carried.

The council appointed a select committee consisting of the Hons B.V. Finnigan, I. Hunter, R.I. Lucas, S.G. Wade and N. Xenophon; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on Wednesday 20 September 2006.

The PRESIDENT: In accordance with the resolution of the council, I lay upon the table the evidence previously given to the Legislative Council Select Committee on Collection of Property Taxes by State and Local Government, including Sewerage Charges by SA Water.

AUDITOR-GENERAL'S REPORT

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

1. That a select committee be appointed to inquire into and report upon issues relating to allegedly unlawful practices raised by the Auditor-General in his Annual Report 2003-2004, and, in particular—

(a) all issues related to the operation of the Crown Solicitor's Trust Account and the $5 million 'interagency loan' between the Department for Administrative and Information Services and the Department for Water, Land and Biodiversity Conservation;
(b) whether the practices were in fact unlawful;
(c) the extent to which these practices have been used in other departments;
(d) issues of natural justice surrounding the treatment of Ms. Kate Lennon;
(e) why agencies were unable to meet statutory reporting deadlines;
(f) suggestions as to how the management of unspent funds should be approached in the future; and
(g) all other related matters.

2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.

4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating; and

5. That the evidence given to the previous Legislative Council Select Committee on Allegedly Unlawful Practices raised in the Auditor-General's Report 2003-2004 be tabled and referred to the select committee.

(Continued from 3 May. Page 67.)

The Hon. M.C. PARNELL: I support the re-establishment of this committee. The so-called 'stashed cash affair' raises serious issues about how public funds are handled and it is appropriate that the inquiry that was commenced in the last parliament be concluded. I have taken careful account of what the government has said about this committee and about the one we will discuss next. I know the government sees the re-establishment of these committees as nothing more than a politically motivated witch-hunt, and believes that keeping these committees going will reflect adversely on this chamber.

However, one person's witch-hunt is another person's accountability mechanism—it depends on whether you are the subject or the inquisitor. I think it would reflect worse on this chamber to have started something, to have taken a lot of evidence and used up a lot of resources, to have almost reached a conclusion and then bailed out before coming up with a final report. I support the re-establishment of the committee.

The Hon. NICK XENOPHON: I indicate that I support the re-establishment of this committee and the other committee. However, in relation to this matter, I wish to make the following points. There are issues of governance and the operation of trust accounts, in general terms, that have been raised by this committee. For the reasons outlined by the Hon. Mr Parnell, I think it is important that the committee complete its work. That does not mean to say that I do not have a number of reservations about the way in which evidence has been obtained to date and the way in which some aspects of the committee have been conducted.

I will seek leave to conclude shortly on the basis that, whilst some material has been provided to me in relation to concerns about the way in which evidence has been obtained, I believe that some further material will be provided to me, and I will undertake to speak on this next Wednesday. Also, I am not sure whether the government is proposing to move any amendments with respect to this motion. On that basis, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 5.53 to 7.47 p.m.]

ASHBOURNE, CLARKE AND ATKINSON INQUIRY

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

1. That a select committee of the Legislative Council be appointed to inquire into and report upon the following matters—

(a) Whether the Premier or any minister, ministerial adviser or public servant participated in any activity or discussions concerning—
   (i) the possible appointment of Mr Ralph Clarke to a government board or position; or
   (ii) the means of facilitating recovery by Mr Clarke of costs incurred by him in connection with a defamation action between Mr Clarke and Attorney-General Atkinson.

   (The activity and discussions and events surrounding them are referred to in these terms as 'the issues'.)
(b) If so, the content and nature of such activity or discussions.
(c) Whether the Premier or any minister or ministerial adviser authorised any such discussions or whether the Premier or any minister or ministerial adviser was aware of the discussions at the time they were occurring or subsequently.
(d) Whether the conduct (including acts of commission or omission) of the Premier or any minister or ministerial adviser or public servant contravened any law or code of conduct; or whether such conduct was improper or failed to comply with appropriate standards of probity and integrity.
(e) Whether the Premier or any minister or ministerial adviser made any statement in relation to the issues which was misleading, inaccurate or dishonest in any material particular.
(f) The failure of the Premier, Deputy Premier, the Attorney-General and the then minister for police to report the issue in the first instance to the Anti-Corruption Branch of SA Police.
(g) Whether the actions taken by the Premier and ministers in relation to the issues were appropriate and consistent with proper standards of probity and public administration and, in particular—
   (i) why no public disclosure of the issues was made until June 2003;
   (ii) why Mr Randall Ashbourne was reprimanded in December 2002 and whether that action was appropriate;
   (iii) whether the appointment of Mr Warren McCann to investigate the issues was appropriate;
   (iv) whether actions taken in response to the report prepared by Mr McCann were appropriate.
(h) What processes and investigations the Auditor-General undertook and whether the Auditor-General was furnished with adequate and appropriate material upon which to base the conclusions reflected in his letter dated 20 December 2002 to the Premier.
(i) Whether adequate steps were taken by Mr McCann, SA Police and the Office of the Director of Public Prosecutions to obtain from Mr Clarke information which was relevant to the issues.
(j) Whether the processes undertaken in response to the issues up to and including the provision of the report prepared by Mr McCann were reasonable and appropriate in the circumstances.
(k) Whether there were any material deficiencies in the manner in which Mr McCann conducted his investigation of the issues.
(l) Whether it would have been appropriate to have made public the report prepared by Mr McCann.
(m) The matters investigated and all the evidence and submissions obtained by and any recommendations made by the Anti-Corruption Branch of SA Police.

(n) Whether Mr Ashbourne, during the course of his ordinary employment, engaged in any (and, if so, what) activity or discussions to advance the personal interests of the Attorney-General and, if so, whether any minister had knowledge of, or authorised, such activity or discussion.

(o) Whether Mr Ashbourne undertook any and, if so, what actions to 'rehabilitate' Mr Clarke, or the former member for Price, Mr Murray De Laine, or any other person into the Australian Labor Party and, if so, whether such actions were undertaken with the knowledge, authority or approval of the Premier or any minister.

(p) The propriety of the Attorney-General contacting journalists covering the Ashbourne case in the District Court during the trial and the nature of those conversations.

(q) With reference to the contents of the statement issued on 1 July 2005 by the Director of Public Prosecutions, Mr Stephen Pallaris Q.C.—

(i) what was the substance of the 'complaint about the conduct of the Premier's legal adviser, Mr Alexandrides';

(ii) what was the substance of the 'telephone call made [by Mr Alexandrides] to the prosecutor involved in the Ashbourne case';

(iii) what were the 'serious issues of inappropriate conduct' relating to Mr Alexandrides;

(iv) whether the responses of the Premier, the Attorney-General or any minister or Mr Alexandrides or any other person to the issues mentioned in the Director of Public Prosecutions' statement were appropriate and timely; and

(v) whether any person made any statement concerning the issues referred to in the Director of Public Prosecutions' statement which was misleading, inaccurate or dishonest in any material particular.

(r) Whether it would be appropriate in future to refer any credible allegation of improper conduct on the part of a minister or ministerial adviser (that has not already been referred to the police) to the Solicitor-General in the first instance for investigation and advice.

(s) If the reference of such an allegation to the Solicitor-General would not be appropriate (in general or in a particular case) or would not be possible because of the Solicitor-General's absence or for some other reason, who would be an alternative person to whom it would be appropriate to refer such an allegation in the first instance for investigation and advice?

(t) Whether Mr Alexandrides assisted in framing the Terms of Reference for the Inquiry proposed by the government in the resolution of the House of Assembly passed on 5 July 2005.

(u) What action should be taken in relation to any of the matters arising out of the consideration by the inquiry of these terms of reference?

The select committee must not, in the course of its inquiry or report, purport to make any finding of criminal or civil liability.

2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being reported to the council.

4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating; and

5. That the evidence given to the previous Legislative Council Select Committee on the Atkinson/Ashbourne/Clarke Affair be tabled and referred to the select committee.

(Continued from 3 May. Page 68.)

The Hon. R.P. WORTLEY: I rise to oppose the establishment of the select committee, and the reason I do so is quite simple. Before the election this inquisition was going on. I was certainly interested in the election because I was a candidate for the upper house, so I asked many people for their views on the important things in their lives. Not one person out there in the electorate—and I spoke to literally hundreds—mentioned anything to do with Ralph Clarke and the Atkinson/Ashbourne affair.

The parties that pursued this matter vigorously (the Liberals and the Democrats) were absolutely devastated at the last election because people saw them as totally irrelevant to the whole political system. That was because their concentration was on something totally irrelevant to them; it was seen as a witch-hunt; it was seen as an inquisition; and they paid the brutal price at the last election. I think the opposition had 23 per cent of the vote, and that is probably the lowest vote in living memory.

The Hon. R.I. Lucas interjecting:

The Hon. R.P. WORTLEY: No, because I believe in natural justice, and I must say that I think it is a disgrace that this parliament is being used for an inquisition on probably one of the greatest attorney-generals this state has ever had. He has done the world of good for law and order in this state. The waste of time and money and effort going into a select committee just to have an inquisition is an absolute disgrace.

The Hon. Mr Parnell made a comment a little while ago that one man's inquisition is another man's accountability. I read some of the transcript—which is all on the public record—and some of the witness statements with regard to the select committee and there is no such thing as accountability in this select committee; it is an inquisition. There are people out there who, for their own personal interests, are using parliamentary privilege to attack people and, in particular, the Hon. Mr Atkinson.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: Well, if this committee is successful—

The Hon. R.I. Lucas interjecting:

The Hon. R.P. WORTLEY: Well, you've coaxed all the witnesses. They were all on the phone to you before they went into the witness box. If these people were in a court of law they would have been absolutely demolished by a lawyer, because it was such a disgraceful event to watch these people in there pushing their own agenda. It was so blatant. One of the fearful—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: I oppose this select committee. Of the 1 000 pages of testimony, I read about 90. I formed a conclusion very quickly on the witch-hunt and wrought that this committee established. I will tell you why the opposition wants to pursue this. It is because members opposite want to get the spotlight off their incompetence and internal factional differences, and they need something to turn it back on to a distinguished member of the Labor Party. It is obvious that the opposition members have made up their minds. They are quite prepared to waste taxpayers' money and our time in running these witch-hunts. The Independents are not here for that reason. They have been put in by their constituents to pursue certain issues—very important issues—and not this nonsense. The time of the members of this Legislative Council is far better spent on important select committees that investigate real issues instead of pursuing this witch-hunt, this inquisition. One of my frightening thoughts is that I might have to go on this committee. I have a lot more important things to do for the electorate—

An honourable member: You'll have to read the other 999 pages.

