LEGISLATIVE COUNCIL

Thursday 31 August 2006

The PRESIDENT (Hon. R.K. Sneath) took the chair at 2.20 p.m. and read prayers.

GENETICALLY MODIFIED CROPS

A petition signed by 237 residents of South Australia, concerning genetically modified crops and praying that the council will amend the Genetically Modified Crops Management Act 2004 to extend South Australia's commercial GM crop ban until 2009, prohibit exemptions from the act, particularly the protection of GM canola seed, and commission state funded scientific research into GM organisms, health and the environment in close consultation with the South Australian public and other governments, was presented by the Hon. M.C. Parnell.

Petition received.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Police (Hon. P. Holloway)—

Claims Against the Legal Practitioners Guarantee Fund—Report, 2004-05.

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY: I bring up the report of the committee 2005-06.

Report received.

VOLUNTARY EUTHANASIA

The Hon. P. HOLLOWAY (Minister for Police): I table a ministerial statement relating to Sandra Kanck's statements made today by the Premier.

DRUG DRIVING

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I seek leave to read a ministerial statement, regarding ecstasy to be included in the drug driving trial, made in the other place by the Premier.

Leave granted.

The Hon. CARMEL ZOLLO: The ministerial statement reads as follows:

I am announcing today that the government has decided to include pure ecstasy, or MDMA, in South Australia's important drug driving detection trial. On 1 July, we proceeded with a 12-month trial of random roadside drug testing. As passed by all parties last year, it targets THC (the main ingredient of cannabis) and methylamphetames (the common ingredient of street-grade ecstasy).

This government made the tough decision to target people who take drugs and get behind the wheel. We were only the third jurisdiction in Australia and among the first places in the world to put these laws into place. We are serious about reducing the carnage on our roads. In South Australia's Strategic Plan, we have set the target of reducing road fatalities and serious injuries by 40 per cent by 2010, and the impact of drugs on that toll is clear. Last year a quarter of drivers killed on South Australian roads were found to be affected by THC or methylamphetamines, a more than compelling reason to introduce this trial and a more than compelling reason to target those particular drugs.

The PRESIDENT: Order! Cameramen in the gallery will stop taking photographs of people who are seated, or we will have to have them removed. They are advised that only those members who are on their feet can be photographed.

The Hon. CARMEL ZOLLO: The ministerial statement continues:

So far, the trial run by SAPOL has proven successful: drivers detected doing the wrong thing are penalised. As of last Friday, 25 August, 1 208 drivers have been tested, with 25 positive results. Some 17 samples are still to be analysed by forensic science but, of the eight confirmed results, five recorded positive for methylamphetamine, one recorded positive for THC, two recorded positive for both meth and THC and no samples identified MDMA in its pure form.

Clearly, the detection of MDMA (or pure ecstasy) on its own is extremely rare. Last year it was found in the system of one driver killed on our roads. But the government now feels that it is prudent to make its intent quite clear: we will not excuse drug driving. People driving under the influence of pure ecstasy will face the same penalties as those who test positive for THC or methylamphetamine. Drivers found with drugs in their system face an expiation fee of $300 and the loss of three demerit points. Subsequent offences will incur increased penalties. For drivers refusing to take a drug test, a court imposed penalty of between $500 and $900 for a first offence, along with at least six months' disqualification and the loss of six demerit points, will apply.

A trial of this nature needs to be measured and carefully implemented, always with a view that it would be refined and modified as needed. The Commissioner of Police has endorsed this change to the drug driving detection trial. Changes to the regulations to add MDMA to the list of proscribed drugs will be made as soon as possible. We are committed to reducing our road toll. We are committed to ensuring that our message gets through to road users to stop and think before risking their own safety and the safety of others. Ecstasy is inappropriately referred to as a 'party drug'. For those who make the disgraceful decision to drive while under its influence, the party is over.

QUESTION TIME

LE CORNU SITE

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 Le Cornu site.

Leave granted.

The Hon. D.W. RIDGWAY: The Le Cornu site has been vacant for some 15 years and is a testimony to the inability of both state and local governments to deal effectively with proposed significant developments. Recently, the state government was approached to break the deadlock regarding proposals by the owners to develop this eyesore. The opposition—through the leader, the Hon. Iain Evans (member for Davenport), and I—has offered my services to be part of a bipartisan group to see whether we can get something happening at this site.

The Liberal Party is acutely aware that development should occur, and we are hoping that something will happen on that site. We are also aware that developers need to be able to secure a reasonable return for their investments. My questions to the minister are:

1. Will he inform the council what progress, if any, has been made on this issue?

2. Does he accept that this site should not continue to be the eyesore that it has become?

3. Is the vacant site testimony to his government's failure to get any significant projects off the ground in the past five years?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): In relation to those questions, in the past week when we have had four major mining projects start up I think it is a bit rich—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —to criticise this government for not getting up projects. It is an important question. There is no doubt that the old Le Cornu site on O'Connell Street has become—

An honourable member: An embarrassment!

The Hon. P. HOLLOWAY: Yes, an embarrassment. I have made it clear on a number of occasions, both before the last election and subsequently, that I would very much like to see on that site a development which is compatible with the surrounds and viable to the owners. Before I go on to talk about the subject further, let me say that I note that the Leader of the Opposition in another place and the Hon. David Ridgway have made comments in relation to offering bipartisanship. I publicly welcome that.

What happened is that the Makris Group approached me several months ago seeking major development status under the Development Act regarding its proposal for the former Le Cornu site. I had that proposal assessed. In my opinion there were a number of deficiencies with that application. For one thing the site they requested covered both sides of O'Connell Street, including O'Connell Street itself; and there were also issues in relation to traffic flow. There was also the question of the height of the building. I believe it was a nine-storey building which, in my view, would represent significant overdevelopment of the site. However, I did point out subsequently in some of the media questions (which were asked about the Le Cornu site) that several years ago there had been a five-storey development approved for that site, but, for various reasons, the then proponent had not proceeded with it.

What I said at the time, after seeking the advice of my department, was that I would not approve the proposal for major development status. I identified the deficiencies (as I saw them) in that proposal and the developers undertook to reconsider the issues that were raised. I understand that they have subsequently had discussions with the department. One of the things that I put to the developers, given that the question of the height limit is a key to the future of the site, was that in any future proposal they should put a case as to why it would be necessary for any such proposal to go above the permitted height limits—how that would be important for its viability. I expect the proponents will get back to me fairly soon, having taken on board the recommendations. It was not just the question of height: as well as nine storeys above ground, there were also four below ground, and significant traffic would be generated getting into and out of car parks. There were comments in relation to those matters, all of which I expect the proponents to take on board.

I also expressed the view to the developers that they should involve the opposition and other interested parties in the matter and speak to them about it. It is very important for South Australia that we do clear this logjam that we have had for something like 15 to 20 years—however long it is. That site has been vacant for far too long, and I am keen to see a suitable development take place. Clearly, for that to happen the development needs to be viable for any proponent and it must fit in, as best it can, with its acceptability to the local community and the amenity of the surrounding areas, and so on.

I note that the honourable member has put out a press release saying that I have rejected the offer of bipartisanship. In fact, the more correct description of the situation would be that the developer is reworking some of the issues that have come to light following the original proposal. They will be reworking those and, when they are in a position to do so, as I said, I will certainly encourage them to talk to the opposition and other interested parties as well in relation to that matter.

No doubt, the Le Cornu site has a very unfortunate history. One of the issues that has come up, I believe, is that several years ago—in fact, not that long before the last election—Adelaide City Council invited the Makris Group (the owners of the land) to put forward a proposal and encouraged them to come forward with a particular proposal, but then it apparently got cold feet at some stage of the proposal and changed its mind. I also note that the chair of the Adelaide City Council development assessment panel, who was also a local councillor in the area, has made a number of public statements attacking the proponents of this development, so I have no doubt that, if a development application was lodged to the council, it would not be long before it would be crossing my desk with a request for it to be referred to the DAC or some other body because of those comments.

In short, I expect, if anything were to happen on the Le Cornu site, the government would have to be involved. I am happy to take that responsibility. However, whatever route that might take, it is important that such developments comply with the relevant provisions of the Development Act. Of course, I have a duty as the Minister for Urban Development and Planning to ensure that is the case, and I will certainly be undertaking that. I am as confident as one can be in these things that the proponents of the development will come back with a proposal that is more in keeping with the expectations of the local community and, as I said, I will be only too happy to consider it on its merits. I also publicly—as I have privately—recommend that the developers also speak to the opposition and other interested parties so that there can be, as much as is possible with respect to these things, a consensus that we need to do something on this site.

CORRECTIONAL SERVICES, HUMAN RESOURCES

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Correctional Services questions about human resource management.

Leave granted.

The Hon. J.M.A. LENSINK: Honourable members would be aware that there is a higher level of sick leave and workers compensation claims within the Department of Correctional Services. In the OCPE annual report of 2004, the average sick leave for the public sector was 7.4 days per FTE. The highest department was correctional services at 10.2 days per FTE. My questions are:

1. Can the minister confirm whether any of the TVSPs have been taken up by correctional services and, if so, how many?

2. What sections of the correctional services budget are frozen or will be subject to a 4 per cent cut?

3. Why are the tables which list these items in the OCPE report no longer published?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): I thank the honourable member for her question. In relation to voluntary separation, during 2005-06, selected staff were offered TVSPs consistent with government policy. Eleven work-injured staff, who had been absent from the workplace for a considerable period of time, accepted the offer. None of the department's supernumerary

staff who were offered a TVSP accepted. We had 11 work-injured staff accepting an offer. I am not familiar with the other figures that the honourable member has mentioned. Obviously I do not have the report in front of me, so I will seek some advice and bring back a response for the honourable member.

POLICE STATION, LOXTON

The Hon. J.S.L. DAWKINS: My question is directed to the Minister for Police. Will the minister confirm media reports that he refused to meet a delegation from the Loxton Waikerie council to be led by the member for Chaffey relating to concerns about staffing levels at the Loxton Police Station? If these reports are correct, will he indicate to the council why he refused to meet such a delegation?

The Hon. P. HOLLOWAY (Minister for Police): The press report in the Loxton newspaper was not correct. It was drawn to my attention. Certainly I have never refused to meet with the council. Indeed, subsequent to its being drawn to my attention, I did contact the council to correct the record and I have arranged to meet with them at some stage in the near future. I believe that the incorrect report came from the fact that someone had sought a meeting with the Police Commissioner. Given that this issue is not an operational matter with the police, my understanding is that the Police Commissioner is not available to meet with the particular group. In relation to me, I was not officially asked. As I said, when I was aware of that article, I contacted them and offered to meet with them, and I will do so in the near future.

Since this matter has been raised, I should say something about the issue. I will be meeting with the council on 18 September. The background to this story is that, since January 2005, police stations at Loxton, Barmera and Waikerie have ceased to perform duties as an agent for Transport SA. The idea was that, rather than police officers having to be involved in that work for Transport SA, they should be concentrating on their principal function; that is, enforcing the law and upholding the peace, rather than being clerical assistants for other departments. That was a decision that this government made—and I think properly made—so that our police numbers would be more effectively utilised within the community. Of course, that also meant that more police were available for bona fide police work.

In June 2005, the Deputy Commissioner, John White, made a commitment that the Loxton Police Station would operate between 9 a.m. and 5 p.m.; and to facilitate these extended hours the Deputy Commissioner provided funding for six months for an additional administrative services officer and ensured that a process was in place to assess the workloads of the Loxton, Barmera and Waikerie police stations. The administrative services provided at Loxton, Barmera and Waikerie police stations were reviewed and compared. Records were maintained recording the number of people entering the police station for any inquiry; the number of telephone inquiries received; and the number of transactions conducted at each police station. The review included an extensive consultation program with the staff of Loxton Police Station and their views were taken into consideration.

On the basis of the results of the review, the contract of the additional administrative services officer was not extended. The Loxton Police Station will continue to be open between 9 a.m. and 1 p.m. However, on occasions, the police officer will need to be absent to deal with situations external to station matters and a sign advising police contact details will be on display at the station for such times. I point out that the Berri Police Station remains open on a 24-hour basis, seven days a week.

If we look back to 1997 during the last Liberal government, when police numbers dropped to that record low of 3 410, we saw the number of sworn staff at the Loxton Police Station reduced from seven to six. Then, in February 1999, there was another downsizing of staff from six to five sworn police officers. The Rann government has increased police numbers and resources, and it will continue to do so with an extra 400 police to be recruited over the next four years.

Members interjecting:

The Hon. P. HOLLOWAY: Members opposite are saying, 'Well, that was the past.' That is what they did in the past, but what about the future? We know what the future would have been had the Liberal Party been elected to government, because it promised that it would cut 4 000 public servant positions. They said, 'We are not talking about police officers here: we are talking about administrative assistants.' How can this opposition be given any credibility by saying, 'Look, if we were in power there would be more public servants' when its policy was to cut 4 000 of them? It does not wash. As I said, their track record was to cut a couple of places from there. I am happy to speak to the council, and I will do so on 18 September.

The Hon. J.S.L. DAWKINS: As a supplementary question, will the minister confirm that the previous police minister (Hon. Mr Foley) agreed to a demand from the member for Chaffey in October 2005 that the office be open from 9 a.m. to 5 p.m. on weekdays and that that commitment was broken in May this year?

The PRESIDENT: Order! That question hardly arises out of the minister's response.

The Hon. P. HOLLOWAY: The honourable member could not have been listening when I said that the six-month process went from June to the end of 2005, which provided the review of the amount—

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

The Hon. P. HOLLOWAY: What are the opposition members saying? Are they saying that if they were in government they would direct the Police Commissioner where to put his resources? Never mind where crime is being committed, never mind what the Police Commissioner thinks, they are saying that they would have told the Police Commissioner where to employ services, not just police officers. Here we are talking about administrative officers. They went to the election promising to cut 4 000 public servant positions, yet here they are arguing—

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

The Hon. P. HOLLOWAY: Well, no, they are not police, but you were not promising to cut police: you were proposing to cut 4 000 public servant positions. How can you have any credibility whatsoever if you argue that there should be additional public servants provided when your own policy was to cut them by 4 000?

The Hon. J.S.L. DAWKINS: As a supplementary question, in the assessment which the minister talks about and which supposedly refers to 'six months', does that include figures in relation to the effectiveness of the new police station in Drabsch Street as against the previous police station on Bookpurnong Road?

The Hon. P. HOLLOWAY: I do not know the details of that review other than what I have given to the council, namely, that records were kept of the number of people entering the police station for any inquiry, the number of telephone inquiries received and the number of transactions conducted at each police station. In other words, the Police Commissioner is deploying his resources where they have the best effect in the interests of the people of the state. We cannot have police everywhere we would like.

As a result of our increasing the number of police officers by 400 over the next four years we will have more police whom we can deploy all through the state. However, it is up to the Police Commissioner to determine. Why would we want to put police resources, whether they are sworn or non-sworn officers, in places where there is less need than other places? Do we not want our police deployed where the crime is and where they are most needed by the community? I think that we are fortunate to have a very capable Police Commissioner in this state. I have full confidence in his ability to deploy his resources in the best interests of the people of South Australia.

The Hon. J.S.L. DAWKINS: As a further supplementary question: will the minister rule out or deny the fact that his office contacted the office of Mrs Maywald, the member for Chaffey, and indicated that neither he nor the Commissioner would meet with the Loxton Waikerie council? That was reported to the council by the Mayor, Dean Maywald.

The Hon. P. HOLLOWAY: That is not correct, as far as I am concerned. I cannot speak for—

Members interjecting:

The Hon. P. HOLLOWAY: No; I am certainly not saying the Mayor was lying. What I am saying is that the media report was incorrect.