The Hon. R.P. WORTLEY: That is the problem. We do actually feel obliged to get out there to do some work. Obviously, members opposite do not.

The Hon. J.M.A. Lensink: You thought the mental health select committee wasn't important, either.

The Hon. R.P. WORTLEY: You only ever ask questions about mental health. There are more things in the world than just mental health issues. I implore the Independents on this one. Where there may be some merit in your minds for other select committees, when it comes to this one, it is an absolute disgrace—a witch-hunt. It has no basis; it never has. You only have to look at some of the witness statements to see what a disgrace this committee was. They almost admitted the fact that they were there to do damage to either Mr Clarke or the Hon. Mr Atkinson. I urge members to vote against this select committee.

The Hon. M.C. PARNELL: I do not have a great deal more to say than I said in relation to the two previous committees. I believe that this represents unfinished business. I take on board what the Hon. Mr Wortley has said. I understand that this committee has probably heard most of the witnesses that it needs to hear from, and that it is really a question of wrapping it up with probably fairly predictable reports. It would be a waste of taxpayers' money to have advanced the committee to such a stage that it is almost ready to report without letting it finally hand down its report.

The Hon. NICK XENOPHON: For the reasons I outlined regarding Orders of the Day: Private Business No. 7 in relation to the other motion moved by the Hon. Mr Lucas, I indicate that I will be supporting this select committee's being reinstated, in a sense. I have some reservations in respect of the terms of the process to ensure that it is a fair process and that there is a degree of objectivity regarding the gathering of evidence. I understand that the government may be considering some amendments, and some further material will be provided to me about some of the concerns about the evidence gathering process to date. For those reasons, I seek leave to conclude my remarks, on the basis that I complete my remarks next Wednesday.

Leave granted; debate adjourned.

Members interjecting:

The PRESIDENT: Order!

TOBACCO PRODUCTS REGULATION (PROHIBITED TOBACCO PRODUCTS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Environment and Conservation) obtained leave and introduced a bill for an act to amend the Tobacco Products Regulation Act 1997. Read a first time.

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

That this bill be now read a second time.

Tobacco smoking is unrivalled in terms of its impact on the health of a population. It kills and disables more people than any other human behaviour. It imposes substantial economic and social costs on the South Australian community and has been estimated to cost Australia $21 billion a year in health care, lost productivity and other social costs as well. Smoking is also the most significant cause of health inequities in Australian society, as it has the greatest impact amongst those in most need. Each week 30 South Australians die from illnesses caused by smoking tobacco, and smoking related illnesses account for 75 000 hospital bed days in South Australia each year.

A particularly alarming aspect of smoking in South Australia is the prevalence of smoking amongst our young people, which shows that young people are still taking up this behaviour in large numbers. The smoking rate for young people aged 15 to 29 years in South Australia is 21.7 per cent. The government is committed to addressing this issue. South Australia's Strategic Plan has a target to reduce the prevalence of smoking by our young people by 10 per cent over the next decade, and we are on track to achieve this target. The rate of youth smoking has reduced from 27.9 per cent in 2004 to 21.7 per cent in 2005, I am pleased to say.

Nevertheless, we still have a long way to go. This has come about because of a raft of strategies which this government has introduced, including legislation banning all forms of tobacco advertising and tightening the restrictions on tobacco sales to children. Whilst the government is experiencing considerable success in this area, youth smoking rates are still too high and we must make further progress.

In 2005 the government became aware of the sale of flavoured cigarettes in South Australia. While flavouring has been added to tobacco for many years, recently distinctive fruit and confectionery flavoured tobacco products have emerged. Vanilla, strawberry and apple are a few of the tobacco flavours that are available for sale in South Australia. It is clear when inspecting the products in question that they are likely to be very attractive and very appealing to young people. Reports have it that they are in fact very appealing to young people.

While the market in these products is minimal in South Australia at present, the potential for this market to grow is significant and of course the impact on young people's smoking rates is an issue that the government is not prepared to ignore. In the United States the flavoured tobacco product market is extensive. Flavours include coconut, pineapple, twista lime, caribbean chill, midnight berry, mocha taboo, and things like mintrigue. It is incredible that such glamorous names are used to describe such harmful and appalling products.

Like all the tobacco products, these new tobacco products still cause cancer and lung disease and have all the significant potential to encourage young people to try smoking cigarettes and thereby establishing another generation of smoking youth. There is also evidence emerging which shows the impact that these products are having in the United States. Researchers at the Roswell Park Cancer Institute in Buffalo, New York, recently released the results of several surveys which showed that 20 per cent of smokers aged 17 to 19 smoked flavoured cigarettes in the past month while only 6 per cent of smokers over the age of 25 did so. So we can see that correlation, that attraction to young people. Also 8.6 per cent of year 9 students in western New York state had tried cigarettes in the past month.

It is important that parliament introduces legislation that puts a stop to the sale of these products in South Australia. The longer we wait the greater the potential impact on our youth. The longer we wait the greater the impact a ban is likely to have on our retail sector. The government is being proactive in relation to this issue. Retailers and wholesalers will be provided with information to ensure that they are well informed of the new restrictions being introduced. We are confident that this proposed legislation will have minimal impact on the retail sector and will be an important initiative for the health of future generations. I commend the bill to

members. I seek leave to insert the explanation of clauses 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 *Tobacco Products Regulation Act 1997*

4—Insertion of section 34A

Proposed section 34A enables the Minister to declare, by notice in the Gazette, a class of tobacco products to be prohibited if the Minister is satisfied that the products, or the smoke of the products, possesses a distinctive fruity, sweet or confectionary-like character, and the nature of the products, or the way they are advertised, might encourage young people to smoke. The new section provides an offence of selling such a product. The maximum penalty for the offence is a fine of $5 000. Alternatively, an expiation notice with an expiation fee of $315 may be issued.

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

GROUNDWATER (BORDER AGREEMENT) (AMENDING AGREEMENT) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Environment and Conservation) obtained leave and introduced a bill for an act to amend the Groundwater (Border Agreement) Act 1985. Read a first time.

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

That this bill be now read a second time.

The purpose of the bill before us is to approve and ratify an amendment agreement to the Border Groundwater Agreement, the principal agreement. The amendment agreement is set out as a schedule to the bill. As honourable members will know the principal agreement entered into between the states of Victoria and South Australia in 1985 provided for the coordinated management of groundwater resources in the vicinity of the Victorian and South Australian border.

In most areas adjacent to the border, groundwater is the only reliable water source. Over the last 20 years, the principal agreement has provided a realistic and equitable framework for the intergovernment cooperation and development of long-term strategies for protection and sustainable harvesting of the groundwater resources in that border area. The principal agreement is expressed to operate in both states for a distance of 20 kilometres from the border and extending for its full length. This strip of border land, defined in the principal agreement as the designated area, will be 40 kilometres wide. It is divided into 22 zones, 11 in each state.

The principal agreement provides that the available groundwater resources be shared equitably between the two states. It applies to all existing and future bores in the designated area, except stock and domestic bores. Extraction licences or permits may not be granted or renewed within the designated area, other than in accordance with the management prescriptions set out in the principal agreement. The prescriptions limit water use in a particular zone to that specified as the permissible annual volume for total withdrawals from all aquifers, or to an average annual rate of potentiometric (or water) levels, as specified, or a permissible level of salinity.

Along the Victorian/South Australian border, groundwater occurs in two main aquifer systems comprising the tertiary confined sand aquifer and the tertiary limestone aquifer. The tertiary limestone aquifer is the primary source of groundwater for existing users. The use of the tertiary confined sand aquifer is generally limited to municipal supply, but there are increasing demands to use the aquifer where the tertiary limestone aquifer is fully allocated. The current management prescriptions were drafted with only the tertiary limestone aquifer in mind. They enable only broad-based management to be applied. This has served well to date but is no longer adequate due to the increased demand for groundwater resources and the need for more targeted management approaches that can be applied to specific circumstances, aquifer types, geological conditions and hydraulic conditions.

The amendments to the principal agreement proposed are as follows. First, to distinguish between the two aquifers and enable subzones to be established for more effective local management. Secondly, to allow management prescriptions to be set for the different aquifers and subzones within a zone. Thirdly, to simplify two of the management prescriptions that are unclear; and, finally, to update references to other legislation.

In conclusion, it is clear that the simple model set out in the principal agreement, which was developed in the eighties, has proved to be a sound basis of the equitable sharing of the resource. Both Victoria and South Australia have undertaken considerable investigations into the status and use of groundwater along the border and have established a sound framework for management of this important resource. The amendments to the principal agreement and the continuing goodwill of the contracting parties will ensure that the groundwater resources along our common border continue to be managed sustainably and effectively. I commend the bill to members. I seek leave to insert the explanation of clauses in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Groundwater (Border Agreement) Act 1985*

4—Amendment of section 4—Interpretation

This clause amends section 4 of the *Groundwater (Border Agreement) Act 1985* (the "Act") to provide for new definitions of ***Agreement*** and ***Amending Agreement***.

5—Insertion of section 5A

This clause inserts new section 5A into the Act to provide that the Amending Agreement is approved.

6—Amendment of section 12—Bores for observation and providing data

This clause updates a cross-reference to reflect the arrangements that now apply under the *Natural Resources Management Act 2004*.

7—Repeal of section 14

8—Repeal of First Schedule

These clauses repeal redundant material.

9—Substitution of heading to Second Schedule

This is a consequential amendment.

10—Insertion of Schedule 3

This clause inserts a new Schedule into the Act. The Schedule contains the Border Groundwaters Agreement Amendment Agreement as signed by the Premiers of Victoria and South Australia.