PETROLEUM EXPLORATION

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for Ministerial Resources Development a question about petroleum discoveries and exploration in the Cooper and Otway Basins.

Leave granted.

The Hon. R.P. WORTLEY: There has been a series of announcements in recent days about major mining projects in South Australia. Those announcements include Oxiana giving the go-ahead to the $775 million Prominent Hill mine, Australian Zircon moving a step closer to becoming South Australia's first heavy minerals sands producer, and Terramin Australia being granted a minerals lease for its lead, zinc and silver mine near Strathalbyn. Will the minister provide members with some details of some similarly exciting news in the petroleum sector?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his continuing interest in the mining sector boom. We had one question here earlier today saying nothing ever happens under this government. I do not know where they spend their time but, as well as those four new mines which have made major progress in the past few weeks, there is some very exciting news in the petroleum sector. If you take the announcements made just yesterday by SXR Uranium One and Australian Zircon, about 300 jobs are set to be created during the construction and operational phases of those two projects. There were 1 200 jobs to be created by the Prominent Hill mine and, in the not too distant future, thousands of jobs are likely to be created should BHP Billiton go ahead with its proposed expansion at Olympic Dam. Now we turn to the petroleum sector.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I thought I would remind the honourable member, because in his question earlier he obviously was not listening to good news. In relation to petroleum, South Australia is continuing to attract high levels of national and international petroleum interest, with petroleum tenements currently covering almost the entire oil and gas producing Cooper Basin. The Cooper Basin is Australia's most popular on-shore destination for oil exploration investment and has attracted record numbers of explorers. Drilling activity in the Cooper Basin is currently at record levels, and this is increasing the number of new field discoveries for explorers and the royalties flowing into the South Australian economy.

There has also been a significant increase in SANTOS Joint Venture Cooper Basin oil appraisal and development drilling this year with the Cooper Oil Project, which is targeting 1 000 wells in South Australia and Queensland during the next five years. SANTOS reported earlier this month that 42 wells in the program have been drilled in Queensland, with 37 successful. About 400 wells are planned to be drilled in the South Australian basin region as part of this project.

So far in 2006, 21 exploration wells have been drilled in the Cooper Basin, and 12 of these have discovered new petroleum accumulations and have been identified as future producers. Eight new oil fields and four new gas fields have been discovered so far this year. This is an excellent result for the companies that have invested in Cooper Basin exploration, and they deserve to be congratulated. Three of the discoveries have achieved an oil flow rate of more than 1 000 barrels per day. They include:

- Stuart Petroleum's Revenue Number One well—discovered a new oil field in July, and oil has flowed at 1 100 barrels per day from the Birkhead Formation, with oil producing zones being found in other formations. This new oil discovery is expected to start full-scale production next month.
- Beach Petroleum's Callawonga One—drilled in July, with oil flow at 2 400 barrels per day during production tests. This well has been completed as an oil producer and will either be tied into the Christies Oil Field or developed as a stand-alone well. It is expected to be brought on-line later this year.
- Stuart Petroleum's Toporoa One—drilled in February, achieved an oil flow of 1 814 barrels per day from the Hutton Sandstone.

SANTOS has also made two oil discoveries so far this year, and Victoria Petroleum encountered sufficient oil shows at its Lightning One find in April to justify its casing for later commercial testing. Stuart's three month turn-around from discovery to production at the Revenue Number One field is a testament to the company's efficiency as well as the effectiveness of South Australia's legislative framework. The success being reported by the companies indicates very strongly that the Cooper Basin remains a very rewarding and attractive destination for petroleum exploration investment, and there is no doubt there will be further valuable discoveries.

The exciting news in the petroleum sector continues, with an Adelaide based exploration company being named as the successful bidder for a new multimillion dollar acreage

release in the Otway Basin in the state's South East. The government has been pleased to offer Adelaide Energy Pty Ltd petroleum exploration licence PEL 255, which is located in the onshore portion of the basin. The winning bid, of a bid block designated OT2006-A involves more than $13 million in exploration investment during the next five years, of which around $7.3 million is guaranteed. I am advised that bidding was keen for the area, with five companies submitting bids following a highly successful acreage promotion campaign.

Guaranteed elements of the bid includes 3D seismic acquisition, an aeromagnetic survey, and the drilling of two wells, together with geoscientific studies in the first two years of the program. The non-guaranteed program includes two additional exploration wells and geoscientific studies. The new licence covers the Jacaranda Ridge oil discovery that produced 950 barrels of oil on extended production testing in 1999, but was deemed uneconomic at that time. Reinterpretation of petroleum drilling and seismic data from Primary Industries and Resources SA has revealed that the prospect has significant potential and would benefit from advanced drilling and production technologies currently available to define new leads.

Gas and oil discoveries in South Australia during the past 20 years, coupled with recent exploration successes in the Victorian sector of the onshore Otway Basin, suggest we can be optimistic about the resource potential of the area. Current production is restricted to the Katnook gas field, which is relatively mature and produces gas and condensate, so new oil discoveries in that area will have the potential to attract renewed interest in oil exploration opportunities. South Australia's petroleum industry continues to grow in strength, and this latest acreage release is another very important step forward.

EBAY

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation, representing the Minister for Consumer Affairs, questions about eBay.

Leave granted.

The Hon. NICK XENOPHON: Mr President, eBay is the world's largest online auction and trading business, with some 200 million users and a turnover well in excess of $60 billion per year. According to research conducted by AC Nielson for eBay, published in June 2006, 35 133 Australians use eBay as a secondary source of income or channel for their business, and a further 17 567 Australian businesses operate their eBay business as their primary and only sales channel.

Last week eBay increased its fees to eBay merchants by up to 500 per cent, coupled with a cut in services that expose those products for sale. The increases were across the board, up to a doubling of the feature plus listings, 25 per cent in monthly store subscription fees, up to 500 per cent in monthly insertion fees and almost a 200 per cent increase in the commission charged on sales. In contrast, overall eBay merchant fees and increases in the US and the UK are significantly lower than those in Australia.

The unilateral fee increases have already led to several hundred Australian eBay merchants closing their eBay businesses, with these businesses experiencing commercial losses. This includes those businesses that have made commercial decisions based on being eBay traders. I have been contacted by a number of eBay businesses who have closed down their eBay sites because of the massive fee increases, and they have incurred financial loss.

An Adelaide barrister who specialises in trade practices, Neville Rochow, has indicated that he believes the actions of eBay could constitute unconscionable conduct under section 51(a)(c) of the Trade Practices Act, and I presume also under section 57 of the state's Fair Trading Act, which deals with unconscionable conduct. My questions are:

1. Is the minister aware of the massive fee increases charged by eBay for its online store holders and has the minister sought advice as to whether eBay's conduct could constitute unconscionable conduct under section 57 of the Fair Trading Act?

2. Does the minister consider there is sufficient legislative protection for online businesses and consumers under current laws and, given the burgeoning nature of online trade and business, will she instruct that there be a review of current laws as to their adequacy?

3. What assistance will the government give through the minister's department to those businesses that seek redress against eBay, having been hit by these unilateral and unfair fee increases?

The PRESIDENT: I must say that the honourable member's explanations are much longer than his tie.

The Hon. G.E. GAGO (Minister for Environment and Conservation): I will refer those questions to the Minister for Consumer Affairs in another place and bring back a reply.

COOBER PEDY, DRY ZONE

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Police questions about the Coober Pedy dry zone.

Leave granted.

The Hon. T.J. STEPHENS: Residents have presented a petition to the Coober Pedy council, and it is my understanding that this petition will also be presented to this parliament and the federal parliament. The petition details residents' concerns about the impact drunken and disorderly behaviour is having on their town. The petition asks for support in trying to find a solution to antisocial behaviour that is primarily caused by alcohol. Essentially, the community is asking for more police resources to be directed to this problem, as there are concerns that the police are not seriously policing and enforcing the dry zone. My questions are:

1. Will police be directed to confiscate and decant alcohol being consumed in Coober Pedy's dry zone area, given the widely-held view within the local community that expiation notices currently being handed out are completely ineffective?

2. Will the government listen to the community's call for a 24-hour police service in Coober Pedy, given that the incidence of antisocial behaviour in this city is on the rise?

The Hon. P. HOLLOWAY (Minister for Police): I am well aware of the views of some people in Coober Pedy who would like to see an increase in police services. However, it comes back to the point we were making earlier that we are just not able to put police everywhere at every moment of the day where everyone would like them to be.

I have been up to Coober Pedy, and I have discussed this matter not only with many of the local residents but also with the police officers up there. A number of issues are involved in this matter; it is not a simple issue that has a quick remedy. There are a number of itinerant people within Coober Pedy

and people moving through that town. There are peaks and troughs in relation to these matters. I believe the police officers up there do a fantastic job. I know that some people in that community would like to see the police out on the beat arresting every single person at every moment of the day, but that is not always a possibility; it is not a desirable outcome.

A number of broader social issues are involved, and this government has been trying to address these issues, as it has in the Anangu Pitjantjatjara Yankunytjatjara lands and other areas, such as Port Augusta and other regions, in a sensitive cross-government way and in a way that is likely to be effective. By locking up people, you could very quickly fill the gaol in Coober Pedy, but it will not solve the underlying problems.

I should also point out that, in my other portfolio of Urban Development and Planning, after I had some meetings in Coober Pedy, I sent an officer up to Coober Pedy to help the council in relation to planning its main street and the use of some of the modern planning techniques which help divert people who might wish to drink in public to more suitable localities. Also, under the Planning and Development Fund, some money has been given to the Coober Pedy council to try to utilise those resources to find a more suitable way of overcoming this issue. There is no doubt that dry zones can help, and this government has supported them, where appropriate. However, at the end of the day, if people have a propensity to drink alcohol, you cannot lock them all up. Rather than just locking up people, we really do need to address the underlying social issues, and this government has made a very serious effort, involving many millions of dollars, in departments other than mine, to deal with that broader issue.

I do not accept the criticisms of the police at Coober Pedy. We are very lucky to have police of the calibre of Senior Sergeant Mark Webber and his team at Coober Pedy. They are doing a fabulous job, and I think they are striking the right balance between upholding law and order in the community and helping the community to underline these issues.

As an aside, recently we have been talking a lot about the Oxiana mine at Prominent Hill. One of the significant side benefits of that mine, I believe, will be the impact on Coober Pedy, in that it will bring a lot of employment into that region; a number of jobs. The mine is 100 kilometres from Coober Pedy and will provide jobs. The company had an indigenous program. I believe that it advertised and was looking at getting 20 of the local people in that community to work in the mine. I think it was amazed when it received something like 50 applications, and it is endeavouring to give all those people the opportunity to work in the mine. I think that, at the end of the day, the best solution we can find for some of the social problems in the Outback regions of our state through the mining boom is extending the employment opportunities and the wealth that it creates to those communities.

The Hon. T.J. STEPHENS: Sir, I have a supplementary question. Will the minister direct the Commissioner to order his police in Coober Pedy to confiscate and decant alcohol and seriously police the dry zone? I never said anything about locking anyone up.

The Hon. P. HOLLOWAY: I know that, if alcohol is being moved illegally onto the APY lands in the Far North of the state, the police will confiscate and decant the alcohol and take the appropriate action against people they detect, and they will apply the law without fear or favour. As I said, they are doing a good job. Will I direct the Police Commissioner? No.

NATURAL HABITAT CONSERVATION

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about natural habitat conservation.

Leave granted.

The Hon. I.K. HUNTER: South Australia's natural habitats and remnant vegetation, which support vast and complex systems of flora and fauna, more than ever need greater protection. Increasing population and demands on our natural resources places pressure on these systems, which must be balanced against our need for sustainable development. Can the minister provide an update on what this government is doing to responsibly protect and conserve the state's natural habitats and remnant vegetation?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his question and for his ongoing interest in these important policy matters. I am pleased to inform the chamber that this government has a proud record of conserving this state's natural habitats, flora and fauna, and one which we continue to build on. It is also a timely question, given that we are celebrating Keep Australia Beautiful Week, which is a national reminder of the fragility of Australia's environment and the need for vigilance and leadership in an effort to preserve these resources.

Just yesterday this council approved a motion to add about 5 300 hectares to Lake Gairdner National Park in exchange for 2 412 hectares of land being excised from the Gawler Ranges National Park. The land excised from the Gawler Ranges park was determined to have little biodiversity value due to past grazing, but the inclusion of the extra land in Lake Gairdner National Park will see vegetation that is in excellent condition, including understorey, provided with better protection for a significant net biodiversity gain while promoting good pastoral management. The additions will also improve the conservation values of Lake Gairdner National Park by ensuring that a large section of important habitat surrounding the lake bed is protected.

I am glad that when I introduced this motion yesterday my parliamentary colleague the Hon. Caroline Schaefer, a former resident of the area and committed regional MLC, agreed that this was a commonsense idea. She said that I had been environment minister at the time when the Gawler Ranges National Park was proclaimed. If a Rann government minister had held this portfolio at the time perhaps more commonsense ideas like this could have been incorporated into the plan and practical moves to conserve biodiversity implemented. Unfortunately, when the Gawler Ranges National Park was proclaimed on 15 January 2002 we were not in government. The Hon. Iain Evans was the environment minister at the time; so I extend my deepest gratitude to the Hon. Ms Schaefer for her glowing endorsement of the Rann government rather than her own party's leader.

These latest additions are part of a raft of new announcements that this government has made since it was re-elected. This year alone we have announced major conservation park initiatives, such as the St Clair and Yellabinna regions. We have proclaimed major conservation parks for Scale Bay on the West Coast and Ramco Point on the Murray. We have launched new management plans for Red Banks at Burra and Venus Bay on Eyre Peninsula. This is building on the record

of our first term of government when we established 11 new national parks and four new wilderness protection areas. Overall, we increased protection for almost 1 million hectares in that period. We also handed back 2 million hectares of Unnamed Conservation Park and stopped any future mining in Kangaroo Island's national parks.

We established the Adelaide Dolphin Sanctuary and legislation to protect the Adelaide Parklands. We doubled funding for fire management in our national parks, and developed a new program called Healthy Parks, Healthy People which aims to improve the quality of life of South Australians by encouraging greater use of our managed parks. We extended the One Million Trees program so that 3 million trees will be planted in South Australia within 10 years. These are just some of our initiatives, coupled with our bold new vision for natural resource management, our moves to protect our marine environment, initiatives to restore the Murray, and waterproofing of our urban areas. These are just some of the commitments this government is delivering for the benefit of all South Australians.

DOCTORS, SEXUAL MISCONDUCT

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation, representing the Minister for Health, a question about doctors who have recorded criminal sex offences.

Leave granted.

The Hon. D.G.E. HOOD: In a media report in *The Australian* of Monday 21 August it was stated that doctors who have committed sexual assault continue to practise medicine in the states of New South Wales, Victoria and Queensland. In New South Wales a cosmetic surgeon was charged with aggravated sexual assault on a patient and continues to practise. In another circumstance in the same state an ophthalmologist was charged with possessing child pornography and continues to practise. In Victoria a general practitioner faced suspension over allegations that he conducted a pap smear that was more sexual than medical. Previously he had been suspended and he was not supposed to treat female patients unless he was supervised. My questions are:

1. What procedure currently exists within South Australia if allegations arise where a doctor is accused of sexual misconduct of any form?

2. How many doctors have been accused of sexual misconduct or other forms of sexual assault in the past five years?

3. Does the South Australian Medical Board examine these issues as they arise; and what guidelines should the board follow in these circumstances?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his most serious questions. I will refer them to the minister in another place and bring back a response

UNLEY ROAD

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Road Safety a question about road safety on Unley Road.