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

STATUTES AMENDMENT (NEW RULES OF CIVIL PROCEDURE) BILL

The Hon. P. HOLLOWAY (Minister for Police) obtained leave and introduced a bill for an act to amend the Supreme Court Act 1935, the District Court Act 1991 and the Magistrates Court Act 1991 to make certain procedural changes, and changes in terminology, that have become desirable in the light of the proposed new rules of civil procedure for the Supreme Court and the District Court; and to make related amendments to various other acts. Read a first time.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

The Supreme Court Act 1935 provides for any three or more judges of the Supreme Court to make rules that regulate the practice and procedure of the Supreme Court. The District Court Act 1991 contains a similar provision that allows the Chief Judge and any two or more other judges to make rules regulating the practice and procedure of the District Court. Over the years the existing rules of civil procedure for both the Supreme and District Courts have been completely rewritten.

The new rules have been drafted by the Joint Rules Advisory Committee in consultation with judges, staff of the court and members of the legal profession. The reason behind the new rules is to have rules of court that are in plain English and are arranged in a logical order, and an order that is easy to follow. They have been drafted with those aims in mind and with a view to removing archaisms and anything that obscures their meaning and operation. There are many acts that refer to court procedures and use words that no longer appear in the court rules.

The Hon. Caroline Schaefer: Like 'archaisms'!

The Hon. P. HOLLOWAY: Exactly. These discrepancies will be increased by the new Supreme Court and District Court rules that are expected to come into force this year. The Statutes Amendment (New Rules of Civil Procedure) Bill 2006 is designed to amend those acts so that they are consistent with the new rules of civil procedure. The bill will ensure that the statute book does not refer to discontinued practices or archaic terms. Terms such as motion, petition, ex parte and leave are no longer used. The bill removes these terms from various acts and, where appropriate, substitutes replacement terms. For example, both section 60 of the Trustee Act 1936 and section 47 of the Administration and Probate Act 1919 provide for legal proceedings to be commenced by petition.

The bill will update those acts so that they provide proceedings to be commenced by application, rather than petition. The bill also makes amendments to clarify uncertain or ambiguous provisions. For example, section 350 of the Criminal Law Consolidation Act 1935 provides that an application to have a relevant question reserved for consideration by the Full Court may be made. However, it is not clear how such an application might be made. The bill amends section 350 so that it is clear how an application is to be made.

The bill removes redundant provisions. For example, section 26 of the Royal Commissions Act 1917 provides that there may be an appeal in respect of proceedings in respect of offences against the act. However, because both the District Court Act 1991 and the Magistrates Court Act 1991 provide a right of appeal to parties to criminal actions, section 26 is unnecessary. The bill repeals section 26. I commend the bill to members. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that operation of the Act will commence on a day to be fixed by proclamation. Section 7(5) of the *Acts Interpretation Act 1915*, under which the Act or any provision of the Act would ordinarily come into operation on the second anniversary of the date of assent unless brought into operation at an earlier time, will not apply in relation to the commencement of the Act or any provision of the Act.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Supreme Court Act 1935*

The amendments proposed to be made to the ***Supreme Court Act 1935*** by Part 2 of this Bill remove terminology that is not used in the *Supreme Court Rules of Civil Procedure* and is no longer to be used in legislation. For example, the definition of ***petitioner*** is removed from **section 5** (Interpretation). The word "petitioner" is deleted wherever it appears in the Act; "leave" is replaced with "permission"; and "motion" is replaced with "application".

The definition of ***plaintiff*** is recast so as to remove references to the words "action", "suit", "petition" and "motion".

Subsection (1) of **section 49** (to be renamed "Questions of law reserved for Full Court") is recast so that it refers to "reservation of a question of law" rather than "any case or any point in a case". The new subsection provides that the court constituted of a single judge or master may reserve a question of law for the consideration of the Full Court.

It is proposed to delete existing **section 50** and substitute a new section. Under the proposed new section, an appeal lies to the Full Court against a judgment of the court constituted of a single judge; and an appeal lies against a judgment of the court constituted of a master. An appeal against a judgment of a master is ordinarily to the Court constituted of a single judge but may, if the rules so provide, be to the Full Court.

There is no right to appeal against—

- an order allowing an extension of time to appeal from a judgment; or
- an order giving unconditional permission to defend an action; or
- a judgment that is, by statute, under the rules, or by agreement of the parties, final and without appeal.

An appeal cannot be made from a consent judgment or a judgment given by a single judge from a judgment of the Magistrates Court unless the court grants permission to appeal.

The proposed section also provides that an appeal lies only with the permission of the court if the rules provide that the appeal lies by permission of the court. However, the rules cannot require the court's permission for an appeal if the judgment under appeal—

- denies, or imposes conditions on, a right to defend an action; or
- deals with the liberty of the subject or the custody of an infant; or
- grants or refuses relief in the nature of an injunction or the appointment of a receiver; or
- is a declaration of liability or a final assessment of damages; or
- makes a final determination of a substantive right.

However, if a judgment is given by a single judge on appeal from some other court or tribunal, the rules may require the court's permission for a further appeal to the Full Court even though the judgment makes a final determination of a substantive right.

Section 51 is repealed. This section provides that an application for permission to appeal may be made without notice unless the judge or the Full Court otherwise directs. The section is to be deleted because it is proposed that all applications for permission to appeal are to be heard on notice.

Section 72 (Rules of court) is amended to allow the making of rules to empower the court to do the following:

- to order the carrying out of a biological or other scientific test that may be relevant to the determination of a question before the court;
- to include in such an order directions about the carrying out of the test and, in particular, directions requiring a person (including a party to the proceedings) to submit to the test or to have a child or other person who is not of full legal capacity submit to the test;
- if a party is required to submit to the test, or to have another submit to the test—to include in the order a stipulation that, if the party fails to comply with the order, the question to which the test is relevant will be resolved adversely to the party.

Part 3—Amendment of *District Court Act 1991*

The clauses included in Part 3 amend the *District Court Act 1991*. The recasting of subsection (3) of **section 43** (Right of appeal) makes it clear that an appeal against a judgment of the District Court lies as of right, or by permission, according to the rules of the appellate court. In the case of an appeal against a final judgment of the Court in its Administrative and Disciplinary Division, permission is required to appeal on a question of fact.

It is also proposed to insert into **section 51** (Rules of court) provisions in identical terms to those to be inserted in section 72 of the *Supreme Court Act*.

Part 4—Amendment of *Magistrates Court Act 1991*

A minor amendment is proposed to **section 40** (Right of appeal) of the *Magistrates Court Act 1991* to delete the word "leave" and substitute "permission".

This Part also amends **section 49** (Rules of Court) by inserting into the section provisions in similar terms to those to be inserted in section 72 of the *Supreme Court Act* and section 51 of the *District Court Act*.

Part 5—Amendment of *Administration and Probate Act 1919*

The amendments proposed to be made to the *Administration and Probate Act 1919* remove terms that are no longer to be used, such as "motion", "petition", "*ex parte*" and "leave", and, where necessary, substitute replacement terms.

Part 6—Amendment of *Aged and Infirm Persons' Property Act 1940*

The amendments proposed to be made to the *Aged and Infirm Persons' Property Act 1940* remove terms that are no longer to be used, such as "*ex parte*", "of its own motion", "at the suit" and "by leave", and, where necessary, substitute replacement terms.

Part 7—Amendment of *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

The amendments made to section 20 of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981* modify the language of the existing provision so that an arbitrator may refer a question of law for the opinion of the Full Court of the Supreme Court.

Parts 8 to 15

The amendments made by the clauses included in Parts 8 to 15 remove from the Acts to be amended terms that are no longer to be used, such as "*ex parte*", "of its own motion" and "by leave", and, where necessary, substitute replacement terms. For example, "of its own motion" is replaced with "on its own initiative" and "by leave" is replaced with "with the permission".

Part 16—Amendment of *Commercial Arbitration Act 1986*

Most of the amendments to the *Commercial Arbitration Act 1986* have the effect of changing "leave" to "permission". Part 16 also recasts subsection (6) of **section 3** to make it clear that a court that refers a matter to arbitration may direct that the Act is to apply to the arbitration. In the absence of such a direction, the Act will not apply. New subsection (7) provides that the Act does not apply to an arbitration under the *Fair Work Act 1994* or an arbitration or class of arbitrations prescribed by the regulations as an arbitration, or class of arbitrations, to which the Act does not apply. The opportunity has also been taken to update obsolete references in the Act (such as, references to "local courts") and repeal the Schedule, which is otiose.

Parts 17 to 21

Most of the amendments made by the clauses included in Parts 17 to 21 remove from the Acts to be amended the word "leave" and substitute "permission". An amendment is also made to Schedule 4 of the *Co-operatives Act 1997* to replace "of its own motion" with "on its own initiative".

Part 22—Amendment of *Criminal Law Consolidation Act 1935*

The majority of amendments made to the *Criminal Law Consolidation Act 1935* substitute the word "permission" for "leave". An amendment is also made to **section 281** to remove the words "demurrer" and "motion" and substitute "application". An amendment is also made to **section 364** to remove the phrase "case is stated".

More significant amendments are made to sections 350 and 352. It has been noted that subsection (2) of **section 352** (Right of appeal in criminal cases) is an historical anachronism. This subsection provides that if an appeal or application for leave to appeal is made to the Full Court under section 352, which provides a right of appeal in certain specified circumstances, the Full Court may require the trial court to state a case on the questions raised in the appeal. This seems unnecessary as, in any event, questions in an appeal can go to the Full Court as of right or with the permission of the Court and there is therefore no need to retain the power of the Full Court under section 352(2) to direct the trial court to refer questions in an appeal to the Court. It is therefore proposed that the subsection be repealed.

Section 350 (Reservation of relevant question) refers to section 352(2) and has therefore been re-drafted. This section provides that a court by which a person has been, is being or is to be tried or sentenced for an indictable offence may reserve a relevant question for consideration and determination by the Full Court.

The section as presently drafted implies in subsection (2)(a) that an application to have a relevant question reserved for consideration by the Full Court may be made under the section. However, it is not clear how such an application might be made under the section (other than where the Attorney-General or Director of Public Prosecutions has made an application following an acquittal). The provision also suggests that the Full Court may require a trial court to reserve a question for its consideration on an application under another provision. The only provision under which such an application might be made is section 352(2), that is, the provision that is to be repealed. Section 350 has therefore been recast so that no reference is made to section 352(2) and the circumstances in which an application may be made under the section are specified. Under the proposed new section, an application for an order to require a court to refer a relevant question to the Full Court may be made to the Full Court by the Attorney-General, the Director of Public Prosecutions or a person who—

- has applied unsuccessfully to the primary court to have the question referred for consideration and determination by the Full Court; and
- has obtained the permission of the primary court or the Supreme Court to make the application.

Parts 23 to 50

The amendments made by Parts 23 to 50 remove from the Acts to be amended terms that are no longer to be used, such as "*ex parte*", "of its own motion", "suit" or "at the suit", "state a case on" or "case stated" and "by leave", and, where necessary, substitute replacement terms. For example, "of its own motion" is replaced with "on its own initiative"; "by leave" is replaced with "with the permission"; and "state a case on" is replaced with "refer". The term "ex parte" is replaced with words that make it clear that an application or order may be made without notice to a party.

Part 51—Amendment of *Mines and Works Inspection Act 1920*

Sections 25 and **26** of the *Mines and Works Inspection Act 1920* are redundant and are to be repealed. Section 25 provides that there may be an appeal in respect of proceedings in respect of offences against the Act. This section is unnecessary because rights of appeal to the Supreme Court for parties to criminal actions are included in the *Magistrates Court Act 1991* and the *District Court Act 1991*. Section 26, which provides that a special case may be stated in the event of an appeal, is redundant as relevant rules and requirements in respect of appeals and questions of law are to be found in other legislation and the Supreme Court Rules.

Parts 52 to 57

The amendments made by the clauses included in Parts 52 to 57 remove from the Acts to be amended the terms "leave" or "by leave" and substitute "permission" or "with the permission".

Part 58—Amendment of *Optometrists Act 1920*

Sections 42, **43** and **44** of the *Optometrists Act 1920* are redundant and are therefore to be repealed. Section 42 provides that proceedings in respect of offences against the Act will be disposed of summarily. This section is not necessary because offences against the Act are categorised by the *Summary Procedure Act 1921* as summary offences. Section 43 provides that there may be an appeal in respect of proceedings in respect of offences against the Act. This section is also unnecessary as rights of appeal to the Supreme Court for parties to criminal actions are included in the *Magistrates Court*

Act 1991 and the *District Court Act 1991*. Section 44 of the *Optometrists Act 1920*, which provides that a special case may be stated in the event of an appeal, is no longer required as relevant rules and requirements in respect of appeals and questions of law are to be found in other legislation and the Supreme Court Rules.

Parts 59 to 63

Most of the amendments made by the clauses included in Parts 59 to 63 remove from the Acts to be amended the terms "leave" or "by leave" and substitute "permission" or "with the permission". A reference to stating a case is removed from the *Police (Complaints and Disciplinary Proceedings) Act 1985*. The relevant provision will now state that a question of law may be referred by the Police Disciplinary Tribunal for the opinion of the Supreme Court.

Part 64—Amendment of *Real Property Act 1886*

A number of amendments are to be made to the *Real Property Act 1886* to remove terminology that is no longer to be used. Some provisions (**section 191** and **section 223**) have been redrafted, without changing the effect of the provision, so that, in addition to removing redundant language, they can be more easily understood.

Sections 224 and **225**, which provide for the making of rules in respect of actions before the Supreme Court and the fixing of fees payable in respect of proceedings, are no longer required and are therefore to be repealed. **Schedule 21**, which contains rules and regulations for procedures in respect of caveats, is also repealed.

Parts 65 and 66

Parts 65 and 66 include amendments that remove terms such as "petition", "motion" and "leave" and substitute "application" or "permission", as appropriate.

Part 67—Amendment of *Royal Commissions Act 1917*

Sections 26 and **27** of the *Royal Commissions Act 1917* are redundant and are therefore to be repealed. Section 26 provides that there may be an appeal in respect of proceedings in respect of offences against the Act. Offences against the Act are categorised under the *Summary Procedure Act 1921* as summary offences. Section 26 is unnecessary because both the *District Court Act 1991* and the *Magistrates Court Act 1991* provide a right of appeal to the Supreme Court to parties to criminal actions. Section 27 of the *Royal Commissions Act 1917*, which provides that a special case may be stated in the event of an appeal, is no longer required as relevant rules and requirements in respect of appeals and questions of law are to be found in other legislation and the Supreme Court Rules.

Parts 68 to 76

The amendments made by the clauses included in Parts 68 to 76 remove terms that are no longer to be used, such as "leave", "petition", "motion" and "ex parte". There are many instances of the use of the word "petition" in the *Trustee Act 1936*; this word is removed and "application" substituted. Similarly, "applicant" is to be used instead of "petitioner".

Part 77—Amendment of *Unauthorised Documents Act 1916*

Sections 9, **10** and **11** of the *Unauthorised Documents Act 1916* are redundant and are therefore to be repealed. Section 9 provides that proceedings in respect of offences against the Act will be disposed of summarily. This section is not necessary because offences against the Act are categorised by the *Summary Procedure Act 1921* as summary offences. Section 10, which provides that there may be an appeal in respect of proceedings in respect of offences against the Act, is unnecessary because both the *District Court Act 1991* and the *Magistrates Court Act 1991* provide a right of appeal to the Supreme Court for parties to criminal actions. Section 11 of the *Unauthorised Documents Act 1916*, which provides that a special case may be stated in the event of an appeal, is no longer required as relevant rules and requirements in respect of appeals and questions of law are to be found in other legislation and the Supreme Court Rules.

Parts 78 to 81

The amendments made by the clauses included in Parts 78 to 81 remove terms that are no longer to be used, such as "leave", "petition" and "case stated". The terms "permission", "application" and "refer" or "reference" are substituted, as appropriate.

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

GAS PIPELINES ACCESS (SOUTH AUSTRALIA) (GREENFIELDS PIPELINE INCENTIVES) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Police): I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of the *Gas Pipelines Access (South Australia) (Greenfields Pipeline Incentives) Amendment Bill 2006* (Greenfields Bill) is to amend the *Gas Pipelines Access (South Australia) Act 1997* to provide greater certainty regarding the regulatory coverage of greenfields pipelines, thereby encouraging further investment in new pipelines.

The proposed greenfields amendments will aid the development of a strong, interconnected gas transmission network which is essential to the reliable supply of gas and improving competition in the gas market. Reliable supply of gas at efficient prices is essential to the community and to the ongoing competitiveness of South Australian businesses, small and large. Links with more remote gas fields will become essential over the medium term as demand grows and supply from closer fields diminishes.

The Gas Pipelines Access Act, which came into effect on 30 July 1998, is the lead legislation for the national scheme that regulates the provision of third party access to gas pipelines. The Gas Pipelines Access Act is designed to provide a degree of certainty as to the terms and conditions of access to the services of specific gas infrastructure facilities. Other than Western Australia, the States and Territories have passed legislation that applies the Gas Pipelines Access Act in their jurisdiction. Western Australia has passed legislation that is substantially the same as the Gas Pipelines Access Act.

As honourable members would be aware, South Australia is participating in the reform of the regulatory framework of Australia's energy markets. A national legislative framework for gas and electricity is being established on a collaborative basis between the Commonwealth, States and Territories under the Council of Australian Government's Australian Energy Market Agreement. The Greenfields Bill is consistent with the Australian Energy Market Agreement's framework for reform to the gas and electricity markets.

Under the current gas regime, a new pipeline is not subject to any regulation under the Gas Pipelines Access Act unless an application for coverage is made and assessed in accordance with the coverage criteria. An application can, however, be made at any point in time by a third party, which, in effect, creates regulatory uncertainty for investors in new pipelines.

Consequently, the Ministerial Council on Energy agreed to implement two measures specifically to improve regulatory certainty and to encourage investment in gas pipelines:

Binding no-coverage ruling

Under the proposed reforms, the proponent of a proposed greenfield gas transmission pipeline or distribution network could apply to the National Competition Council for an upfront coverage assessment. Following an assessment of the pipeline against the coverage criteria, the National Competition Council could make a recommendation to exempt a pipeline from regulation for 15 years. The process for the National Competition Council to arrive at its recommendation would include the extensive public consultation as is currently undertaken under the present coverage process, which includes a draft and final report by the National Competition Council and consideration by the Minister. Upon receiving a National Competition Council recommendation that the proposed pipeline does not meet the coverage criteria, the relevant Minister may provide a binding 15 year no coverage ruling in respect of the pipeline.

Consistent with recommendations by the Productivity Commission in the Review of the Gas Access Regime and current amendments to the Commonwealth *Trade Practices Act 1974*, the coverage criteria used in this Bill refer to the need for there to be 'a material' increase in competition resulting from coverage under the regime. The concern for both the National Access Regime and for this law is the doubt

that the current wording does not sufficiently address the situation where, irrespective of the significance of the infrastructure, coverage would only result in marginal increases in competition. Nonetheless, the new wording is consistent with current interpretations of the present coverage criteria such that the increase in competition required should be non-trivial before regulation is applied to a pipeline.

Price regulation exemption

The coverage assessment process for Ministerial decision on a binding no-coverage ruling may not be a sufficiently timely process to provide regulatory certainty for some gas pipeline projects.

To ensure that the regulatory regime does not inhibit new international pipelines proceeding to financial close, the Ministerial Council on Energy decided to implement the option of a 15 year price regulation holiday for greenfields gas pipelines.

Price regulation exemptions would only apply to international transmission pipelines which originate in another country and bring gas from a source outside Australia. An application for a price regulation exemption would be made to the National Competition Council, with the Commonwealth Minister making the final determination based on the National Competition Council recommendations. The public interest considerations for granting this exemption are broader than the existing coverage criteria.

If a price regulation exemption is granted, the proponent must still submit a limited access arrangement, which governs regulation of non-price access provisions and meets certain transparency requirements, to the Australian Competition and Consumer Commission for approval.

For both these exemptions, the incentive will lapse if the pipeline is not commissioned within 3 years. The incentives cannot be revoked unless the applicant misrepresented a material fact or failed to disclose material information. The proponent of a proposed pipeline will also need to submit a description of the project to allow the relevant Ministers to make informed decisions on granting the incentives. If for operational reasons the pipeline description needs to be varied, there is a process for a further approval to be sought from the Minister who granted the incentive before the pipeline is commissioned.

Honourable members should note that, later this year, in the Spring Session, the Government proposes to introduce to Parliament a larger legislative reform package which includes the new National Gas Law and amendments to the National Electricity Law.

The Greenfields Bill includes a definition of the National Gas Objective of the proposed National Gas Law, as an essential component for the assessment of the price regulation exemption.