Leave granted.

The Hon. S.G. WADE: Unley Road is a major road with high volumes of pedestrian traffic and about 40 000 cars using the road each day. The proposed Unley Road upgrade was well advanced when the Rann Labor government came to office in 2002. Traffic and pedestrian safety were the main drivers for the project. The project was managed by a planning committee which included the department of transport and Planning SA. None of the pedestrian safety elements of the original upgrade have been implemented and the member for Unley in another place has been vigorous in highlighting this issue.

In recent months a 20 year old motorcyclist was killed on Unley Road while waiting to turn right. If the turn right filters in the upgrade had been implemented this incident may not have occurred, and only yesterday a pedestrian was knocked down. Will the minister advise the council when the government will implement the road safety upgrades to Unley Road, which have been delayed for four years by the government's refusal to fund the completion of the project?

The Hon. CARMEL ZOLLO (Minister for Road Safety): I thank the honourable member for his question relating to the Unley Road upgrade. Clearly, we are talking about an issue of infrastructure. Nonetheless, I appreciate the road safety factor that is involved. I will seek advice from the department and bring back a response outlining the issues that he has raised. Obviously, I am not aware of what happens day to day on each and every road in South Australia but, as I said, I appreciate the honourable member's concern, and I will bring back a response.

CYCLING, ROAD SAFETY

The Hon. B.V. FINNIGAN: I seek leave to make a brief explanation before asking the Minister for Road Safety a question about improving cycling safety in South Australia.

Leave granted.

An honourable member: You'd always be on your bike, Bernie.

The Hon. B.V. FINNIGAN: As we all know, cycling is a great form of exercise. I assure honourable members that, while I possess a stationary exercise bike, I have not ridden an ordinary bike for some years. I do not want to test the laws of physics beyond a burden they might be reasonably expected to bear. However, many others engage in cycling often, and it is great cardiovascular exercise for them. I understand, though, that people are discouraged from taking up cycling or doing more of it because they worry about their safety on the road. My question is: what is the government doing to make cycling safer?

The Hon. CARMEL ZOLLO (Minister for Road Safety): I thank the honourable member for his very important question. With the spiralling costs of petrol and frequently reported health problems that are occurring with the rise in obesity levels, particularly among our children, the government is more than ever encouraging cycling for its low-cost fitness benefits. Many members would be familiar with the state Black Spot program that this government implemented to specifically address known road crash locations. Last year, this program was improved to provide a portion of the fund specifically for cycling safety projects. We have allocated $600 000 of the $7 million state Black Spot program to be used solely for providing cycling safety infrastructure. This year, there will be 22 projects worth a total of $680 000, with the remaining $80 000 being contributed by councils.

There will be two projects in regional areas, eight in Adelaide (built by councils), and a further 12 to be built by the Department for Transport, Energy and Infrastructure on Adelaide's arterial road network. The regional projects are a

shared use path from Moonta to North Yelta with more than $20 000 and a bicycle lane on Jenkins Avenue, Whyalla, at an estimated cost of about $26 000. In Adelaide, projects include a path alongside the rail line at Keswick and bicycle lanes at Ridgehaven, Golden Grove and Semaphore. DTEI will be installing bicycle lanes on a number of arterial roads, including Tapleys Hill Road, Payneham Road and Greenhill Road.

The state Black Spot program for cycling improvements was established in 2005-06 and, to date, it has committed $1.2 million to improving conditions for cyclists across South Australia. This government is also serious about improving cycling networks and it provides councils with access to funding for planning and improving cycling networks through the State Bicycle Fund. Every year, councils can apply for funding for the projects they wish to implement. If the project is successful, councils will receive up to a 50 per cent subsidy from the fund.

Many, if not most, of the bicycle facilities we see in our suburbs and regional townships have been developed with the assistance of the State Bicycle Fund. This year, the fund will result in projects being built to a total value of $830 000. Funds will be provided to six councils in Adelaide for a total of 11 projects and five regional councils for a total of nine projects. Projects in Adelaide include sections of the Willunga-Marino rail trail, a new bridge and improved connections along the Port Adelaide rail corridor, and a strategic local area bicycle plan for the city of Campbelltown. In regional areas, paths will be built in Mount Gambier and Whyalla. There will be three projects in Whyalla, including a shared use crossover treatment, a bicycle lane in Beachport and Penola, and a strategic local area bicycle plan is being developed for Naracoorte, Burra and Eudunda.

The government is encouraging and providing safer conditions for more active modes of transport, and the benefits are by no means restricted to personal wellbeing. More cyclists also means a reduction in traffic congestion and greenhouse gas emissions. This government takes cycling safety seriously and has a number of approaches for improving cycling safety, including improving cycling infrastructure, conducting awareness campaigns of how cyclists and drivers can contribute to improving cycling safety by sharing the road and providing bicycle education for schoolchildren.

The Hon. M.C. PARNELL: I have a supplementary question. Of the 22 projects to which the minister referred and some of which she outlined, is one of those projects the Bakewell Bridge underpass and, if not, can she commit the government to ensuring that there will be an off-road shared-use cycle and pedestrian path on both sides of the proposed underpass?

The Hon. CARMEL ZOLLO: The honourable member has a motion before this chamber. Is it appropriate for us to deal with this question as it is a motion, not legislation?

The Hon. M.C. Parnell: Can the minister at least deal with the question and we can deal with the other aspects of the motion later?

The PRESIDENT: The Hon. Mr Parnell does not make the rulings in this place, the President does. If the minister does not answer it in the sense of interfering with the motion, I will allow it.

The Hon. CARMEL ZOLLO: As I said, there is a motion before this chamber. I know how passionate the honourable member feels about it, but I was going to make a separate contribution. I can take up the rest of question time and make comments and put them on the *Hansard* record—

The Hon. R.D. Lawson interjecting:

The Hon. CARMEL ZOLLO: If the honourable member has questions to ask, I can sit down and bring back advice. We feel that, rather than severely limiting the bicycle, pedestrian and disabled access in relation to the Bakewell Bridge, the current design will improve the access for these users significantly. Community members in the western area were invited to comment on the design of the underpass at three stages throughout the process of reaching the preliminary design. More than 800 inputs were received and the design was developed with them in mind. We also believe that, compared to the existing bridge, the underpass will have wider bike lanes, a wider footpath on its southern side, a pedestrian-bicycle bridge over Henley Beach Road and improved disabled access.

The preliminary design for the Bakewell underpass replaces all pedestrian and cyclist facilities currently available on or around the Bakewell Bridge. The new underpass will have a 1.8-metre wide on-road cycle lane. The original scheme was for 1.5, but it was increased to 1.8 metres following consultation with cycling groups. It will have recreational cyclist access to and from the parklands and the city via a wide 3.6-metre shared path along the southern side of the underpass. I understand that is with what the honourable member has an issue. Paths connecting north and south sides of the underpass are provided at three locations to ensure connectivity from and to all areas around the underpass.

The underpass will have flatter pedestrian grades and improved pedestrian and recreational cyclist separation from traffic as a result of using a raised path through the underpass. It will have upgraded lighting. I do know that last week (21 August) the chief executive of the department met with the Bakewell Underpass Community Coalition and agreed to investigate a dozen improvements to better provide for walkers, cyclists and the disabled. I will undertake to bring back some further information for the honourable member.

DRUG DRIVING

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Minister for Road Safety a question about drug driving legislation.

Leave granted.

The Hon. R.I. LUCAS: As members will be aware, for some months the opposition has been pressuring the minister and the government to change its position in relation to the drug driving legislation. Mr President, you would be aware that a number of questions have been put to the minister in relation to the reasons why the government was refusing to include ecstasy in the drug driving legislation 12-month trial, which, as she indicated, was to begin on 1 July this year.

Through all that period, this minister steadfastly opposed the introduction of ecstasy at any time during this 12-month trial period. The minister, on any number of occasions, as the *Hansard* records, indicated that parliament should wait (and the government was going to wait) until the end of the 12-month trial to make any decision in relation to the inclusion of ecstasy in the drug-driving regime. As members will be aware, today, in an extraordinary and embarrassing backflip for the minister and the government, a ministerial statement was delivered in both houses, evidently indicating that the government had now changed its position completely to the

position being urged by the opposition to include, as they call it, pure ecstasy (or MDMA) in South Australia's drug-driving regime.

Will the minister explain to the council the reasons why the government has now changed the position, and does she now acknowledge that the position she adopted just two months ago in this chamber was wrong?

The Hon. CARMEL ZOLLO (Minister for Road Safety): I do very much appreciate the honourable member asking this question, because at least we can put the record straight—a lovely dorothy dixer! First, this parliament passed legislation last year that would see two proscribed drugs as part of the trial; and, I hasten to add, that was based on good scientific research. I am told that the trial is going well. We have had advice from SAPOL that it is being well received. On several occasions the honourable member has said that this parliament did not know what the two proscribed drugs were, so I will place on record a contribution made by the Hon. Caroline Schaefer who, as a front bencher last year, must have had conduct of this legislation for the opposition. The Hon. Caroline Schaefer stated:

> This new offence will be based on the presence of a proscribed drug in a person's saliva or blood, and TCH and methamphetamine are the two drugs being tested for. As I have said, the opposition strongly supports this bill because we have been requesting it for the past three years.

In this same chamber, the Hon. Andrew Evans said:

> The government has decided to tread carefully in this area by defining only two drugs as a prescribed drug at the initial implementation of the scheme. I consider this to be a prudent measure and agree with the government reasoning for only testing these two drugs.

So, this chamber—

An honourable member interjecting:

The Hon. CARMEL ZOLLO: He did not read the *Hansard*; he must have been asleep.

The Hon. G.E. Gago: He was too sleepy!

The Hon. CARMEL ZOLLO: Yes, too sleepy. It was debated on the floor of this chamber as to which—

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: Of course it was a regulation, but it was debated on the floor of this chamber which two drugs would be in the regulations. No matter how many furphies you tell, you cannot change that. At any rate, I have gone through pretty much everything I have said it both on the floor of this chamber and in the media. I have tagged them all, and I will read them all to the honourable member.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Good. I could even read yesterday's contribution. I could even read Tuesday's contribution. On Tuesday, I said:

> As I said to the honourable member, I am always happy to look at the effectiveness of our drug-driving trial and any information that is provided to me. I meet with the Police Commissioner—
>
> *Members interjecting:*
>
> **The PRESIDENT:** Order!
>
> **The Hon. CARMEL ZOLLO:** —on a fairly regular basis (every couple of weeks). I have sought and he has provided to me some information in relation to the drug testing in our state and other states. I will consider this information and other matters as part of the process of reviewing our drug-driving legislation.

That is what I said on Tuesday.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: I will go through all the quotes, seeing that the honourable member wishes me to. In a debate earlier this year, I said:

> If the police come to us and say—

and I believe this was in response to you—

> 'We believe you should be including this,' of course we will take that on board.

The Hon. J.S.L. DAWKINS: On a point of order, Mr President: the minister has been here long enough to know she should refer her comments through the chair.

The Hon. CARMEL ZOLLO: A gross discourtesy. As I was saying, Mr President, I am happy to go into the *Hansard*. I said:

> . . . we believe you should be including this. Of course we would take that on board and we will include it.

We had just passed legislation, and I was saying it was a trial and it was just starting. So, from my point of view I was undertaking the will of the people. On Saturday 1 July I said:

> If we need to include other drugs, we will. This is a trial and yes we will assess and monitor this trial and if we need to include other drugs we will.

The Premier in another place has made a ministerial statement, and I have read out that statement in this council as well. I welcome the inclusion of this drug—

An honourable member interjecting:

The Hon. CARMEL ZOLLO: You can call it a backflip; I do not have a problem with it. I think we are going forward.

An honourable member: A great initiative.

The Hon. CARMEL ZOLLO: I think it is a good initiative to include it.

The Hon. R.I. Lucas: Indeed; we suggested it.

The Hon. CARMEL ZOLLO: No, it is not because you suggested it. What we agreed to do in this parliament is to start a trial. We have started this trial.

The Hon. R.I. Lucas interjecting:

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

The Hon. CARMEL ZOLLO: And I have taken advice. I took advice as Minister for Road Safety. I have acted on that advice, which is more than you do.

The PRESIDENT: I remind the camera people that if they continue to put the camera on people who are sitting in the chamber they will be asked to leave the chamber. If you want photos, put the cameras only on people who are standing and speaking.

VOLUNTARY EUTHANASIA

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

> That standing orders be so far suspended as to enable me to move a motion without notice regarding the publishing of a speech made yesterday by the Hon. Sandra Kanck.

It is my intention to move a motion that has been circulated to members. Basically, that motion would direct the Leader of Hansard not to publish on the parliamentary web site or electronically those parts of Ms Kanck's speech yesterday that described the way in which certain persons were said to have committed or attempted to commit suicide, and other

parts of that speech that referred to how people might commit suicide. The reason I am seeking to move this is that we are only a few hours away from the time at which the *Hansard* would normally be published electronically.

It is the advice that this government has received—and I will go into this more if we go into substantive debate—that it could have a very adverse effect on people contemplating suicide. I believe Ms Kanck's speech yesterday contained information that should not be widely in the public realm. In the view of the government it is grossly irresponsible for that information to be out there, and that is why I move this motion. If this motion is carried and we are able to debate this issue, and if the motion I move is subsequently carried, it could always be reversed subsequently by members of this council.

I understand that a number of members may not have the opportunity to consider these broad issues, but I believe that, if we do not take action immediately, that information could go out into the public realm through the web site. I believe that all of us should take some responsibility for that, and that is why I am seeking to move this motion so we can prevent that information going out broadly through the web site, at least until this matter can be further considered by the parliament. That is why I am seeking leave to suspend standing orders to move this motion.

The Hon. R.I. LUCAS (Leader of the Opposition): This extraordinary position was first brought to my attention at seven minutes past two this afternoon—eight minutes before question time—when the Leader of the Government approached me with an indication that he intended to move this motion. As I understand it, government members and representatives were wandering the corridors of the parliament with copies of drafts of this motion for some considerable period prior to seven minutes past two. Those members and representatives are well aware of whom they are. The first we were aware of the motion was at seven minutes past two.

At that stage the advice given to us was that the minister was either going to move it in eight minutes which was before question time, or immediately after question time. Should there be a substantive debate on this issue, my understanding is that the government has the support in this chamber both for the substantive debate—the suspension of standing orders—and, I understand, for what it is intending. We can have that debate at that time if this motion is passed.

Our position in relation to this first motion, the suspension of standing orders, will be to not oppose it so that we can have the debate. We will indicate clearly, however, our position during the substantive debate, should that occur. The only other point I make is to let it be noted on the record that, if this substantive debate is brought on with just one hour's notice, we do not want to hear (as Liberal or non-government members) any complaint in future about bringing on the suspension of standing orders at less than one hour's notice, which is a most unusual and extraordinary course of action. The Leader of the Government and the government are establishing the rules of debate in relation to this issue.

On this occasion we will not oppose the motion for the substantive debate, but (on behalf of non-government and Liberal members) we do not want to hear any cant or hypocrisy from the Leader of the Government in future in relation to the suspension of standing orders or motions being brought on at very short notice, when he countenanced possibly bringing this on with eight minutes' notice.

I asked that at the very least he give us the opportunity to have question time so that I could talk to my colleagues in relation to the proposed motion. As a result, I understand there will probably be some amendment to the motion, which I will not debate now. It is more appropriate that we have the substantive debate as a result of questions we raised in relation to seeing the first motion, which were contrary to the verbal indications that representatives of the government were giving the opposition as to what was to be included in the motion.