The introduction into the South Australian Parliament of the Greenfields Bill illustrates this Government's commitment to improving energy market regulation, both at a state and national level, for the benefit all South Australians and all Australians.

I commend the *Gas Pipelines Access (Greenfields Pipeline Incentives) Amendment Bill 2006* to honourable members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that the measure will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Gas Pipelines Access (South Australia) Act 1997*

4—Amendment of section 10—Power to make regulations for the Gas Pipelines Access Law

Section 10(1) of the *Gas Pipelines Access (South Australia) Act 1997* provides that the Governor may make regulations for or with respect to any matter or thing necessary to be prescribed to give effect to the *Gas Pipeline Access Law* ("the Law"). New section 10(1), to be inserted by this clause, retains that existing power but includes an additional power for the Governor to make regulations contemplated by the Law.

5—Amendment of Schedule 1—Third party access to natural gas pipelines

Clause 5 amends the *Gas Pipeline Access Law* (Schedule 1). By virtue of section 7 of the Act, the Law applies as a law of South Australia.

The first amendment, which is to section 2 of the Schedule, is the substitution of a new definition of ***civil penalty provision***. This amendment is consequential on the proposal to insert into Schedule 1 new Part 3A. The new definition is substantially the same as the existing definition but includes a reference to proposed new section 13V(3).

The subject of proposed new **Part 3A** of Schedule 1 is greenfields pipeline incentives. This term is defined in new **section 13A** to mean a binding no-coverage determination or a price regulation exemption. A ***binding no-coverage determination*** is a determination under Division 2 of Part 3A. A ***price regulation exemption*** is an exemption under Division 3.

Section 13A includes a number of additional definitions. For example, a ***greenfields pipeline project*** is a project for the construction of a pipeline that is to be—

- structurally separate from any existing pipeline (whether or not it is to traverse a route different from the route of an existing pipeline); or
- a major extension of an existing pipeline that is not a covered pipeline; or
- a major extension of a covered pipeline to which the access arrangement for the covered pipeline will not apply.

A ***limited access arrangement*** is an access arrangement that does not include provision for price or revenue regulation but deals with all other matters for which the *National Third Party Access Code For Natural Gas Pipeline Systems* requires provision to be made in an access arrangement.

The ***national gas objective*** is defined by reference to **section 13B**, which states the objective is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas. This statement of the national gas objective is for the purposes of Part 3A only.

The ***pipeline coverage criteria*** are defined for the purposes of Part 3A in **section 13C** as follows:

- that access (or increased access) to services to be provided by means of the pipeline would promote a material increase in competition in at least one market (whether or not in Australia), other than the market for services to be provided by means of the pipeline;
- that it would be uneconomic for anyone to develop another pipeline to provide the services to be provided by means of the pipeline;
- that access (or increased access) to the services to be provided by means of the pipeline could be provided without undue risk to human health or safety;
- that access (or increased access) to the services to be provided by means of the pipeline would not be contrary to the public interest.

Under **section 13D**, if a greenfields pipeline project is proposed or has commenced, the service provider may apply to the National Competition Council (the NCC) for a binding no-coverage determination exempting the pipeline from coverage. (***Service provider*** is defined in section 2 of Schedule 1 to mean "the person who is, or is to be, the owner or operator of the whole or any part of the pipeline or proposed pipeline".)

Section 13D(2) provides that if a price regulation exemption has been granted for an international pipeline, an application for a binding no-coverage determination may be made by the service provider to the NCC. Section 13D also prescribes some matters to be specified and other requirements in relation to applications and pipeline descriptions.

Under **section 13E**, the NCC must, on receipt of an application for a binding no-coverage determination, notify the relevant Minister of the application.

Section 13F sets out some general principles governing the NCC's recommendations on applications for binding no-coverage determinations. In framing a recommendation, the NCC is required to give effect to the pipeline coverage criteria. In deciding whether or not those criteria are satisfied, the NCC is required to have regard to relevant submissions

and comments made within the time allowed for submissions and comments.

If the NCC is satisfied that all the pipeline coverage criteria are satisfied in relation to the pipeline, the NCC must recommend against making a binding no-coverage determination. If the NCC is not satisfied that all the criteria are satisfied, the recommendation must be in favour of making a determination.

Section 13G provides that notice of an application for a binding no-coverage determination must be published by the NCC on its website and in a newspaper circulating throughout Australia. Section 13G(2) sets out certain other matters relating to the notice and provides that the notice must invite submissions and comments within 21 days from the date of the notice. The NCC is not required to give notice of an application if the application is rejected within 14 days of receipt on the ground that the applicant has failed to provide the necessary information and materials or the application is frivolous or vexatious.

Under **section 13H**, a draft recommendation in respect of an application must be prepared by the NCC within 42 days after the required notice of the application is given under section 13G. The draft recommendation must be in writing and contain a short description of the pipeline accompanied by a reference to a website at which the relevant pipeline description can be inspected. The daft recommendation must also state the terms of the proposed recommendation and the reasons for it and contain other information required by regulation (if any).

The NCC is required under **section 13I** to give copies of the draft recommendation to the applicant, the Australian Energy Market Commission and the relevant Regulator. The draft recommendation must be published on the NCC's website and made available for inspection during business hours at the NCC's offices. The NCC is also required to publish, on its website and in a newspaper circulating throughout Australia, notice of the draft recommendation. The notice must invite submissions and comments on the recommendation.

Section 13J provides that the NCC must, within 28 days following the end of the period allowed for making submissions and comments, consider the submissions and comments and make a final recommendation.

The relevant Minister is required under **section 13K** to decide whether or not to make a binding no-coverage determination within 42 days of receiving the NCC's recommendation. In making his or her decision, the relevant Minister must give effect to the pipeline coverage criteria. In deciding whether or not the pipeline coverage criteria are satisfied in relation to the pipeline, the Minister must have regard to the national gas objective and the NCC's recommendation. He or she may take into account any relevant submissions and comments made to the NCC.

If the Minister is satisfied that all the pipeline coverage criteria are satisfied in relation to the pipeline, the Minister must not make a binding no-coverage determination. If the Minister is not satisfied that all the pipeline coverage criteria are satisfied in relation to the pipeline, the Minister must make a binding no-coverage determination. A binding no-coverage determination, or a decision not to make a binding no-coverage determination, must be in writing and must contain a short description of the pipeline the subject of the determination, accompanied by a reference to a website at which the relevant pipeline description can be inspected. The determination or decision must also set out the Minister's reasons for the determination or decision.

Section 13L provides that a binding no-coverage determination takes effect when it is made and remains in force for a period of 15 years from the commissioning of the pipeline. An application for coverage of a pipeline to which a binding no-coverage determination applies can only be made before the end of the period for which the determination remains in force if the coverage sought in the application is to commence from, or after, the end of that period.

If the Commonwealth Minister decides against making a binding no-coverage determination for an international pipeline, and the applicant asks the Commonwealth Minister to treat the application as an application for a price regulation exemption, the Minister may, under **section 13M**, treat the application as an application for a price regulation exemption. The Commonwealth Minister may then refer the application back to the NCC for a recommendation or proceed to determine the application without a further recommendation.

Section 13N provides that if a greenfields pipeline project for construction of an international pipeline is proposed, or has commenced, the service provider may apply for a price regulation exemption for the pipeline. The application must be made to the NCC before the pipeline is commissioned.

The NCC is required under **section 13O** to notify the Commonwealth Minister of receipt of an application for a price regulation exemption without delay.

Under **section 13P**, the NCC must, when framing its recommendation on an application for a price regulation exemption, weigh the benefits to the public of granting the exemption against the detriments to the public. The NCC is required to have regard to the national gas objective and other relevant matters. **Section 13Q** requires the NCC to publish notice of receipt of an application on its website and in a newspaper circulating generally throughout Australia. The notice must invite submissions and comments. The NCC is not obliged to give notice of an application if the application is rejected on the ground that the applicant has failed to provide the required information and materials or the application is frivolous or vexatious.

The NCC must make a recommendation to the Commonwealth Minister on a price regulation exemption application within 42 days following receipt of the application. The NCC is also required to give copies of its recommendation to the applicant, the AEMC and the ACCC.

Section 13S requires the Commonwealth Minister to decide whether or not to make a price regulation exemption within 14 days following receipt of the NCC's recommendation. The Minister must weigh the benefits to the public of granting the exemption against the detriment to the public.

The Commonwealth Minister is also required to have regard to the national gas objective with particular reference to the implications of the exemption for relevant markets and other possible effects of the exemption on the public interest. The Commonwealth Minister is not bound by the NCC's recommendation, but he or she must have regard to it.

A price regulation exemption, or a decision not to make a price regulation exemption, must be in writing and must set out the Commonwealth Minister's reasons for the decision to grant, or not to grant, the exemption.

Section 13T describes the effect of a price regulation exemption. Where a price regulation exemption is granted, for a period of 15 years from the commissioning of the pipeline the services provided by means of the pipeline are not subject to price or revenue regulation under the Law. A price regulation exemption is ineffective unless a limited access arrangement (approved by the ACCC) is in force in relation to the relevant pipeline. (***Limited access arrangement*** is defined in section 13A.)

If the Commonwealth Minister makes a binding no-coverage determination for a pipeline while a price regulation exemption is in force, the determination supersedes the exemption (which is then terminated) and remains in force for the balance of the period for which the exemption was granted. If a person wishes to apply for coverage of a pipeline to which a price regulation exemption applies, the application can only be made before the end of the period of exemption if the coverage sought in the application is to commence from, or after, the end of that period.

Under **section 13U**, the service provider must submit a proposed limited access arrangement to the ACCC for approval. After a limited access arrangement has been approved, the service provider may submit a proposed amendment to the arrangement. Following receipt of a proposed limited access arrangement for approval, the ACCC must do the following:

- it must publish the proposed limited access arrangement, or the proposed amendment, on its website and invite the public to make submissions and comments on the proposal within 21 days after the date of the invitation;
- it must consider the submissions and comments made in response to the invitation and publish on its website a draft decision on the proposal and a further

invitation to the public to make submissions and comments on the draft decision within 14 days from the date of the invitation;

- it must make a final decision on the proposal and may—
- in the case of a proposed limited access arrangement—approve the limited access arrangement with or without amendment;
- in the case of a proposed amendment to a limited access arrangement—amend the limited access arrangement in accordance with the proposed amendment or in some other way acceptable to the service provider, or reject the proposed amendment;
- it must then publish its final decision, and the reasons for it, on its website.