The Hon. SANDRA KANCK: Clearly, as the Hon. Mr Lucas has indicated, the opposition will not oppose the suspension of standing orders and we will have a substantive debate. I put on the record that the first I heard of this motion was when I listened to the loudspeaker in my room and heard the ministerial statement made by the Hon. Mike Rann, at the end of which he said that this move would be undertaken by the Hon. Paul Holloway this afternoon. He did not give any sense of timing or anything like that, nor the degree of the content we now see in the motion before us. I held a media conference at about 2.40 p.m. and the media knew all about it. Some had already apparently done the numbers and had been canvassing members about the chances of its getting up. They have already told me that it is going to get up. There was obviously a lot more knowledge of this by others, but I express my disappointment that the government did not have the courtesy to give me any prior warning of this. I at least gave notice of my motion on Tuesday.

The council divided on the motion:

AYES (18)

Bressington, A. M.	Dawkins, J. S. L.
Evans, A. L.	Finnigan, B. V.
Gago, G. E.	Gazzola, J. M.
Hood, D. G. E.	Holloway, P. (teller)
Hunter, I.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Ridgway, D. W.	Stephens, T. J.
Wade, S. G.	Wortley, R.
Xenophon, N.	Zollo, C.

NOES (2)

Kanck, S. M. (teller)	Parnell, M.

Majority of 16 for the ayes.

Motion thus carried.

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

That this council, subject to the qualification to this motion hereinafter appearing, directs the Leader of Hansard not to publish on the parliamentary web site or otherwise electronically those parts of the speech of the Hon. Sandra Kanck that:

(a) describe the way in which the persons referred to as Jo, Shirley Nolan and Elizabeth by the honourable member were said to have committed, or to have attempted to commit, suicide;
(b) describe the methods of suicide referred to in the statistics said to have been compiled by the Australian Bureau of Statistics;
(c) describe any other method of suicide;
(d) describe the way in which plastic suffocating devices can be made;
(e) identify the drug said to have been used in connection with suicides assisted by Dr Philip Nitschke in the Northern Territory.
(f) describe any method of suicide involving the use of a motor vehicle

and where such material is already published to take all reasonable steps to remove that material from publication.

A copy of the entire speech of the Hon. Sandra Kanck may be provided to the Parliamentary Library where it may be made available to be read by any member of the public on request, subject always to the discretion of the Parliamentary Librarian to refuse that request after consultation with the President of the council where there are reasonable grounds to suspect that acceding to the request would create an unacceptable risk of harm to any person.

The Hon. R.I. LUCAS: Sir, I rise on a point of order. Will the minister do the council the courtesy of providing copies of the motion so that members can have a typed copy of it before they are asked to debate it?

The Hon. P. HOLLOWAY: I understand that my colleague circulated typed copies earlier. I gave a version of it to members at the start of question time. It has been slightly amended, and the final version of this amendment has been circulated to all members. Let me begin the debate by saying it is unfortunate that this debate has come on so quickly and that some of the usual courtesies of the parliament have not been able to be fully offered because of the—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Sometimes parliaments have to adjust to the situation. This government was faced with certain choices. We could have published electronically on the web site the information that Ms Kanck provided yesterday. We know from evidence (and my colleague the Hon. Gail Gago will discuss this matter in more detail shortly) that the information that was published could have a detrimental effect on people who are suffering from acute depression or other mental illnesses.

As the Premier pointed out in his statement earlier today, the highly respected *American Journal of Psychiatry* conducted a study about a book published some years ago that recommended various methods of suicide for those with terminal medical illnesses, including one outlined by Sandra Kanck in parliament yesterday. The authors sought to determine whether the number of suicides involving those methods increased in the United States in the year the book was published compared with the previous year. I am told the authors published an article stating that one method outlined in the book had increased by 31 per cent. In the case of another method, its use had increased by 5 per cent following the release of the book. As I said, in relation to those mental health aspects, my colleague the Hon. Gail Gago is much better placed to speak on this matter than I, and she will speak later in the debate in relation to the potential harm that the publishing of this material could have within the community.

I point out that a quick decision had to be made. Given the evidence that is available to us that I have just outlined, we needed to act before the material was made publicly available. Given the publicity (such as the article that appeared on the front page of this morning's newspaper) surrounding this information, it is almost inevitable that people who were seeking that sort of information would be drawn to it. I think it is imperative that members of this council make a quick decision now. It is unusual that we should seek to suspend standing orders, but I hope that all reasonable members in this parliament would understand the special set of circumstances that we are faced with here.

To do nothing would, in my opinion, have been much more irresponsible than pushing the limits of the standing orders. I appreciate the cooperation that I was given, because it was very short notice; I acknowledge that. However, I appreciate the cooperation given by other members, and I assume the reason for that is that other members agree with me that there is a considerable risk with respect to this matter. There are major issues involved here. Within the very brief time available, members may wish to think through all these big principles we have in relation to parliamentary privilege, and so on. However, I point out that the important issue for us now is to ensure that this information does not go on to the web site immediately, until this chamber, from which the remarks originated, at least has had the opportunity to properly think through the implications.

It is up to this chamber at any time if it wishes to change it, but I would implore all members of this council to take this step, at least today and at least until further thought can be given to the matter. I think my colleague the Minister for Mental Health and Substance Abuse will point out shortly that there is certainly significant evidence from psychiatrists and others that the publication of such material could greatly increase the risk to those who are prone to depression and suicidal tendencies. I do not believe that we in this parliament should be in that business.

Sure, we all protect the right of people to say what they believe. No-one here is saying that anyone should be censored in relation to what they can say within the parliament, but where the dissemination of that information could have a greatly detrimental effect on those in the community we all have to take some responsibility. That is why I move this motion this afternoon. I implore the council to support the motion, at least for the immediate future, so that the potential harm that could come from the publishing of this information does not eventuate.

As I said, my colleague the Minister for Mental Health and Substance Abuse will provide more evidence in relation to the harm of this matter. I thank members for cooperating and bringing on this debate so we can consider these important matters. I should indicate that the government has sought advice from the Solicitor-General in relation to parliament's powers in relation to this issue. I am advised that there are examples where parliament on various occasions has stepped in, as is the right of any house of parliament to restrict what might be—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I understand there are examples in Erskine May. In conclusion, I commend this motion to the council. It is incumbent on us all who consider the reputation of parliament, particularly this Legislative Council, to act responsibly. Where members for whatever reason overstep the mark in relation to parliamentary privilege—as I believe the Hon. Sandra Kanck has done—it is up to us in this parliament to correct it; and let us do just that.

The Hon. SANDRA KANCK: Yesterday I moved a motion that had two things at its heart; one was about the need for legal voluntary euthanasia, and associated with that was the curtailment of freedom of speech. What is happening here today is that freedom of speech that I was attempting to defend yesterday will now be further eroded by our Premier. He must be very proud of himself. Following on the coat-tails of John Howard in curtailing our freedom of speech, Mike Rann is adding fuel to the fire. I see this as being evidence of triumph of the right in the Labor Party—because I am certain that is where this has come from. I wonder whether it might have something to do with our Premier's search for Family First preferences at the next election. He is trying to secure the vote of the conservative right.

The Hon. P. Holloway interjecting:

The Hon. SANDRA KANCK: I recognise what is happening here. It was done in the last state election, and I think this is now the wrap-up for Premier Rann. It is very curious. On the one hand, Premier Rann has said that by my making this speech yesterday it has shone the spotlight on the issue and could lead to young people taking their life. So what does he do? He shines the spotlight again. This is really clever. The intellectual bravado takes away my breath.

The minister says that my speech may have consequences. I do not know how I can get the minister or others in this parliament to understand that we are talking about a reality versus a 'could' (a possibility)—the reality that, every day, people take their lives in appalling circumstances because parliament has refused to pass legal voluntary euthanasia legislation. If we had had legal voluntary euthanasia legislation in the first instance, the effect of these laws at the federal level would be minimal here in South Australia.

I want to look at the actual motion itself and go through some of what it is intended to do. I am pleased to see that, unlike the original copy that the minister gave me at the beginning of question time, it has removed the words 'on paper'. It will only be in regard to the parliamentary web site. Then, the end of the motion states that the copy of the entire speech may be provided to the Parliamentary Library. I hope the minister will clarify exactly what he is meaning to do because, if paragraphs (a), (b), (c), (d), (e) and (f) are not excised from the printed copy of *Hansard*, this final paragraph is irrelevant. It is only relevant should the minister actually be talking about the printed *Hansard* as well as the web site. I will seek some clarification from him on that particular issue.

In terms of paragraphs (a), (b), (c), (d), (e) and (f), the first thing is to describe the way in which the persons referred to as Jo, Shirley Nolan and Elizabeth were said to have committed (or to have attempted to commit) suicide. It might surprise the minister to learn that the issues of the suicide of Jo Shearer and Shirley Nolan have already been documented in this chamber, so is there to be another motion to remove those early references to the deaths of Jo Shearer and Shirley Nolan? The story of Elizabeth, as I said in my speech, is able to be found on *The Guardian* web site, so simply removing it from my speech does not in any way lessen what happened there.

Maybe the government is embarrassed to consider these issues; it does not want people to recognise that people die in appalling circumstances seeking relief from their suffering. If they can excise this in some way, we can all pretend it is not happening; but we cannot. It says that the Leader of Hansard has to remove anything that describes the method of suicide referred to in the statistics said to have been compiled by the Australian Bureau of Statistics. I am sorry, but it is not 'said to have been compiled': they are from the Australian Bureau of Statistics. Again, people will be able to access the ABS web site and find that for themselves, so what are we achieving?

Paragraph (c) states 'describe any other methods of suicide.' Again, I think that is foolish. When I spoke yesterday, I talked about some of the methods of suicide, particularly those that young people use, and I said, 'Don't do it and here is why'. It is sensible to leave that on the web site if we are going to try to stop young people from using methods that could leave them in a vegetative state. You cannot describe the way in which plastic suffocating devices can be made. For goodness sake, I did not do anything other than to say it is a plastic bag with elastic around it inside a casing. I did not put on record the size of the bag. I did not talk about what sort of fabric should be used or anything like that. Anyone can find information about that on a web site. What is the purpose of removing it from ours?

You are not allowed to identify the drug that is said to have been used in connection with the suicides assisted by Dr Philip Nitschke in the Northern Territory. They were not 'said to have been used'; they were the drugs that were used. Philip Nitschke told me. He knows what drugs he used, for goodness sake. Again, it is on the record elsewhere. As for not describing any method of suicide involving the use of a motor vehicle, again, I spoke about that and said that this is not a good way to go because these days, with the way fuel is used in our vehicles, carbon monoxide is not there in the parts per million that it used to be and that, therefore, using that method of hooking up an exhaust pipe into your car is contraindicated. As I said, you could end up simply surviving with brain damage. That is important information for someone who is going to commit suicide.

The other thing that disturbs me about this is that the motion states at the beginning that the Leader of Hansard has to excise all this information. I do not believe that is appropriate for the Leader of Hansard. The Leader of Hansard is not an editor, for goodness sake. I hope the Hon. Mr Holloway recognises the inconsistencies in the beginning and the end of the motion. If the Leader of Hansard is not being instructed regarding what goes on paper—in other words, that volume of *Hansard* that we receive once it has all been signed off on—if it is to be printed there, then there is no need for this speech to be put in its entirety in the hands of the Parliamentary Library. However, if it is the intention to ensure that it is not in the printed copy of *Hansard*, then I want to know when the Rann government will start burning books.

We have never in the history of this parliament had this amount of material excised from *Hansard*. Of course, in the limited time that I have had to research this point I may be not entirely correct, but I do understand that, when there has been any excision in the past, it has been individual words or phrases where someone has said something that is unparliamentary. What we are doing here is unprecedented, but then in a way it is not unprecedented. Remember in April last year the Rann government introduced the Parliamentary Privileges (Special Temporary Abrogation) Bill. There it went further than we are doing here in that it actually introduced legislation, whereas now we only have a motion. I will refer to a couple of responses from members of the opposition when they spoke against that bill in the lower house. The member for Stuart said:

> But at the end of the day, once you go down this Mugabe-style path of legislation, where will it end?

This time it is a Mugabe-style motion rather than legislation. The member for Bragg said:

> It is unnecessary, it is unprincipled—notwithstanding what the Attorney-General says, it is unprecedented and it is unacceptable.

I think those words again apply to this motion that is before us: it is unnecessary; it is unprincipled; it is unacceptable.

The Premier of South Australia has claimed that Don Dunstan (former premier of this state) is his inspiration and was a mentor. In 1970, Don Dunstan in an article in the June issue of *The Australian Humanist* said:

> As a legislator, I believe that there are only two positions I can with honesty take when it comes to considering our civil liberties. The first is that the laws a community enforces should be designed solely to allow the members of that community to live together amicably, and the second is that no-one in the community has the

right to lay down that a certain code of behaviour should be observed by everyone in the community, regardless of the effect such a code has on individuals in the community. Following from this, I believe that the criminal law and civil laws of the community are to protect citizens from having themselves or their property damaged by other citizens and for no other reason.

This is the government that, when it was elected in 2002, said that it would model its first 60 days on Don Dunstan. Obviously they do not know what Don Dunstan stood for. If Don Dunstan knew that the Labor government was doing this today, he would be turning in his grave. What a travesty that our Premier invokes his name.

I emphasise, as I conclude my remarks, that all this is being driven by a need for legal voluntary euthanasia: legislation that ought to be passed by this parliament. People are dying every day in horrible circumstances because of a lack of courage by our parliament, and this is what results: when one dares to tell the truth it is going to be excised. We are going to begin the process of, it seems, burning the books.

The Hon. R.I. LUCAS (Leader of the Opposition): As I hinted at earlier, to my knowledge this motion is not only extraordinary but also unprecedented in terms of the nature of what the parliament is being asked to do. As the Hon. Sandra Kanck has indicated, I am in the same position. Obviously I have not been able to do a comprehensive search but, from my recollection, I have no recall of either a speech in its entirety or significant sections of a speech being removed against that honourable member's direction. In discussions I have had with others, it does not appear that there has been a precedent for this sort of action.

Indeed, the minister's response to my interjection, if I can put that again on the record, was that it was unprecedented in South Australia, that is, there was no example that he or his advisers could find for this having been done in South Australia. The first thing I want to say is that, from a personal viewpoint, the Hon. Sandra Kanck knows that I am absolutely and comprehensively diametrically opposed to her long-held and passionate views on voluntary euthanasia. That would be no surprise to her and, of course, my position has not changed.

I am also profoundly disappointed at significant sections of the contribution the Hon. Sandra Kanck, as an individual member of parliament, chose to put on the public record. However, members in this chamber are now confronted with the situation that an honourable member has made a decision which, perhaps, many of us or all the rest of us might have wished that, either in part or in whole, she did not make yesterday. I must say that, in the past 24 hours, my response to media inquiries has come from a background of wanting to deny the whole issue oxygen.

In my view, the Hon. Sandra Kanck is a passionate believer in what she is doing. Through a deliberate strategy she has adopted a course of action which was intended to maximise publicity for her cause and for the points of view that she was going to make. That was going to work only if the media and other politicians and commentators adopted a course of action which was exactly as the Hon. Sandra Kanck would have intended or wished.

It may well be that the structure of a free media and a free press is such that it is a forlorn hope that anyone in the media would have ever adopted the strategy which I adopted of trying to deny oxygen to the Hon. Sandra Kanck's position. I hasten to add that I am no expert in the issues the Hon. Sandra Kanck raised in her speech yesterday but, in the space of 15 minutes before question time today, once I knew this motion was produced, a Google search of the web has produced hundreds of pages of information exactly the same or, indeed, more comprehensive than the information the Hon. Sandra Kanck put on the record yesterday.