A limited access arrangement cannot contain a provision for price or revenue regulation but must contain an undertaking on the part of the service provider not to engage in price discrimination unless the price discrimination is conducive to efficient service provision or can be justified on some other rational economic basis.

A dispute about access to a pipeline to which a price regulation exemption applies may be dealt with under the Law in the same way as a dispute about access to a covered pipeline. However, an access dispute cannot be resolved by arbitration on terms regulating the price at which services are to be provided by the service provider (except to the extent that such regulation is necessary to give effect to an undertaking not to engage in price discrimination). Also, an access dispute cannot be resolved by arbitration on terms limiting the revenue to be derived by the service provider from the provision of services.

Section 13V lists some provisions to which the service provider for a pipeline to which a price regulation exemption applies is subject. Under section 13V(2), a price regulation exemption is subject to the following conditions:

- the service provider must not engage in price discrimination contrary to the undertaking contained in the service provider's limited access arrangement;
- the service provider must maintain a register of spare capacity;
- the service provider's limited access arrangement and the register of spare capacity are to be accessible on the service provider's website;
- the service provider must, as and when required, provide information requested by the ACCC or the Commonwealth Minister on access negotiations and the result of access negotiations and must report annually to the ACCC and the Commonwealth Minister on access negotiations and the result of access negotiations.

A service provider must also ensure compliance with conditions to which the exemption is subject.

Section 13W provides that a greenfields pipeline incentive applies to the pipeline as described in the relevant pipeline description. If the pipeline, as constructed, differs from the pipeline as described in the pipeline description, the incentive does not attach to the pipeline and the service provider is not entitled to its benefit.

Under **section 13X**, the relevant Minister may, on application by the service provider, amend the relevant pipeline description. However, an amendment cannot be made under section 13X after the pipeline has been commissioned. An application for amendment to a pipeline description may be referred by the Minister to the NCC for advice. If the proposed amendment involves a substantial change to the pipeline description as it currently exists, the Minister *must* refer the application to the NCC for advice.

Section 13Y provides that a greenfields pipeline incentive lapses if the pipeline for which it was granted is not commissioned within 3 years after the incentive was granted. However, this 3 year period may be extended by the regulations in a particular case.

The relevant Minister may, under **section 13Z**, at the request of the service provider, revoke a greenfields pipeline incentive.

Under **section 13ZA**, the relevant Minister may revoke a greenfields pipeline incentive on application by the relevant Regulator on the ground that the applicant misrepresented a material fact or failed to disclose material information.

Section 13ZB provides that a greenfields pipeline incentive does not terminate, and cannot be revoked, before the end of its term except as provided in Part 3A.

An amendment is also made to section 38(13) of Schedule 1 so that the section, which provides that a person may apply for review of a decision to which the section applies, applies to a decision to grant, or to refuse, a binding no-coverage determination in relation to a pipeline under Part 3A and a decision to revoke a greenfields pipeline incentive under section 13ZA.

Clause 2 of the Appendix to Schedule 1 is deleted and a new clause substituted in its place. New clause 2(1) and (2) are substantially the same as the existing provision. However, new clause 2 includes two additional provisions. Subclause (3) provides that the Law is not to be construed as imposing a duty on the NCC, the Commonwealth Minister, the ACCC or the Australian Competition Tribunal to perform a function or exercise a power if the imposition of the duty would be in excess of the legislative powers of the Legislature (ie, the Parliament of South Australia).

If a provision of the Law appears to impose a duty on the NCC, the Commonwealth Minister, the ACCC or the Australian Competition Tribunal to perform a function or exercise a power in matters or circumstances in which the assumption of the duty cannot be validly authorised under the law of the Commonwealth, or is otherwise ineffective, the provision is to be construed as if its operation were expressly confined to—

- acts or omissions of corporations to which section 51(xx) of the *Constitution of the Commonwealth* applies; or
- acts or omissions taking place in the course of, or in relation to, trade or commerce between this jurisdiction and places outside this jurisdiction (whether within or outside Australia); or
- acts or omissions taking place outside Australia, or in relation to things outside Australia.

Subclause (5) of clause 2 provides that clause 2 does not limit the effect that a provision of the Law would validly have apart from clause 2.

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

CRIMINAL LAW CONSOLIDATION (DANGEROUS DRIVING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 203.)

The Hon. A.M. BRESSINGTON: The total figures for dangerous, reckless or negligent driving for the year ending 31 December 2005 have reached epidemic proportions with 4 245 offences. Recently, there has been a spate of young people taunting the police to engage in high-speed chases through our city and environs. In the nine months preceding November 2005, there were 313 high-speed chases though Adelaide's suburbs. This equates to more than one a day.

Every night the lives of police and the public are at risk because of the actions of reckless drivers who deliberately engage in dangerous chases in our suburban streets. Taunting the police to give chase and deliberately engaging in dangerous chases through our streets, which often results in serious injury, is clearly criminal behaviour, and should be treated as such by us, as legislators. Police Commissioner Mal Hyde has called for new laws with harsh penalties, including mandatory jail sentencing for repeat offenders. There is currently enough evidence of repeat offending. In the 2005 financial year, 276 youths racked up a total of 444 driving offences, including reckless driving and driving under the influence of alcohol and drugs.

Twenty-year old David Anthony Domingues was caught 21 times between 2002 and 2005, incurred 70 demerit points, and was issued with numerous enforcement orders for failing to pay fines. In 2005, he faced court for driving whilst disqualified. A 21-year-old Port Augusta man, Marcus Rejack, faced court in November 2005 for three offences of hoon driving. He was reported by police three times for sustained wheel spins, as well as two reports of misuse of a motor vehicle. On the third offence, he was found to have a blood alcohol level of 0.154.

These are just some of the extreme cases. In other cases there are reports that some people are getting off driving whilst disqualified charges simply because they tell the courts that they did not get the letter in the post telling them that their licence is disqualified. The onus of proof is on the prosecution. How do you prove that they did not get the letter? It has also been reported that about 2 000 to 2 500 people are basically hardcore offenders who keep coming up time and time again. I think the current law on dangerous driving is inadequate: it does not discourage dangerous driving and associated offences and it does not treat it as a serious offence.

I support the bill before us today because it specifically targets offenders driving stolen vehicles and it specifically states that they knowingly drove a vehicle whilst disqualified from driving, therefore eliminating the excuse for not being notified by mail. I also support this bill because it makes it clear that it is an offence to drive dangerously to escape police arrest or pursuit. I support this bill because it has public safety in mind.

The Hon. NICK XENOPHON: My colleague the Hon. Ann Bressington did such a good job of summing up the bill that I do not have to say much about the intent of its provisions or the reasons I support it. I indicate that I will move amendments to the bill. Two lots of amendments will be filed and dealt with in committee, but I will now very briefly allude to them. The most recent amendment (which I hope is about to be filed) will provide for an aggravated offence. In some cases, rather than it being a category 3 alcohol offence, which is currently the case in the bill, if you have over 0.15 grams in terms of alcohol concentration it then becomes an aggravated offence.

My initial proposal was to have category 1 and category 2 drink driving offences, but after some discussions it makes sense to me that there be a compromise position and that it become an aggravated offence at .08 grams; in other words, a category 2 drink driving offence. If it is a drug driving offence (whenever that comes into force—I understand there are some technical issues at stake), when those provisions come into play they will automatically be aggravated offences. The courts will have discretion on how to deal with them, but from a policy view it makes sense to me that we send a signal that if you are drink driving or drug driving it becomes an aggravated offence and ought to be treated as a more serious offence. I foreshadow that for the committee stage.

This bill has merit if it will send a signal that this sort of dangerous behaviour needs to be approached with as strict a sanction as this bill proposes, and if that acts as a deterrent, as I believe it will, it will make for safer roads, and the consequence of that I hope will be ultimately to reduce the road toll in this state. I support the bill.

The Hon. R.D. LAWSON: We, too, will support this bill, although I have certain reservations about it. This bill, like so many of the Rann government's bills on so-called law and order issues, was introduced with a good deal of hype and over exaggeration in the media release by the government. The policy of the government on this one was that those convicted will face a mandatory loss of licence. The government wanted to get the expression 'mandatory' in because that creates the impression amongst certain sections of the community that there will be mandatory penalties. They associate that with mandatory imprisonment, and the like. The sort of offenders who commit these offences are not persons who are dissuaded by the mandatory loss of their licence for two years. Many, according to anecdotal evidence we see, do not have a licence in any event.

The Hon. Ann Bressington, in her valuable contribution, mentioned a couple of serial offenders, one having run up 72 demerit points. Clearly he is not a driver who would be in any way dissuaded by a mandatory disqualification. Again, the government just wants to create the impression that it is being tough, that there will be a mandatory loss of licence, when it is actually an idle and futile gesture in relation to this type of offending. Once again we see the government trying to create the impression out there of solving a problem by imposing mandatory penalties and putting the word 'mandatory' out into the community.

He Hon. Anne Bressington mentioned the fact that incidents of this kind are prevalent. She mentioned that there were 313 high speed car chases involving police last year, and I am indebted to her for providing that information to the council. Will the minister indicate in greater detail how many charges have been laid in respect of high speed police chases in the past two years and what has been the result of the charges laid? More importantly, in how many of those cases over the last two years was this so-called gap in the law evident? In other words, how many would have been charged with a more serious offence if this particular offence had been on the statute book?

The claim of the government in introducing this bill is that there is a gap in the law, that somehow or other we cannot charge people with an appropriate offence, and that there are, on the one hand, relatively trivial road traffic offences (they include, in the minister's second reading contribution, reckless driving, which I would not regard as a trivial offence) and then there are the far more serious offences of endangerment and general endangerment of life. I believe that the parliament is entitled to know how many cases have fallen into this gap, or is it just a gap in the public consciousness that we really need to change the law to stop this? Whilst there are inadequate penalties, we will never stand in the way of more appropriate penalties and greater options being provided to the courts but, if it is just a political problem or a public image problem that the government is solving by introducing measures of this kind, I think that we ought to know precisely.

I must say that I also believe that it is a retrograde step to be going away from the generalisation of the criminal law—a tendency we have been following for a number of years to create offences like endangerment of general application—to going back to specifying particular charges for a particular social problem that might have arisen at a particular time. I will be making exactly the same comment in relation to throwing prescribed items, for example. There is a spate of people throwing rocks at buses or whatever, so we create a special offence for that; next it will be for throwing feather

dusters, darts or whatever. The general tendency of the criminal law in recent years, as it appears from the recommendations of the Model Criminal Code Officers Committee, is to a more generalised criminal law that enables the court, within a broad range, to cover whatever conduct is criminal.

We are getting to the stage where we will have offences of not only murder by axe but murder by rifle, murder by crossbow, murder by dagger, murder by this, murder by that, etc. I believe that the best criminal laws are those that are simple—the great tendency reflected in the Model Criminal Code Officers Committee. I do not think it is necessary for me to read from the reports of the officers code that have adopted the same approach in recent years.

I also ask the minister to indicate why the provisions of the Statutes Amendment (Vehicle and Vessel Offences) Act 2005, which was assented to on 8 December last year, had not been brought into operation as at 22 May this year. What are the reasons for the delay in the commencement of that legislation? When is it is anticipated that it will come into operation? I mention also in this context (and I think the committee ought know, because this government has been fairly keen to introduce laws, have them passed and then not bring them into operation) that the Statutes Amendment (Aggravated Offences) Act was passed last year, but not all of that act has yet been brought into operation.

I ask the minister to indicate the reason for that delay. Notwithstanding a certain degree of cynicism about this measure, and desiring some additional information regarding the so-called gap, I indicate that I will be supporting the second reading. I note that the Hon. Nick Xenophon has today put on file an amendment in relation to the circumstances of aggravation. The current circumstances of aggravation relevantly are where a vehicle was stolen or being used illegally and the defendant knew that to be the case that is, that the defendant was driving the motor vehicle while disqualified or suspended—I gather it will indicate that most of these offences will be aggravated offences in any event); the defendant was driving with a blood alcohol concentration over .15; or the defendant was simultaneously committing the offence of driving while so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control.

We would generally agree with those circumstances of aggravation, but I would expressly reserve any position in relation to the propositions now advanced in the amendment foreshadowed by the Hon. Nick Xenophon. Speaking personally, I would need quite a deal of convincing before agreeing to those amendments.

The Hon. P. HOLLOWAY (Minister for Police): I thank all members for their contributions to this debate. It is fair to say that we are agreed that the behaviour at which this new offence is aimed is grossly irresponsible and should not be tolerated. However, I note that, on 11 May, the Leader of the Opposition said that he reserved the position of the Liberal Party on the question of whether there might be a need from the Liberal Party's point of view for there to be an amendment. The Leader of the Opposition has rightly highlighted the prevalence of young offenders in these offending behaviours.

Anecdotal evidence and such statistics as we have indicate that a significant number of young offenders are engaging in at-risk behaviours on the road, although, as we shall see, the extent to which that is so is open to interpretation and guesswork. Nevertheless, what are the rules applicable to the cases most often highlighted by the media in which young or occasionally very young people have been engaged in high speed police chases or very dangerous driving? That is a fair question raised by the Leader of the Opposition, and I will try to set out the legal framework for him. The legal framework set out in this state for the treatment of young offenders is the Young Offenders Act of 1993, section 3(1) of which provides:

> The object of this act is to secure for youths who offend against the criminal law the care, correction and guidance necessary for their development into responsible and useful members of the community and the proper realisation of their potential.
>
> (2) The powers conferred by this act are to be directed towards that object with proper regard to the following statutory policies:
> (a) a youth should be made aware of his or her obligations under the law and of the consequences of breach of the law;
> (b) the community, and individual members of it, must be adequately protected against violent or wrongful acts.
>
> (2a) In imposing sanctions on a youth for illegal conduct—
> (a) regard should be had to the deterrent effect any proposed sanction may have on the youth; and
> (b) if the sanctions are imposed by a court on a youth who is being dealt with as an adult, regard should also be had to the deterrent effect any proposed sanction may have on other youths.
>
> (3) Effect is to be given to the following statutory policies so far as the circumstances of the individual case allow:
> (a) compensation and restitution should be provided, where appropriate, for victims of offences committed by youths;
> (b) family relationships between a youth, the youth's parents and other members of the youth's family should be preserved and strengthened;
> (c) a youth should not be withdrawn unnecessarily from the youth's family environment;
> (d) there should be no unnecessary interruption of a youth's education or employment;
> (e) a youth's sense of racial, ethnic or cultural identity should not be impaired.

The whole structure and philosophy of the act and the regime that it imposes, all the way down to how in each case a young offender is treated, flows from that. There are special provisions about family conferences, police warnings, limitations on publicity, a separate court system and so on and so forth. In short, young offenders are treated, and are supposed to be treated, in an entirely different way from adult offenders. The answer to the question the honourable Leader of the Opposition has asked is simply this: young offenders against this provision will be treated precisely on their merits as they are supposed to be treated for any other offence of corresponding seriousness under this legislation.

The Leader of the Opposition also asked some questions in relation to comments that the Commissioner of Police had made. He said, 'The question we put to the government is: did the government consider and reject the Police Commissioner's calls?' I will simply answer that question by saying that the bill accurately seeks to implement Labor Party policy announced prior to the state election. Obviously, this bill arose from issues raised by the Police Commissioner but the policy that this bill implements is that which the government announced prior to the election.

The Leader of the Opposition also called for a number of statistics or categories of statistics. Some statistics are available for high speed pursuits from SAPOL's traffic intelligence section, but these are only a guide and are not officially endorsed by SAPOL as an answer to the specific question. The information is of a statistical nature only, and I seek leave to table the information and, if possible, have it incorporated in *Hansard*.

Leave granted.

Between 1/1/2005-30/9/2005 332 high speed pursuits occurred

Why pursued	Total
Potentially violent disturbance	1
Serious criminal trespass	4
Escapee	1
Traffic breach	197
Stolen vehicle	129
Total	332
Reason for termination	Total
Crash	9
Directed to cease	87
Driver apprehended	85
Vehicle stopped, offender escaped	29
Voluntary withdrawal	122
Total	332

Age groups of those pursued and caught

Age group	Escapee	Traffic Breach	Stolen Vehicle	Total
0 to 15	1	5	3	9
16-19		22	9	31
20-24		15	3	18
25-29		11	5	16
30-39		16	8	24
40-49		5	3	8
50-59		1		1
Total	1	75	31	107

The Hon. P. HOLLOWAY: Again, I say that this information, and I have copies for members, is a guide only and not officially endorsed as an answer to a specific question.

The Hon. Robert Lawson, in his speech just concluded, asked for some further statistics and specifically for statistics about what he called the gap, that is, the situation where the presence of this law may apply. Unfortunately, there are no statistics kept because, of course, there is currently no offence category. Once this bill comes into effect, if there is a new offence category, of course statistics would be kept by the Office of Crime Statistics that would enable us to have that answer but, as there is now no offence, unfortunately it is not possible to provide any statistics in relation to the question he asked.

The Hon. Robert Lawson also asked a question in relation to the Statutes Amendment (Vehicle and Vessel Offences) Act 2005. My advice is that this bill meshes in with the new drug driving measures, so the Statutes Amendment (Vehicle and Vessel Offences) Act will need to come into operation concurrently with the drug driving bill. My advice is that that is likely to be mid to late July. That is why that bill, which I think came out of the McGee royal commission, will come into force along with the drug driving measures the government has also passed. With those comments, I commend the passage of this bill to the council.

Bill read a second time.

CRIMINAL LAW CONSOLIDATION (THROWING OBJECTS AT MOVING VEHICLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 May. Page 176.)

The Hon. T.J. STEPHENS: The Liberal Party supports this bill in principle, but at the same time I advise the council that one or two of my colleagues wish to make a brief contribution to address their own concerns. In another place, the shadow attorney-general (Isobel Redmond) gave a detailed explanation of the attitude of the Liberal Party to this bill. One point that she highlighted was that it is a worry that young children are often involved in this extremely dangerous activity. The Liberal Party notes that this bill does not specifically address any aspect of this, and this is of some concern to us. I will not repeat the other concerns that were raised. Instead, I propose to state briefly why we are supporting this bill.

Members would be well aware of recent and highly publicised cases where people have been seriously hurt by large rocks being hurled at their vehicles whilst those vehicles have been travelling at speed. A recent case involving a young man being hit by a large rock whilst driving along the Southern Expressway and subsequently undergoing a long and painful rehabilitation certainly raised awareness about what is a most dangerous and cowardly act. It is clear that the throwing of a rock, stone, concrete or any other solid missile at a moving vehicle has the capacity to seriously maim and quite possibly kill the driver or passengers in that vehicle. Additionally, given the fact that these missiles have often been lobbed from a great height from bridges and overpasses, it is fortunate that this dangerous activity has not resulted in a death to date.

The Liberal Party hopes that this bill will go some way toward discouraging people from involving themselves in this dangerous activity of rock throwing. The Liberal Party agrees that anyone who participates in such a dangerous activity should be found guilty of engaging in a serious criminal offence and suffer the consequences of their actions. We support the bill.

The Hon. A.M. BRESSINGTON: From January to approximately October of 2005, South Australia was inundated with people as young as 12 throwing rocks—and, in some cases, large rocks—at passing vehicles. These vehicles included cars, buses and trains. One case involved an ambulance on the way to an emergency. More than 30 rock-throwing incidents were reported from January to September 2005. In January 2005, Damien de Witt was the victim of a missile thrown from another vehicle. This attack left him fighting for his life in hospital. The criminal or criminals were never found.

Mr de Witt was in a coma for five days and had nine hours of brain surgery. Even though Mr de Witt lived through the operation, his doctor at the time told the family that he did not expect Mr de Witt to live. This bill is a result of good government action on an antisocial problem. This amendment will send a clear message to those who wish to go down the path of antisocial behaviour, such as rock throwing, that the public, the police and this legislation will not tolerate such antisocial behaviour and that any breaches of the new amendments will be dealt with by the full weight of the law.

The criminalisation of acts of endangerment is not new. Section 51 of the Summary Offences Act provides that a person who discharges a firearm or throws a stone or other missile without reasonable cause so as to injure, annoy or frighten or be likely to damage any property is guilty of an offence, the maximum penalty being $10 000 or two years' imprisonment. The new bill, which I support, clearly specifies an endangerment offence, whereas the Summary Offences Act is too general. The bill makes it a specific offence under the Criminal Law Consolidation Act to include a new offence of throwing a rock, stone, piece of concrete, brick or other

hard missile, or where a missile thrown endangers the safety of others. It is for these reasons that I support this bill.