This notion that this is the first time this information has been made available, obviously, is being made by people who have no knowledge of what is available. Discretion as well as the fact that I may well become the subject of a future motion of the Legislative Council to expunge sections of my speech should I move down a particular course cautions me not to refer to the word searches, web sites and prompts to action that were used in the 15-minute period just before question time today. Suffice to say that they were very simple and, certainly, would not be beyond the wit and wisdom of anyone, children included (and, perhaps more importantly in terms of the web, older people), to access the information from the web.

As I said, some hundreds of pages are there and available and can be produced at very short notice from existing information. There is nothing in the speech made yesterday that cannot be found on the web at any number of locations in any number of easier ready references in terms of Google searches and other search engines to get information on this topic.

I not am sure whether, if people are this way inclined and looking for information, their first port of call would be the South Australian parliamentary *Hansard* anyway; it is probably more likely to be a search engine of general usage and a few general phrases and words, then the information in a much more comprehensive fashion is made available. I put that on the record to indicate that what we are confronting today is a set of circumstances—and I am sure the Hon. Sandra Kanck well knew where this was heading—where the inevitable response from the media and others was to continue to give oxygen to the issues that have been raised and, in the words of the Hon. Sandra Kanck, to put the spotlight on the speech and give it more publicity. That has happened, and those who have responded in the media and elsewhere need to accept that they too have been part of allowing the Hon. Sandra Kanck to get the publicity for the points of view that she wishes to put and the information she put on the public record yesterday.

I would make another point in this debate. I know my colleague the Hon. Robert Lawson will be able to speak in much more detail in relation to this, but my advice on the legal opinion is that, contrary to what the media and some members of parliament have been suggesting, the Hon. Ms Kanck has committed no criminal offence. The Hon. Ms Kanck could have said what she said yesterday outside on the steps of Parliament House on North Terrace—or indeed anywhere. She did not need to seek the refuge of parliament to make her speech yesterday. Again, on my legal advice, she has not defamed anybody.

Contrary to what the Premier said—that this was the grossest abuse of parliamentary privilege in his term—on our normally accepted understanding of parliamentary privilege—and I will leave it to the Attorney-General and QCs to argue the point in relation to more technical breaches of parliamentary privilege—the normal definition that we understand as ordinary, working members of parliament is where you come into this place and you defame somebody and seek refuge from civil action in this chamber for something you are not prepared to say outside. You come in here and accuse someone of a criminal offence or say something

in relation to the character of the person and, in saying it here, the privilege protects you from civil action if you had said the same thing outside. My legal understanding is that the Hon. Ms Kanck could have said every word she said out on North Terrace and would face no criminal or civil action in any way at all.

I think it is for the members of the government and others—because I understand that the government has the numbers tucked away for this motion—to understand that we are taking an extraordinary course of action. In the circumstances, many of us—most of us, perhaps—would have wished the speech was not made, but we are going down a path where we are going to excise from the parliamentary intranet and internet record sections of the Hon. Sandra Kanck's speech.

I would ask members before they finally vote to look at the nature of the motion we have before us. Soon after this motion was first flagged with me at seven minutes past two this afternoon, I indicated to one of the representatives of the government that, contrary to the verbal undertakings that were being given by government members to opposition members that this related only to electronic storage of the speech from yesterday and not paper storage, the actual motion that we had all been given had included the words 'not to publish on paper'. This made it quite clear that, whilst the government representatives were telling the opposition that it was not going to do that, the actual motion we were provided with did make clear that it extended beyond removing it from the internet, the parliamentary web site and other related areas.

The Hon. Sandra Kanck has detailed issues of which I was unaware, but evidently there are other speeches she has made in the parliament that include some aspects of the speech she made yesterday which this motion seeks to delete from the record. Only the government and its supporters can answer this question: will we be asked to amend retrospectively the earlier contributions of the Hon. Sandra Kanck in relation to this issue? The point she made in relation to the Australian Bureau of Statistics is well made. If that information, as indicated by the honourable member, is available on the Australian Bureau of Statistics web site, it is hard to see the point of that aspect of the proposal we have before us.

The whole first part of the motion is such that those who support it will be asking that a non-elected parliamentary officer, the Leader of Hansard, be given this motion, should it be passed, and given the responsibility—

The Hon. J.S.L. Dawkins: That person is about to start work next week.

The Hon. R.I. LUCAS: I understand that he or she is about to start work. He or she may rapidly reconsider their position if they are starting work on Monday and this is the first task that the Rann government gives them. He or she will be fronting up and having to make sense of this motion. There are aspects of it that are relatively easy. Paragraph (e) refers to the section of the speech that identifies the drug. I do not know whether that means that we will have a sentence with that word removed or whether the Leader of Hansard will remove that sentence or how the amendments will be implemented by the Leader of Hansard. Paragraph (c) relating to describing any other methods of suicide essentially will be a question of judgment by the Leader of Hansard, who will go through the speech and make a determination as to which aspects of the speech describes any other methods of suicide and will amend the Hon. Sandra Kanck's speech accordingly.

Let us put on the record that those who are supporting this motion will be asking a non-elected parliamentary officer to go through a speech by a member of parliament and to amend the electronic record of that member of parliament's contribution in the parliament. As the Hon. Sandra Kanck has indicated, this government has form in relation to these issues. I refer to the extraordinary bill that the government sought to introduce last year in relation to the position of the then member for Hammond, Mr Lewis—and the Hon. Sandra Kanck referred briefly to that issue—because it indicates that we are on a very slippery path with the Rann government in relation to the rights and privileges of individual members of parliament to speak freely when one looks at its approach to any particular issue, whether it be in the first case where it potentially was to be an allegation as it related to a government minister and, in this case, the position of the Hon. Sandra Kanck.

I draw the attention of members' intending to support the motion to the last paragraph. This is one of the more extraordinary pieces of drafting the Rann government has ever put before the council. We have seen plenty of extraordinary pieces, and I am sure you would agree with that, Mr President. However, given that this will relate to your position, let me speak out and highlight what you are going to be asked to do by the Rann government.

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: He is going to become something in a very short time. The last paragraph states:

> A copy of the entire speech of the Hon. Sandra Kanck may be provided to the Parliamentary Library, where it may be made available to be read by any member of the public on request. . .

So, any member of the public, on request, can ask to read the Hon. Sandra Kanck's speech. I might point out, of course, that the hard copies of *Hansard* are already out. The Government Printer has hundreds of copies of the hard copy on a free distribution list, which will be distributed anyway, irrespective of this particular motion, should it go through. The motion continues:

> . . .subject always to the discretion of the Parliamentary Librarian—

The Hon. Sandra Kanck interjecting:

The Hon. R.I. LUCAS: Yes, exactly. Any incoming Parliamentary Librarian might want to think again, too, with this particular one. It continues:

> . . . .to refuse that request after consultation with the President of this council where there are reasonable grounds to suspect that acceding to the request would create an unacceptable risk of harm to any person.

How extraordinary. You and the soon-to-be-appointed Parliamentary Librarian (or, in the unfortunate circumstance that that does not happen, the acting Parliamentary Librarian), in the case where an individual comes to ask for a copy of the speech, are going to have to make a decision in relation to each and every one of these people, whether or not giving a copy of the Hon. Sandra Kanck's speech (I am not sure whether it is just this one or any of her speeches) may well do harm to this particular individual.

With the greatest of respect to you and your lofty office, I am not sure how on earth you will be expected to make that sort of a judgment. You have made many judgments in your time, Mr President—some right and some wrong, as I am sure even you would agree—but you are going to be asked to make potentially life and death judgments in relation to this matter, which involves assessing the mental health of

individuals wanting copies of the Hon. Sandra Kanck's speech.

You will have assistance: the soon-to-be-appointed or yet-to-be-appointed Parliamentary Librarian. One would hope that the personal attributes or personal specifications of the job will now be changed to include mental health capacities, or mental health experience—a doctor of psychiatry would be useful. They might not know much about the Parliamentary Library but they will be able to help implement the Hon. Mr Holloway's motion that he has put before the chamber this afternoon.

To be fair to the Hon. Mr Holloway, he should not accept all the responsibility. It is actually the Premier's motion, as well as the minister's motion, that is before the chamber, because this is being driven by the Premier and the Leader of the Government in this place, the Hon. Mr Holloway.

As I said, members who are going to support this particular motion not only should address these particular aspects of it but, even if the motion were to be changed, we are being asked to address an extraordinary set of circumstances. I come back to the position that, in my party, we are a broad church on this particular issue. There are some who, as the Hon. Sandra Kanck knows, support her views on voluntary euthanasia. There are some, like myself, who are implacably opposed, and we have all representations in between. That is in relation to the issue of voluntary euthanasia. It is up to individual members, if they wish, to speak for themselves in relation to the matters that the Hon. Sandra Kanck raised yesterday.

Whilst we have extraordinarily different views on the principal issue of voluntary euthanasia, we share the view that we are not prepared to support this attempt by the Hon. Mr Rann and the Leader of the Government in this place, the Hon. Mr Holloway, to trample on the rights of the Hon. Sandra Kanck in relation to this issue.

As I have said, sadly, we are seeing this government with form on the issue. We saw an example last year and we have seen an example this year. I warn and alert other members of parliament that if this Premier and this Leader of the Government get their way on this particular issue then, at some stage in the future, for those of you who are going to be here for many more years than others, a Premier like Mr Rann and a Leader of the Government like the Hon. Mr Holloway will use the precedent that was established last year and the precedent set this year to say that these are no longer unprecedented courses of action.

The conventions, history, strengths and traditions of the Legislative Council that have been built up for well over 100 years have been cast aside easily in one afternoon, with one hour's notice and with no notice being given to the person who has been the particular subject of the motion, whilst, at the same time, government members and representatives were wandering the corridors of Parliament House gathering the numbers for this motion to ambush the Hon. Sandra Kanck, the opposition and others on this issue. As I have said, I leave members with that warning on behalf of Liberal members: be aware of what this government will do to the rights and responsibilities of individual members. On that basis and for those reasons, I indicate that Liberal members do not support this motion.

The Hon. G.E. GAGO (Minister for Environment and Conservation): I heed the warning sounded by the Hon. Rob Lucas. However, I feel there is a far greater warning to be heard, and that involves the lives of vulnerable human beings. This is indeed a very serious matter. It potentially involves the lives of some of the most vulnerable members of our community.

The Hon. Sandra Kanck knows I feel very strongly about this issue, because I telephoned her personally yesterday morning, before she made her speech. She knows that this is not a Rann-motivated thing, and she knows that the concerns I raised with her are well-founded. I expressed a point of view and backed it up with strong statements. This had nothing to do with a stunt by Rann and votes coming from the Family First Party. She knows I rang her out of a genuine concern about what she was planning to do in her speech yesterday, and she knows that concern was completely genuine and heartfelt. I telephoned her to advise her against proceeding with a speech that would contain detailed outlines of suicide methods, and I made her aware of the link between the publishing of those sorts of details and the effect that that has on—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! I think the President made it very clear to cameramen in the gallery earlier today that they are to be focused only on members who are standing and speaking. The cameraman who is in the gallery was warned earlier that he is to focus only on members who are standing and speaking.

The Hon. G.E. GAGO: During that telephone conversation, I drew those links, and I warned that, in providing details in a public way, it could potentially affect lives. I drew a link between the publishing of those details of suicide and suicide rates, and I implored her not to add those details to her speech. I then contacted our chief psychiatrist, Dr Brayley, who is head of our Mental Health Unit, and asked him to contact the Hon. Sandra Kanck to outline the concerns from a professional point of view. I understand that he did that soon after my telephone call, and I believe he also made strong links between the problems of detailing suicide methodology and the effect that has on increasing suicide rates.

She took no heed of our warnings, that I am aware of. She indicated on the phone to me that she would continue with her speech and continue to include those details. I then went ahead with a ministerial statement, which I released yesterday before her speech, outlining the potential dangers of the information she was about to detail, and I requested that she not do that. I also implored the media to do the responsible thing and not report any of the details relating to suicide methods, or how they might be accessed.

Yesterday, I outlined that the suicide prevention literature makes it quite clear that there is a correlation between media reporting of suicide and actual suicide rates in Australia. I outlined that the National Media and Mental Health Group, which includes SANE Australia, the federal government's National Advisory Council for Suicide Prevention and the Australian Press Council, had published resources that makes it very clear that reporting which details description or images of methods and/or locations of suicide had been linked, in some cases, to further suicides using that same methodology or location.

There is a range of data. The Hon. Paul Holloway mentioned some information released by the Premier Mike Rann today. I also have a report from the *Journal of Social Science and Medicine* published in January 2006, entitled, 'The relationship between media reporting of suicide and actual suicide in Australia' written by Pirkis, Burgess, Francis, Blood and Jolley, in which they looked at determining whether media items about suicides are associated with

changes in rates of suicide. They looked at 4 635 suicide-related items appearing in Australian newspapers and radio and television news and current affairs shows between March 2000 and 2001, and found that 39 per cent of media items were followed by an increase in male suicides, and a 31 per cent increase in female suicide. The media items were more likely to be associated with increases in both male and female suicides if they occurred in the context of reports on suicide. They concluded that, indeed, we need to remain very vigilant about how suicide news is reported.

Given that I have raised the issue of the media, I was very pleased to see that, in fact, they did not publish any of the details of the means of suicide in their reports yesterday. However, they did draw the public's attention to the fact that there was a record on *Hansard*. There is also evidence that also links the access to suicide means to suicide outcomes. Basically, if you improve the access to the means of suicide—that includes other knowledge and information about suicide—it can also have the effect of increasing suicide rates.

Clearly, the linking of improving people's ready access to a summarised or a precised outline of various detailed methods of suicide is a very irresponsible and quite dangerous thing to do. That is what the publishing of those details in *Hansard*, in fact, is doing. It is providing a ready precis of information that has now come under the spotlight. The public has been made aware that this information is available, and I believe that it would be responsible of us to remove that part of the information from the *Hansard* record.

I believe that the current suicide rate here in South Australia is just under 200 deaths a year, and that is obviously 200 deaths too many. South Australia has done a lot to reduce its suicide rate over the last number of years, and we should be commended for that. I think it is a product of a wide range of strategies that have been implemented that have helped to produce that result. Clearly, there is still a lot to be done, but I believe that the behaviour of the Hon. Sandra Kanck in outlining those details in her speech yesterday does not help in our attempts to continue to reduce those suicide rates.

The Hon. Sandra Kanck knows that I am a strong supporter of legalising voluntary euthanasia. So, this is not some sort of attempt to discredit that campaign. I have been a longstanding campaigner, and will continue to be one. However, I do not believe that her speech yesterday assisted in that campaign and I think that, in some ways, it has brought some discredit to that campaign. I believe that the Hon. Sandra Kanck could quite easily have made one of the valid points that she made yesterday about problems with current legislation and the importance of legalised voluntary euthanasia being available for people who are terminally ill and in intolerable pain, without the risk of providing the detail about suicide that is linked to possibly increasing suicide rates.

In her speech the Hon. Ms Kanck provided some detail in relation to the use of household items, which is of grave concern because, clearly, some of those items are readily available. I will not repeat them here in this chamber, but she mentioned items that were readily available. That is of particular concern, because it creates a potentially dangerous situation for people who are suffering from depression and despair, who feel that their pain and suffering is intolerable and who can reach for the solution of suicide. We are all aware of the copycat component associated with suicide, and that also is a worry.

The Hon. Sandra Kanck talked about not pretending that this does not happen. I do not think that anyone in this chamber is trying to pretend that voluntary euthanasia—suicide—does not occur and that they are situations involving incredible anguish; people who are quite clearly suffering a great deal of pain and suffering and have no potential quality of life ahead of them. But this is not about burying our heads in the sand. It is about trying to prevent others who are vulnerable from killing themselves. It is about trying to preserve the lives of others who could be affected by this type of information.

Indeed, the Hon. Mike Rann has shone a light on this, but he has done it in a responsible way. He has brought attention to our responsibilities as members of parliament and as people being in public leadership positions, and to the importance of raising issues in a responsible way, and he clearly has not raised any detail in any of the comments that he has made. Indeed, the honourable member stated that the Hon. Sandra Kanck has not committed a criminal offence. Well, she has not, but she has committed a moral offence. I know she is passionate and cares a lot about this issue, but she has lost focus and she has risked the lives of other human beings for her personal crusade and cause. She has shifted from a position of passion and care into a position of being irresponsible, her actions being potentially dangerous.

The motion that we have been asked to support is one that tries to limit the damage that has been caused, and I urge honourable members to consider that. I would also like to bring attention to the fact that media organisations now have policies about reporting suicide. They have a code of practice. The Australian Press Council has also, I understand, issued a statement about dealing with this issue in an ethical and sensitive manner, and I just bring the media's attention to this. I am informed that the Australian Press Council believes that papers are already aware of the importance of avoiding any reporting which might encourage copycat suicides or self-harm and unnecessary reference to details of method or place of suicide. I am very pleased to say that the vast majority of media are extremely responsible when it comes to this, and I am sure they will continue with those responsible practices. I would urge honourable members to do the responsible thing: to attempt to limit the damage that has already been done and try to preserve the lives of those people who could be adversely affected by this.

The Hon. M.C. PARNELL: I rise to oppose this motion. I am very disappointed that we are dealing with it in the way that we are. I agree with the Leader of the Opposition that it is unsatisfactory for us to be given a motion at the start of question time, with no reasonable opportunity to properly consider its contents and to form our views on it. It got me thinking that, if I say something in my contribution today, will the council be recalled tomorrow so that—

The Hon. G.E. Gago interjecting:

The Hon. M.C. PARNELL: I can assure the minister that I am not going to say anything that will result in anyone's death, but I make the point that, if I were to say something in my contribution today, would this council be recalled tomorrow so we could have another motion expunging my words from the electronic record? What this motion does is attack one of the most fundamental aspects of our democratic system, that is, the right of the elected representatives of the people of South Australia to come into this place and to fearlessly and frankly express their views under parliamentary privilege.

I am a new member of this place, and I had to think very carefully what parliamentary privilege meant because I knew that it was something that I was going to have the benefit of but also have the responsibility to deal with properly. As the Leader of the Opposition says, there are responsibilities as well as rights that come with parliamentary privilege. It got me thinking about the personal contributions that I might make and also about the contributions that other members have made in the five months or so that I have been here.

I can tell you that some things my colleagues here have said I have absolutely passionately disagreed with. I have thought some of the views I have heard in this place to be dangerous. They are views I would not want to expose my children to. But, in the context of the broad church—a phrase that has been used before—and the much quoted but inaccurate attribution to Voltaire that someone can disagree strongly with what someone has to say but fight to the death for their right to say it, it is not just the right to say it in this place: it is also the right of those who put us here to have access to what we have said. When we are talking about access in the 21st century we are not talking about only leather-bound dusty volumes in libraries; we are talking about modern communication methods and, in particular, electronic communication methods.

One of the ridiculous aspects of this motion is that it perpetuates the nonsense that the Hon. Sandra Kanck sought yesterday to bring to the attention of the council; that is, we have inconsistent federal laws that make identical information legal if presented in one way and illegal if presented in another way. In this place we are saying the same thing. We are saying that we do not want the electronic version, but we are happy for people to have access to the print version. The slippery slope that is created by this motion actually frightens me. I am trying to think—not on this topic, but on another topic—will I say something that the government does not like? Will I say something that will bring the economy of this state into disrepute? Will it detract from investor confidence? Will I find a motion before the council to expunge the words of the Hon. Mark Parnell because 'He has been criticising our economy and investors are losing interest in this state; we cannot have those words on the electronic record'? That would be ridiculous.

Some members have alluded already to the mechanics of this motion, but I will make some additional observations. First, it requires (as the Leader of the Opposition says) the Leader of Hansard to exercise some editorial function without reference back to this place and without reference to any elected member in this place. We are going to give this person an onerous task to decide which words can stay and which words have to go. That is an unfair imposition to put on an unelected servant of this place. Secondly, we have the situation where the horse has already bolted. Because we know the way in which this place works, we know that the daily *Hansard* has gone out to every electorate office. It has been accessed already by hundreds of people. If any of those people had hit the print button and distributed it, there would have been no problem with that; they would not have done anything illegal. It is out there already.

Like the Leader of the Opposition, in the brief time we had by way of notice I asked my staff to look at the internet to see what was available. This is where I am going to choose my words carefully. It is a shame that this is such an important issue that deals with people's lives. It is like the film *The Life of Brian* where the fellow is about to be stoned. He mentioned the word Jehovah. He said it again as he was about to be stoned. 'You said it again.' I will try not to get myself into trouble by having this council called back tomorrow to expunge the words I am about to say, but I asked my staff to access the internet to find the type of information about which the Hon. Sandra Kanck spoke yesterday; and the Google search in 15 minutes indicated 13 500 000 records. I will not give the search phrase which was typed in, but it is the obvious one; it is the topic of the debate. They got 13 500 000 responses.

I asked my staff to print off some of the Google entries; and they have done that for me. There is graphic material. It comprehensively tells people step by step. I will not table it or read it into *Hansard*, but I make the obvious point that we are making an assumption that vulnerable people in the community whose lives we do hold dear will go to the parliamentary web site or Google 'Kanck' to find some new information that they have not been able to get in these 13 500 000 records.

The next aspect of the actual mechanics of this motion, which is unnecessary and unfortunate, is paragraph (c) which describes other methods of suicide. One thing that has always distressed me has been the terrible situation faced by train drivers.

I wonder whether people think—maybe they do not, because they are perhaps in a state where they are beyond thought. But I do not see any benefit to the people of South Australia in expunging Sandra Kanck's comments drawing attention to the plight of those poor workers who have to live with the consequences of other people's behaviour.

The final point I make about the mechanics of this motion comes back to the distinction between paper and electronic copies. Like the Leader of the Opposition, I have serious concerns, sir, with all respect to you and your manifold skills and those of the Parliamentary Librarian, about a requirement for you to be experts in palliative care—a requirement to assess someone who walks into the room: do they look as if they are in pain and can no longer cope; do they look as if they are mentally ill; are they showing some physical sign that should be sounding alarm bells? With all respect, it is not a reasonable requirement to place on you, sir, the parliamentary library staff, or anyone else.

But the point has been made that the printed hard copy of *Hansard* is out there in the community in no shortage in other libraries. In case someone was to go to a library at Mitcham, Unley, Port Augusta, or anywhere else in South Australia, are we going to train those library staff? Are we going to put *Hansard* volumes behind lock and key and expect the library staff to assess the desirability, suitability or risk of persons desiring to access that material? It is really quite a ridiculous situation. I am disappointed that the matter has come on in the way it has and, on behalf of the Greens, I oppose the motion.

The Hon. A.L. EVANS: I support the government's motion, along with the amendment proposed by the Hon. Mr Xenophon that the suicide methods outlined by the Hon. Ms Kanck be not posted on the parliamentary web site and thus on the worldwide web. Family First supports freedom of speech. However, that freedom must be balanced carefully with responsibility. I am satisfied that, even if this motion with the amendment is passed, printed versions of the speech will nevertheless be kept for the record.

In our society there are many who suffer from mental health issues, including depression, and sometimes life gets so hard that there does not seem to be any solution. Many people have felt this at one point or another in their lives. I

can imagine one of our citizens in deep pain of depression and difficulty seeking or coming upon a comment such as that made in this place yesterday. Where would we stand as members of the council if we did nothing to stop them? Perhaps someone seeking out the Hon. Sandra Kanck's comments from yesterday will instead come across my comments now in reply to her.

I want to try to help the council understand the state of the mentally ill person and the incredible impact of our words, and I want to use a personal illustration from 35 years ago when my wife and I were in Papua New Guinea and she was stricken with hepatitis due to very poor sanitation in that country. My wife is a strong woman. She is a leader, a public speaker and an authoress, and has not suffered from depression or mental sickness of any kind whatsoever during our marriage except for a four-year period after she contracted hepatitis in New Guinea and the whole of her system became so weakened that words had an incredible impact upon her brain.

For example, her doctor in New Guinea wrote a letter to her Australian doctor and said, in describing her complaint and problem, 'I also am concerned that she may have suicidal tendencies.' My wife has never had suicidal tendencies. She is a very strong country girl from Queensland, with a strong faith. When the Australian doctor read out that letter, it got a hold of her weakened self, her physical being and her mind, to the point where, for the next four years, day after day, she would come to me crying because she was afraid she would commit suicide, and wanting to commit suicide.

So, words are very powerful. That statement by that doctor caused my wife, who has never considered suicide in her life, to go through four years of hell every day, thinking that she was going to commit suicide. I think that in this place we should be more responsible than to put things on the net that say that the powers that be in this place, and the leaders in this place, are bringing forth issues such as these. Because of that, I support this amendment and the government motion as the responsible thing to do.

The Hon. R.D. LAWSON: I rise to speak briefly in opposition to this motion which I think raises three questions. Do you fight one unprincipled act by abandoning your own principles; do you answer a stunt with another stunt; do you pursue good populist politics; or do you stick to sound policy? I regret, as does the Hon. Rob Lucas, having to participate in this debate at all today because we are giving oxygen to an issue which the member raised yesterday, which would have expired of all public interest by today were it not for the fact that the government chose to use parliament this afternoon for the purpose of pursuing a political agenda.

It is my view that the speech made by the honourable member yesterday was mischievous. It was designed to attract attention to a cause, admittedly one about which she has been passionate for a long time. I think it was an irresponsible speech: the way in which she went about it and the way in which, before she made the speech, she highlighted the fact that she proposed making the speech. She was suggesting that this was a way of highlighting a commonwealth law that she said was bad. I think the honourable member today in her contribution exacerbated her mischievousness by attacking John Howard and Family First and talking about a conspiracy of the Right. It was a bizarrely misconceived approach.

I believe that her speech yesterday quite possibly was an abuse of the privilege of parliament. She sought to use the parliament—as she admitted herself—for the purpose of using the web site as a device to get on to the public record something which she was suggesting was prohibited by commonwealth law. In other words, she used the power that she had as a member of this parliament for an ulterior purpose: not to contribute to a debate but rather for another purpose altogether. If that is the case, and if other people agreed with it, the appropriate thing would be that she herself should be sanctioned by the house for that abuse of privilege. We could have a debate and discussion about it in the fullness of time.

I should tell members exactly what the commonwealth legislation says. It is the Criminal Code Amendment (Suicide Related Materials Offences) Act 2005. That act prohibits the use of the internet or other electronic media for the purpose of disseminating, publishing or distributing material, directly or indirectly counselling or inciting committing (or attempting to commit) suicide and any purpose that promotes particular methods of committing suicide or provides instructions on a particular method of committing suicide which the person intends to be used for that purpose and promotion.

I do not believe that anything the honourable member actually said yesterday in her speech would have contravened those provisions but, more importantly, that legislation says it does not apply at all to engaging in public discussion or debate about euthanasia or suicide or advocating reform of the law relating to euthanasia or suicide. If what the member was doing yesterday was engaging in public discussion or debate about euthanasia or suicide or advocating reform of the law relating to euthanasia or suicide, the law did not apply to her at all. However, in her press conference before parliament she suggested that she would actually be challenging the law, that she would be breaking the law in some way. That suggests that if she was right in that, what she was not doing was engaging in public discussion or advocating reform but rather promoting methods of committing suicide.

The member has been entirely disingenuous about the way she has approached this issue. She has been foolish in the way she has attacked all and sundry and, frankly, there would be many people who do not have a great deal of sympathy for the way she has gone about this particular issue. However, the more important issue is whether we sacrifice important principles just because she has acted foolishly. The Hon. Mark Parnell has commented on Voltaire's great aphorism, and we should defend the right of members of parliament to say whatever they want to say, however stupid and foolish their comments may be. We do not go around trying to correct the record and expunge what they have said.

Frankly, I do not believe that any of the material referred to by the Hon. Gail Gago or by members opposite suggests that there is a possibility that the honourable member's speech would incite people to commit suicide. I do not believe that any of the research in any way suggests that a publication of this kind would have that effect—especially when (as has been mentioned by others) there are already 13 million entries on the internet on this particular topic.

I do not believe we should play into the honourable member's hands; I do not believe that we should create a martyr by making her the first person in the history of the South Australian parliament to have material removed from the record. Frankly, I do not believe she deserves it, and I do not believe we should be drawing attention to her cause and giving oxygen to this matter. We should approach these matters from the point of view of firm principle, knowing that the history and tradition of this parliament is that members

do have the right to make statements. If they are to be censured then let them be censured, but let us not correct the record. Let us not answer her stunt with another stunt that the Premier thought up this morning.

The Hon. T.J. STEPHENS: I sat and listened quite intently to the Hon. Sandra Kanck yesterday because I was interested to hear exactly where she was coming from with what she had to say. In the past I have acknowledged that I am not a supporter of voluntary euthanasia so I do not support her in that particular endeavour but, at the end of the day, this is a place of debate. Where does it all start and finish? If we do not like what a particular person says where does that lead us at the end of the day? So, while I did not particularly agree with anything she said in her speech, I was prepared to listen. We should be prepared to argue but I certainly do not want to go down the slippery slope of sanitising the record of what people have said in this place.

The Hon. A.M. BRESSINGTON: I rise to support the motion, because I agree with the Hon. Gail Gago when she said that there was an opportunity for the member to express her views and her passion regarding the issue of euthanasia without having to go into detail. Talking about whether this behaviour was just mischievous is, I think, an effort to minimise the impact that the publicity she received prior to her speech had on vulnerable members of the community. It was not mischievous: in my opinion, it was reckless and irresponsible. There was no need to go into the detail that she did, even to the point of publishing where you could buy a certain utensil or substance to undertake a certain act of suicide, which I guarantee 99 per cent of the public would not have been aware of until yesterday.

The fact that the honourable member publicised the fact that she was going to do this via the media guaranteed that people would read *Hansard* to obtain exactly the sort of information that she shared yesterday. I am still undecided on the issue of euthanasia. It is a personal struggle for me. I tell members that she lost one candidate for the cause yesterday because, if that is the way in which people in this debate are going to conduct themselves publicly, I do not want to be a part of it, because where do they then draw the line? We need to consider this point seriously. The Hon. Rob Lawson said that we have sound policy. How arrogant are we to believe that we, the legislators of this state, are not open to review and revision when an incident such as this occurs that is unprecedented? Why are we not able to review what we do? Every other business is up for review and evaluation. It is absolutely arrogant that we in this place think that we are above that.

There is a difference between open and honest debate and a stunt, which I believe it was. I believe that the honourable member was mischievous. She made her point very clearly in her opening speech to parliament this year when she said that she was going to use this place, regardless of what people thought and regardless of their beliefs, to push her views to the limit and to push boundaries. Are we not trying to teach people in our society about living within the boundaries? Are we not trying to teach people and legislate in a way that encourages responsibility? If they do not get the example from this place and the other place, then where is the leadership? I do not agree with the censoring of people's speeches in this place. I do not believe that this is a healthy precedent that we are setting, but necessity is always the mother of invention and I think the honourable member yesterday created the necessity for this.