The Hon. D.G.E. HOOD: I support the second reading. The bill seeks to amend the Criminal Law Consolidation Act 1935 in order to impose an intermediate penalty for throwing rocks at moving vehicles. In principle, I support the bill. My colleague Mr Evans and I concur in the comments of Mrs Redmond in the other place that there is merit in not prescribing by regulation the categories of missiles but, rather, to say that rocks, stones, pieces of concrete, bricks or other hard missiles will cover every ill that may be contemplated in this regard. Sometimes in this and the other place we can get tangled up in 'what if' scenarios it seems and, frankly, I think a definition such as the above would be much simpler.

To be very brief, I am supportive of the principle of this bill and believe that there is no need for regulations as to prescribed objects. I do believe we need to be more general in the manner in which objects can be projected at vehicles, such as their being dropped or rolled or something of that nature, because it can be equally damaging if they are dropped from a bridge. I also believe that a safeguard of a mental element would ensure that unintentional projecting of missiles towards vehicles does not become an offence; however, in summary, I support the bill at this stage.

The Hon. NICK XENOPHON: For the reasons outlined by my colleagues, in particular the outline given by the Hon. Ann Bressington, I indicate that I support this bill. However, there is one matter that I wish to raise. The bill prescribes a more serious offence for prescribed objects being thrown at a moving vehicle. I have had discussions with the government's advisers—and I am very grateful for their explanation of the bill and for their advice generally—but I do have a reservation about when you are in a vehicle that is stationary at a set of lights, or stationary in the flow of traffic and an object is thrown at you. Your vehicle is not moving but it is on the road, and it does not make sense to me that that should not fall into the more serious category. It could still pose a significant traffic hazard to other vehicles that may be moving around you, or if you have your foot on the clutch or the brake and your vehicle starts moving as the result of an object being thrown at you, then a hazard to other road users is created.

It is analogous to the mobile phone situation. You are not supposed to use a mobile phone if your vehicle is on the road, whether it is stationary or not, because of concern for the potential hazard it may cause. Perhaps that is not the best analogy, but it makes the point that there are precedents in other parts of our criminal and road traffic laws where it is acknowledged that if a vehicle is on the road different criteria should apply. I still have reservations about why we are so narrow in our scope; that it is just a summary offence and you have to prove all these other elements in the event that your vehicle is stationary, notwithstanding that it is on the road.

I will, perhaps, discuss that with some of my colleagues between now and tomorrow to see whether there would be any support for strengthening the legislation in that respect. I shall have a dialogue with the government, the opposition and my fellow cross-benchers as to whether there is merit in moving an amendment to the effect that if a vehicle is stationary but on the road in the flow of traffic the same criteria ought to apply as that which applies to a moving vehicle.

The Hon. R.D. LAWSON: I will not oppose this useless and unnecessary piece of legislation, because the conduct that is prescribed here is already prescribed in our law. Anyone caught throwing rocks at a moving vehicle would be dealt with appropriately in the courts. The Hon. Ann Bressington mentioned a tragic incident in which a rock was thrown and someone was very seriously injured, and that certainly excited the public imagination, but the perpetrator was never caught. I am afraid to say that I do not believe that passing a law of this kind is going to send any message to the sorts of hooligans who throw objects of that kind.

For a moment let us assume that they were aware of the criminal law, that they actually got the criminal law out and read it. It talks about a person who throws a 'prescribed object'—what's that? We know that the government is going to prescribe a rock or a piece of concrete, then it will be a pair of shoes or a screwdriver or nails. There will be all these prescribed objects, with a new press release issued on every occasion by the Attorney-General saying that the government is now going to address this issue with tough new measures.

The Hon. Nick Xenophon has highlighted other difficulties about highly specific offences of this kind. With reference to throwing objects at moving vehicles, he says, 'What if they're stationary?' That is a very good point. What happens if it is not a vehicle? What happens if they are riding a horse? 'Oh, that is not covered by this', so the government is going to introduce a new law to say that throwing—

An honourable member interjecting:

The Hon. R.D. LAWSON: No, a horse is not a vehicle. What happens if pedestrians are walking along and rocks are being dropped on them? They are not covered by this measure, but they are just as endangered as persons in vehicles. This is a specific measure to try to address a political problem to create the idea that the government is talking tough and that it is sending a message to certain sections of the community. It is a regrettable fact that the sections of the community at whom this sort of measure is addressed simply are not concerned by provisions of this kind. They are not dissuaded from the fact that serious offences already exist.

I ask the minister to indicate whether the persons who were engaged in that scourge of rock throwing incidents last year were caught. Can the minister inform the council whether any and, if so, what charges have been laid in the past two years in respect of throwing rocks or objects at vehicles and what penalties the courts have imposed? This is simply political window dressing; it is not reforming the criminal law. It is typical of the approach adopted by this government.

I am glad to see that the Hon. Mr Hood has agreed with the comments of the member for Heysen, Isobel Redmond, to the effect that the criminal law ought contain within the law itself rather than the regulations the provision to enable people to look at the law and say what is prohibited, and the notion of introducing a prescribed object in a section of this kind is nonsense. The law should be sufficiently wide to cover contingencies. We are looking at the effect of the conduct, not the sort of missile that was used in a particular offence. Once again, in the climate of the times, whilst registering my protest, I will not be voting against the second reading.

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their indications of support for this bill. I remind the council, in view of the comment just

made by the Hon. Robert Lawson, that the reason for setting this out in its relationship to existing offences was contained in the second reading explanation, and I will not go through all of that again. However, I would like to re-read the last part, because I think it makes a point. It states:

> There is a further problem to be addressed. The creation of this offence should not be allowed to load up the charge sheet with one more offence. It should be properly targeted. Therefore, it will be an alternative offence to the general reckless endangerment offences as well as more serious offences of causing harm which may occur as a result of the throwing incident. In that way, it will fill the gap as a middle range offence as intended while minimising the load on the courts and the charging system.

So, the government believes that there is a niche that needs to be filled by this legislation. I think all of us would agree that throwing rocks is not only a stupid and dangerous offence but also it has become more prevalent in recent times. As has been indicated by other speakers in this debate and as, I think, the Hon. Ann Bressington mentioned, there have been a couple of celebrated cases where grave damage has been done. I think it is important to make the point that creating a specific offence generates publicity in the community that the community will not tolerate these sorts of offences. By creating a specific offence, I believe it will bring to the attention of those people who might be likely to do it that this is something that will not be tolerated.

The Hon. Robert Lawson is quite correct: yes, there are some general offences that could cover this, and I am sure anyone who throws rocks will be aware that it is illegal to do so. But I think that, when we have a specific offence with quite severe penalties that will apply under this bill, it will take the message home to those sorts of people that if they are detected there are serious consequences for this behaviour. I think that can only be a good thing in deterring this sort of behaviour. The Hon. Robert Lawson also asked for some statistics and if I can get them I will provide them when we come to the committee stage later. I commend the bill to the council.

Bill read a second time.

INSTITUTE OF MEDICAL AND VETERINARY SCIENCE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 May. Page 177.)

The Hon. J.M.A. LENSINK: I rise to indicate that the opposition will support this particular bill, which is a small and technical bill looking at some of the governance structures in relation to, first, the composition of the council and, secondly, enabling the Institute of Medical and Veterinary Science to conduct contracts overseas. I do not propose to speak at length on this bill, due to the technical nature of it, but I would like to place on the record a few comments. In relation to these specific provisions, I understand that there were two nominations to the council from the Royal Adelaide Hospital, which no longer exists as a legal entity and is now the Central Northern Adelaide Health Service; the other provision is to enable it to conduct contracts overseas.

I commend the IMVS which has been in operation since 1938 and which is quite a diverse and unique organisation in that it conducts a lot of diagnostic services for hospitals around the state and has a number of laboratories around the state. It has a very important research role through the Hanson Institute. It also has a commercial arm which is known as Medvet Science. It conducts a great range of research in different medical and health areas. Its core services are described on page 2 of the annual report as being diagnostic pathology, regional services, public health, training and teaching, research and supporting health professionals. The IMVS, through its research arm, has a very important role in driving some of the research programs in this state.

While we have this opportunity I think it is important to examine the governance structures of statutory authorities, because they come under the proviso of the government's legislation in seeking greater female representation on boards. I note that, at least according to this annual report, five of the council's 12 members are in fact women, but I note with some alarm that the executive group—of which there are some 16 members—has only one female in an executive position. I also note from the annual report the status of employees. There are some 1 200 people employed by the IMVS throughout the state. Something like two-thirds of those are female and, obviously, the other third are male.

Looking at the salary brackets, there is quite a disparity between female and male employment, which I think probably reflects some of the general public sector, but I think it is probably less equitable than the general public sector. If you do a breakdown, as I refer to page 22 of the report, there are 416 male employees and 802 female employees. Some 67 per cent of the female employees are in the salary bracket under $50 000, yet 58 per cent of the male employees are in the bracket over $50 000. That is not reflected in the contractual or permanent positions under which they might be employed.

The reason that I raise this is that science research is close to my heart, and I am well aware that there are issues for females who decide to have a career in medical research in that they undertake some fairly hefty studies to obtain a PhD. I think that there is a problem, probably throughout Australia, in terms of women's ongoing employment, partly due to the three-year funding cycle in which case, for some employees of institutions such as the IMVS, that might in fact be a 12-month by 12-month contract.

I place on the record some questions for the government. Does the IMVS have in place plans to improve its female representation at senior levels within the organisation? Has it attempted to increase the voluntary flexible working arrangements? I think that on these figures, as we know from the general public sector, use of flexi-time has been taken up as has some part-time job sharing, but neither the use of purchased leave, compressed weeks nor working from home has been taken up within the organisation. In fact, of those three categories, this shows that five people have utilised that. In the interests of the intellectual capital within our medical research facilities, those issues need to be addressed. I would appreciate it if the government could take that back to the IMVS and provide me with a response. With those brief comments, I commend the bill to the council.

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

ADJOURNMENT

At 9.03 p.m. the council adjourned until Thursday 1 June at 2.15 p.m.