The Hon. J.M.A. LENSINK: I oppose this motion. There are obviously several issues and they are very emotive issues. I do not want to go over the history of what other members have already stated, but it started off as being a campaign for the cause of legalised voluntary euthanasia. I would have to say that, after the Hon. Sandra Kanck's address yesterday, I would be less inclined to support that legislation than I have ever been in the past, because I think that she misused the opportunity that she had by drawing into the controversial issue of suicide and the publication of material relating to that. She has polarised the debate and brought into the debate the impact that her comments might have on vulnerable people who might be suffering from depression or some other mental illness. I think that we all share concern for that group of people.

I would reject the notion that not supporting this motion is in any way being unsympathetic to their cause. I would have to say that I felt very uncomfortable at times during the contribution of the Hon. Sandra Kanck yesterday. From my recollection, just about every member of this parliament was seated here, and therefore I say that the opportunity to object was presented to us yesterday. Why do we suddenly, just before question time, receive notification from the government that it intends to move this motion? We all sat here, quite frankly, in silence—some of us feeling very uncomfortable—when we all had the opportunity to object and to move that the member no longer be heard, but no-one did so.

This is just a ploy by the Rann Labor government. It heard the response on the radio this morning and said suddenly, 'We better do something about it.' As has been stated previously, the horse has already bolted. In fact, I agree with honourable members who have already stated that we are indeed playing into the hands of the Hon. Sandra Kanck in even debating this motion.

I received a media release from SANE Australia, which is much more focused on the reporting of the issue and the way it should be played out in the media. It also refers to a document containing some guidelines in relation to the reporting of suicide and mental health in the media. Under point 2 on page 5, it states:

> 2. Impact of media reporting—the evidence: Suicide
> - reliable Australian research shows that reporting of suicide can have an impact on vulnerable people.
> - The *way* in which it is reported appears to be particularly significant. . .

It cites the instance of when Kurt Cobain committed suicide. Suicide rates actually fell because the way in which it was reported was that it was a tragic waste and an avoidable loss and focused on the devastating impact of the act on others.

I think that we need to be careful about being very simplistic in our approach to these things and look at the facts behind them. I think that it is quite ironic that we are debating this because, clearly, it will be reported by the press. I urge honourable members not to play into the hands of either the government or indeed the Hon. Sandra Kanck by supporting this motion.

The Hon. NICK XENOPHON: I move to amend the motion of the Minister for Police as follows:

> Leave out all words after 'That this council' and insert:
> 'directs the Leader of Hansard not to publish electronically the speech of the Hon. S.M. Kanck given on 30 August 2006 in this council on the subject of voluntary euthanasia.'

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. NICK XENOPHON: I will refer to the government's motion and why I believe it is unworkable. I will address the matters raised by the Hon. Mr Lucas in his very helpful interjection, and then I will discuss the merits of this motion from my perspective. In relation to the motion of the government, I believe that it is simply unworkable. It places both an unnecessary and unfair onus on the Acting Leader of Hansard as to what should or should not be published. I believe that is unfair and unreasonable on an unelected official.

In relation to the second paragraph of the government's motion—that the Parliamentary Librarian and the President have some say and make an assessment as to who is vulnerable and who is not, in effect—that is absurd. I know that you are a wise man, Mr President. I know that you have a lot of wisdom from being in shearing sheds over the years, and you have assured me that you have that wisdom, but it is absurd to suggest that that onus be placed on you and on the Parliamentary Librarian. I believe that it would be much simpler that the speech not be published electronically in its entirety, that reasons can be given and mention made that that has occurred as a result of a motion of this council. To me, that would make more sense, rather than trying to selectively deal with the matter.

To say that in terms of the publication in printed form, in written form in terms of *Hansard*, that this motion does not deal with that, as I understand it, the intention of the government and those who commented on the speech of the Hon. Sandra Kanck yesterday are concerned about its dissemination through the worldwide web, through the internet, through the imprimatur of the parliamentary web site.

I believe that is the nub of this matter. I support this motion, but I make it clear that, in a sense, I support it as a holding motion. I believe that we ought to revisit this matter when parliament resumes in three weeks and we have had a chance to consider it further. I believe we ought to do that because there are some very important issues as to parliamentary privilege and issues that go to the very heart of the privileges of members of parliament, as well as (as raised by the Hon. Gail Gago) the concerns expressed by eminent psychiatrists about the risks posed by the Hon. Sandra Kanck's speech.

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: The Hon. Sandra Kanck makes the point (as have others) about the 13½ million references on Google on this issue. We have been asked to vote on this motion. We have been asked to make a decision. It is about whether we play a part in the publication and add to those references to make the total 13 500 001, giving it the imprimatur of this parliament. I do acknowledge what I consider to be an awful dilemma in terms of the issues raised. The Hon. Michelle Lensink is right: it is ironic (and I believe there is a paradox) that, by giving this matter more oxygen, it is counter-productive for those concerned about it, and the Hon. Mr Lucas made that point earlier.

I am not normally shy to comment to members of the media, but yesterday I did not want to comment on this issue for the very same reasons the Hon. Mr Lucas refrained from commenting on it, and I commend him for that. It is the issue of the method of dissemination that is at stake here. Until 1995 *Hansard* did not appear on the internet. The internet was still in its relative infancy. Only in the last 11 years has *Hansard* been available on the worldwide web. It has been only in the past few years that we have seen a massive expansion of access to the web in the general community.

I think that is the issue here. It is an issue of dissemination, and of considering whether it is fair and reasonable to take this unprecedented step, and it is an unprecedented step. It does concern me greatly. At the moment, it is a choice of having a very limited dissemination of this material or having it disseminated more widely with the imprimatur of the parliament. I believe that we ought to listen to the views of constitutional law experts, such as Dr Clem McIntyre from the Adelaide University and Professor John Williams from the Adelaide Law School, and I think—

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: The Hon. Sandra Kanck says that we ought to adjourn the debate. If we adjourn it, it will be published, and then the horse would well and truly have bolted in so far as the matter's dissemination on the internet, and I think that is the fundamental flaw. I refer to a chapter in *The Tipping Point* by Malcolm Gladwell, an eminent American journalist who has written for the *Washington Post* and also the *New Yorker*. Gladwell talks about the tipping point for various issues in our society, and one chapter of his book looks at the issue of suicide. He refers to a case study and how, in the early 1960s, on the islands of Micronesia suicide was almost unknown.

By the end of the 1980s there were more suicides per capita in Micronesia than anywhere else in the world. He talks about one young man taking his life and that triggering copycat suicides. More importantly, in his book, Malcolm Gladwell makes reference to studies on suicide. I will quote from his book, because it is important to reflect on that as I hope we will have an opportunity to debate the issue again when the parliament resumes. Gladwell states:

> The central observation of those who study suicide is that in some places and under some circumstances the act of one person taking his or her own life can be contagious. Suicides lead to suicides. The pioneer in this field is David Phillips, a sociologist at the University of California, San Diego, who has conducted a number of studies on suicide.

Gladwell goes on to make the point that, whenever there has been extensive publicity about suicide, information about suicide, it can almost be an epidemic; it can be contagious. He gives suicide statistics from the 1940s to the end of the 1960s in the US, where there was a jump, and states:

> The kind of contagion Phillips is talking about is not something rational or even necessarily conscious. It is not like a persuasive argument. It is something much more subtle than that. When I am waiting in traffic at a traffic light and the light is red, sometimes I wonder whether I should cross and jaywalk, then somebody else does it, so I do, too. It is a kind of invitation. I am getting permission to act from someone else who is engaging in a deviant act. Is that a conscious decision?

He then goes on to talk about the actual statistics and the link between the copycat suicides and people being prompted by this form of contagion. He talks about how it leads to almost a private language between members of a common subculture; how, in a sense, there is a permission with respect to suicide by copycat acts, by giving it an imprimatur. He does not talk about a particular imprimatur, but my concern is that a reasonable extension of the argument of David Phillips the sociologist is that publishing it, giving it the imprimatur of the parliament on the web site, may be a destructive act.

Having said that, I am not comfortable with this motion, but I would be much more uncomfortable if there is evidence. We will have time, I believe, in the next two to three weeks to determine that publishing this on the web could have a

very significant negative impact in terms of the whole issue of suicide. It has been said by the Hon. Michelle Lensink that she finds this motion frightening. So do I. But I would find it more frightening if there were evidence that having it published on the parliamentary web site could be a tipping point for some people.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! Interjections are out of order.

The Hon. NICK XENOPHON: I do not understand, sorry. I want to make clear that my vote in support of the amended motion is on the basis that I would like to hear from the experts, to analyse this in the cool light of day, to hear from constitutional law experts, from experts on the issue of parliamentary privilege, and to put that in context. I support this motion with a great deal of reluctance.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. NICK XENOPHON: I know interjections are out of order, but I think it is a reasonable interjection, given the gravity of this debate. My reading of that, and I will be guided by eminent lawyers like the Hon. Robert Lawson, is that, if the Leader of Hansard is directed not to publish electronically the speech of the Hon. Sandra Kanck, that would mean at the very least that it not be published on the worldwide web. In terms of what has occurred with respect to the intranet, presumably the motion in its current form would mean that it would be taken off the intranet because that would be a form of publication. However, I am open to members debating that or considering that further.

The intention of the amendment is to simplify what I believe is unworkable and unreasonable motion of the government with respect to the issue of having unelected officers of the parliament making value judgments that I think are quite unreasonable for them to make. Simplifying it again, I see this as a holding motion until we hear from the experts so that we can consider this in the cool light of day.

I am sincerely grateful to the Hon. Mr Lucas for his comments in relation to this issue. It would mean that it could not be published on the intranet or online. I make the point, in terms of what occurred, that I first became aware that something was happening on this issue when I received a call from a journalist at around 12 or 12.30 p.m. I tried to call the Hon. Mr Lucas and he was not available. I spoke briefly to the Hon. Mr Lawson to ascertain whether they were aware of it, and they were not. Like other members, I only became aware formally shortly before question time that it was to be moved, but I spoke to the media—

The Hon. R.I. Lucas interjecting:

The Hon. NICK XENOPHON: They told me before they told us. Be that as it may, that is what occurred. I am not being critical of anyone but, given the urgency of this matter, I am trying to do the best I can in a limited time to deal with it. I put on the record that I have grave reservations about this, but in good conscience I believe that it should be in my amended form. The point made by the Hon. Mr Lucas is a valid one: if the motion is read literally, as it ought to be in this case, it would mean taking it off the intranet as well. I urge members to support the amended motion. We have an obligation to revisit this, given the important issues at stake when the parliament resumes.

The Hon. D.W. RIDGWAY: I will make just a few brief comments. As members know, I supported the last bill before this place on voluntary euthanasia. I did not listen to all of the contribution of the Hon. Sandra Kanck and some of the things she said were not appropriate—however, we have all missed the point here today. We have been conned by the Premier and his spin team. He reads public opinion very well, and he has sensed an opportunity to gain the spotlight himself. I saw a couple of the Premier's advisers in vigorous conversation yesterday, and one of them has been sitting in the gallery most of the afternoon. The king of spin has conned you all again. Tomorrow there will be a headline about what the Premier has done to save South Australia. We have to think very carefully about the way the Premier and his team of experts, who are very good, have manipulated this to their own advantage.

At the time of the very untimely death of David Hookes, the Premier jumped on the back of that very unfortunate incident and claimed that we would have a David Hookes memorial trophy, which Victoria and South Australia would compete for every time they played. I rang SACA and the Victorian Cricket Association and neither of them had ever spoken to the Premier or any member of his department or advisers about any such trophy. We have to be careful about the tactics this government uses to manipulate the media. I suspect there is probably some bad news story hidden somewhere that this government did not want us to hear about—maybe the backflip on ecstasy. With those few words, I do not support the motion.

The Hon. D.G.E. HOOD: I rise briefly to put a few thoughts into the debate, if I may. Like the Hon. Mr Xenophon, I have struggled with the concept of this motion because I strongly believe in the concept of free speech. However, upon reflection, I have come to the point where I do not see this as a restriction of anyone's free speech. I could not have disagreed more with what the Hon. Sandra Kanck said in the chamber yesterday, but I respect her right to say it. This debate is not about free speech but about the disseminating of information to the world as spoken by a member of parliament in South Australia—that is the key issue.

The government with this motion, and the Hon. Mr Xenophon with his amendment to this motion, are not attempting in any way to curb the Hon. Sandra Kanck's ability or right to say what she said yesterday. She has that right, I respect it and would fight for it. However, do I feel comfortable with that information being disseminated around the world? Even if it makes one more person contemplate an act of suicide, then the answer for me has to be no: I cannot accept it or put my name to it, even if it means in some way going against a long held tradition.

Traditions are very important and I, as a fairly conservative person, hold them dear. I think the right of free speech is one of the ultimate traditions in Western democracies that all of us hold dear to our heart, but life and the sanctity of life is the most important thing of all. There is nothing that any of us should do, indeed, there is nothing that the public would expect us to do, to endanger life in any way, shape or form.

I do not think that was the Hon. Sandra Kanck's intention in making her speech yesterday. I am quite sure it was not but, nonetheless, if it runs that risk, then it is something that I cannot support. Regardless of what party I am a member of, as an individual, my conscience will not allow me to support that. So, with those few words, I support the motion and I support the amendment to it.

The Hon. J.S.L. DAWKINS: I have supported moves to legalise voluntary euthanasia in the past in this parliament.

I respect the sincerely held views of the Hon. Sandra Kanck. Like the Hon. Mr Ridgway, I was not able to listen to everything that the Hon. Sandra Kanck said yesterday because I was busy doing other things, although I did have an ear on it, as much as I could.

I am not sure that her cause was helped by some of the things that she mentioned in that speech. However, my understanding before we actually got to this motion today (and the Hon. Rob Lucas has confirmed what I have been told) is that much, if not all, of what the Hon. Sandra Kanck mentioned in her speech, is publicly available on the net right around the world. It is not something that is brand-new news. That is why I cannot understand why we are debating this motion here today, and I do not support the motion.

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their contribution to the debate. As I said at the outset, it was a somewhat difficult debate given the time limits that applied to it. Obviously, the Legislative Council had to make a decision fairly quickly on this matter and it probably does deserve some longer consideration but, as other members have mentioned, if this motion is now carried—as I trust it will be—the house will then have the ability to reflect on that.

From the outset can I say that the government will accept the amendment moved by the Hon. Nick Xenophon. In its original motion, the government was trying, for the best of reasons, to restrict the amount of information that should be cut out from the Hon. Sandra Kanck's speech to the bare minimum. We are happy if the somewhat simpler version of the motion moved by the Hon. Nick Xenophon is carried, because that will still adequately deal with the matter.

I reject, right from the outset, any allegation that this government is in some way acting as if this were a stunt. Within the Legislative Council there are seven government members out of the 22 members in this place. It is not the government that can reverse or can take any action about what is put into *Hansard* in this chamber. There is only one thing that can be done, only one body that can do that, and that is the Legislative Council. As I said, it would need a majority of members of this Legislative Council in this parliament. This house of parliament alone can take action over what is said in here. So, it is a matter for this house; it is not a matter for the government.

Members interjecting:

The Hon. P. HOLLOWAY: In relation to what was said yesterday, I will take the interjection by the honourable member. Was she not here when my colleague Gail Gago made her ministerial statement, making a plea for commonsense in relation to this matter? The Hon. Sandra Kanck made it quite clear what she was going to do. The minister, my colleague, quite responsibly implored Ms Kanck not to do it because of the consequences that could arise. I would much rather be debating the amendments to the Development Act. It is of no benefit to any member of the government to have spent the whole of Thursday afternoon dealing with this, but what I believe—

Members interjecting:

The Hon. P. HOLLOWAY: Yes, it is our priority because I believe that this Legislative Council has an obligation to be seen to act responsibly. We have to act collectively as a council to ensure that what is done on our behalf is responsible and lawful. In relation to that lawful part, I think it is important to correct the point made by the Leader of the Opposition earlier. It is not that Sandra Kanck has breached the law, but her actions would inevitably lead to a breach of the spirit, if not the letter, of the law. She would know that, unless this motion is carried, the contents of her speech would appear in electronic form, and that appearance in electronic form would be a breach of the commonwealth law. By carrying the motion—and, as I have said, we will support the amendment by Nick Xenophon—we will ensure that that will not take place.

The breach of the law is not in making the comments; the breach of the law is putting it in electronic form. I think the Hon. Nick Xenophon has adequately covered the issue in relation to electronic presentation. We can go back over the history of parliamentary privilege, but it is only in the last relatively recent times—the last couple of decades, and only 11 years in relation to this parliament—where the world wide web and electronic publishing have greatly increased the dissemination of information.

Some members opposite tried to suggest that this is some thin end of the wedge. However, I put the following example: what if the Hon. Sandra Kanck, instead of giving information about suicide, had told us how to make a bomb? What if she had come in here and given us the ingredients? I am sure that if you look on Google you will find that information. Notwithstanding that governments all over the world are trying to shut those sites down, I am sure you could find one if you really wanted to. However, is it not in the interests of our society to try to cut out those web sites and try to remove that information from the public record? Similarly, I think that advocating or providing a description of how to commit suicide is equally inappropriate, particularly on a parliamentary web site. Sure, you might be able to find similar information on Google if you look hard enough, but that information will not have the imprimatur of a member of parliament—particularly of this parliament. If members opposite are quite happy for that to happen, so be it; they can justify that to the electors, but I am not happy for that to happen.

In relation to precedents, since it was raised I should also point out (and I am indebted to the Clerk for this information) that apparently there was a case in the Legislative Council in New South Wales just last year. It is the house of parliament that is probably most like our own; it is similar in terms of its election base. I am told that some details of the names involved in a family breakdown and some information from the equivalent of our Department of Families and Communities was expunged from the record as a result of a resolution of that parliament—and so it ought to have been. If it was an abuse of the parliamentary privilege, it is up to the parliament to correct it. It is nothing unusual.

The right to privilege is a very valuable right that we have, and I will fight like everyone else for the right of people to say whatever they like and for others to recognise that right. However, we have already recognised that abuse of parliamentary privilege can be addressed by the right of reply. We have the right of reply in this place, because we know that sometimes people can be maligned. Similarly, we have a responsibility to ensure that vulnerable people out there are not misled by what is said in this parliament.

I have referred to a number of members who have spoken today, but I particularly want to congratulate the Hon. Ann Bressington on her contribution. I think that, perhaps more than anyone else in this debate, the Hon. Ann Bressington most eloquently made the point that it is up to us. With all this discussion about rules, we are responsible for the behaviour in here; either we address it, or we do not. There

are plenty of other issues I would rather be debating on a Thursday afternoon, but, in my view—and I trust, the view of the majority of members of this council—we have to take responsibility for what is said in this place, and we have the capacity to do it. As I have said, there was a precedent just last year in the Legislative Council in New South Wales.

The Hon. R.I. Lucas: Never in South Australia.

The Hon. P. HOLLOWAY: Well, nobody has ever done this in South Australia before. Sooner or later there would have been a case. If somebody came in here—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, let me put the question to the Leader of the Opposition, if he is so clever. If somebody came in here and described how you could make a bomb, would he allow that to go out on the worldwide web? Would he do it? Would he allow that to happen, or would he take a stand on that? Where would he draw the line? Let it be recorded that there is silence from the Leader of the Opposition, because that shows that, somewhere, this council must draw the line. Similarly, providing this sort of information about suicide is something that should not be on the record. The Hon. Ms Kanck can say what she likes; anybody can go and read the written record but, if this motion is carried, it will not appear on the web. I ask the council to support the motion, as amended by the Hon. Mr Xenophon.

The council divided on the amendment:

AYES (10)

Bressington, A.	Evans, A. L.
Finnigan, B. V.	Gago, G. E.
Gazzola, J. M.	Holloway, P.
Hood, D.	Hunter, I.
Wortley, R.	Xenophon, N. (teller)

NOES (9)

Dawkins, J. S. L.	Kanck, S. M.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I. (teller)	Parnell, M.
Ridgway, D. W.	Stephens, T. J.
Wade, S. G.	

PAIR

Zollo, C.	Schaefer, C. V.

Majority of 1 for the ayes.

Amendment thus carried.

The council divided on the motion as amended:

AYES (10)

Bressington, A.	Evans, A. L.
Finnigan, B. V.	Gago, G. E.
Gazzola, J. M.	Holloway, P. (teller)
Hood, D.	Hunter, I.
Wortley, R.	Xenophon, N.

NOES (9)

Dawkins, J. S. L.	Kanck, S. M.
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I. (teller)	Parnell, M. C.
Ridgway, D. W.	Stephens, T. J.
Wade, S. G.	

PAIR

Zollo, C.	Schaefer, C. V.

Majority of 1 for the ayes.

Motion as amended thus carried.

UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT (EXTENSION OF PERIOD OF SCHEME) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Environment and Conservation) obtained leave and introduced a bill for an act to amend the Upper South East Dryland Salinity and Flood Management Act 2002. Read a first time.

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

That this bill be now read a second time.

The Upper South East Dryland Salinity and Flood Management (Extension of Period of Scheme) Amendment Bill 2006 seeks to extend the scheme being implemented under the Upper South East Dryland Salinity and Flood Management Act 2002 for a three-year period, and to make consequential amendments as a result.

The Upper South East (USE) Project was developed in the early 1990s to address community concerns about dryland salinity, waterlogging and ecosystem fragmentation and degradation. On 19 December 2002, the USE project was given specific enabling legislation: the Upper South East Dryland Salinity and Flood Management Act 2002 (USE Act). The USE act has an expiry date of 19 December 2006. However, it is now apparent that the construction of the drainage network for the USE project will be incomplete at this time. It is necessary to extend the USE act for a three-year period (and to provide for ongoing rights with respect to compensation) to ensure that all provisions continue for the short term to enable the completion of the drainage work.

The bill essentially proposes to extend the USE act by three years to enable the USE act to continue until 19 December 2009, at which time USE project works will be completed. This will provide assurance for the completion of the USE project and it will ensure the continuation of all provisions that are necessary to ensure that the integrity of the USE project is maintained.

The completion of the drainage network is essential for meeting the environmental, economic and social components of the USE project, including the control and management of surface water, the removal of saline groundwater and the provision of fresh water to meet wetlands and threatened species management requirements.

Consequential amendments are required to compensation provisions as a result of the proposed amendment to extend the USE act for a three-year period. Currently, the USE act provides that landholders may seek compensation from 19 June 2006 until 19 December 2006 if they believe they have experienced a net loss of land value. This was based on the assumption that works would be completed and land returned to landholders by 19 June 2006 thereby allowing a six-month period in which compensation claims could be made.

The bill includes provisions that will ensure that the existing compensation provisions continue and are extended. Landholders who believe they have suffered a net loss in land value due to the works undertaken will be able to make a claim for compensation by 18 June 2007 where land is officially returned to the landholder between 18 June 2006 and 17 December 2006. Where land is officially returned on or after 18 December 2006, the landholder will be able to make a claim for compensation within six months from the return of the land. This provides greater flexibility in approach for landholders.

Furthermore, amendments have been included to take into account that, while drainage construction will be completed

by December 2009, it can take some time after completion of construction to return all surplus land to landholders. The amendments provide that land can be returned up to one year after the expiry of the USE act, that is 19 December 2010, or up to 19 December 2011, by proclamation by the Governor. Landholders will continue to be able to seek compensation for a six month period from the date the land is officially returned. The bill provides that the expiry of the act will not affect these compensation provisions.

Some additional consequential amendments are also contained within the bill to tidy up and remove provisions within the act that are obsolete and do not need to remain once the USE act is extended. 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

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Upper South East Dryland Salinity and Flood Management Act 2002*

4—Amendment of section 13—Entitlement to compensation

This clause (which is to be taken to have commenced on 18 June 2006) amends section 13 of the principal Act to reflect the extension of the operation of that Act by this measure.

In particular, the amendments contemplate an entitlement to compensation arising at one of two times, namely on the issuing of a land transfer finalisation declaration by the Minister, or (if no such declaration is issued) on the land transfer finalisation date in relation to the relevant parcel of land. The date that applies is the ***relevant date***. The definitions of ***land transfer finalisation date*** and ***land transfer finalisation declaration*** are inserted by the clause.

The time limits for making a claim for compensation under the section have been amended accordingly by the clause. Two time limits within which a claim for compensation must be made are established. The first relates to a claim where the relevant date occurs between 18 June 2006 and 17 December 2006. Such a claim must be made on or before 18 June 2007. This period addresses those landowners with claims under the section prior to its amendment by this measure, and preserve the right of those who would otherwise be affected by the amendment to access compensation within a timeframe consistent with (or, in terms of the time available to make a claim, more favourable than) that currently provided by the principal Act. The second time limit, reflecting the extension of the operation of the principal Act by this measure, requires a claim for compensation where the relevant date falls on or after 18 December 2006 (and hence beyond the end date originally envisaged) to be made within 6 months after the relevant date. This provides a rolling time limit to accommodate the ongoing nature of the transfer of the land back to its original owners during the extended period, but does not require the landowner whose land has been returned to wait until the expiration of the Act to be able to claim compensation under the section.

The clause also inserts into section 13 procedural provisions related to the above.

5—Amendment of section 43—ERD Committee to oversee operation of Act

This clause repeals an obsolete provision.

6—Amendment of section 45—Expiry of Act

This clause extends the operation of the Act, previously due to expire on the fourth anniversary of its commencement, to 19 December 2009.

The clause also inserts new subsection (6a), which provides that the expiration of the Act does not apply in relation to the operation of section 13 (as amended by this measure) until all of the steps envisaged by the section have been completed, all dates under the section have occurred and all claims for compensation under the section have been finalised.

Hence, the expiration of the Act will not adversely impact upon a claimant who has complied with the Act.

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

PREMIER'S SCIENCE EXCELLENCE AWARDS

The Hon. G.E. GAGO (Minister for Environment and Conservation): I lay on the table a copy of a ministerial statement relating to the 2006 Premier's Science Excellence Awards made earlier today in another place by my colleague the Minister for Science and Information Economy.

WORKERS REHABILITATION AND COMPENSATION (TERRITORIAL APPLICATION OF ACT) AMENDMENT BILL

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

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.

This Bill proposes to amend section 6 of the *Workers Rehabilitation and Compensation Act 1986* ('the Act'), which addresses the territorial coverage of the Act. This is a critical part of the South Australian workers compensation scheme, as it determines whether or not a worker is covered in this State or under an interstate scheme, and therefore whether an employer needs to take out workers compensation insurance in South Australia for their workers.

Background

Territorial coverage of the Act has been a vexed and complicated issue for almost a decade. In April 1995 the former Liberal government amended section 6 of the Act into its current form. Unfortunately the amendment proved to be seriously flawed, producing both overlaps and gaps with other states' and territories' territorial coverage. The flaw arose due to the inclusion in section 6 of a test relating to the worker's place of residence, a test not included in any corresponding interstate provision.

In situations of overlapping laws, there has been frustrating and needless uncertainty for employers. For many years, some employers have had to take out workers compensation insurance for the same workers in more than one state or territory. This was the case even if a worker worked only briefly in another jurisdiction. While workers cannot receive 'double compensation' under any Australian scheme, some could at least 'forum shop' in an attempt to receive compensation in the most favourable jurisdiction.

Illustration of gaps: *Selamis & Smith*

On the other hand there have been gaps in the territorial coverage of some schemes, and sadly this has led to some tragic consequences for some workers. In 1998 two Supreme Court cases laid bare the deficiencies in the section, in particular the provision that links a worker to the state or territory where they live. In the case of *WorkCover v Smith*, Ms Smith was the de facto partner of the employee Mr Keating, a truck driver who travelled across state borders regularly. While Mr Keating was employed by a South Australian company, he lived in New South Wales. Mr Keating was killed while at work at Pinnaroo in South Australia.

The Supreme Court held that, even though Mr Keating spent a reasonable proportion of his working time in South Australia, was employed by a South Australian based company that paid premiums to insure him here, and was killed at work in South Australia, he was not covered by the South Australian Act. Ms Smith was therefore not entitled to receive any compensation. Ms Smith was also not entitled to receive compensation under the corresponding New South Wales legislation, as their Act at the time only covered injury outside New

South Wales where the employer was based in New South Wales. Compensation was not paid in any jurisdiction.

I emphasise that the court in *Smith* reached its verdict reluctantly, pointing out that the result was unjust, but that the court had no choice because of the legislation's drafting. In particular Justice Lander stated:

I draw parliament's attention to the circumstances of this case. Unless the section is amended, any worker who lives outside South Australia but who is employed in South Australia and whose duties of employment require that worker to perform more than 10 per cent of his or her employment outside South Australia is not entitled to benefits under this act in the event that the worker suffers a disability, even if that disability arises out of an injury suffered in South Australia.

In the very similar case of *Selamis v WorkCover*, decided immediately after the *Smith* case, the Supreme Court found that a truck driver (Mr Selamis) was not covered by the South Australian Act for an injury he suffered in the course of his employment. This was the case even though he drove his truck within South Australia about half of his work time, his employer was registered in South Australia and paying levy here, his mailing and temporary home address was in South Australia, and he did not have a permanent residence anywhere else. Like Ms Smith, Mr Selamis was not entitled to compensation in any other jurisdiction and therefore received nothing as a result of his work injury.

Development of National Model

As flawed as section 6 of our Act is, territorial coverage of workers compensation legislation is a complex issue that requires national cooperation and a national solution. Since the *Smith* and *Selamis* cases, all states and territories have endeavoured to reach a consistent national framework with no overlaps or gaps. A number of bodies have driven this work, in particular the various WorkCover authorities (through the Heads of Workers Compensation Authorities), and the Workplace Relations Ministers' Council. Initial attempts faltered and stalled for a range of reasons, not least of all the complexity of the issue and the political difficulty in reaching consensus between eight jurisdictions that have sometimes significant structural differences between their schemes.

SA Bill 2001

By late 2001 the states and territories had almost reached consensus on a model based around a South Australian proposal. At the same time, the former government introduced a miscellaneous amendment bill into Parliament to amend several areas of the Act. The former government did not initially include anything in the Bill on territoriality – their argument being that the national model had not been completely finalised. It took the introduction of an amendment by the Labor Party, and welcome support and further amendments from the Member for Mount Gambier (as Member for Gordon at the time), to bring this issue to the fore. The former government was ultimately persuaded by the merit of our arguments, and amendments to broaden territorial coverage of the Act were included in the 2001 Bill.

That Bill was passed unanimously in the House of Assembly in November 2001 but progressed no further due to the announcement of the State Election, and with the dissolution of Parliament for the February 2002 election, the Bill lapsed.

New National model: NSW/Qld approach

In 2002, the above model was abandoned following rejection by the Workplace Relations Ministers Council. However in late 2002 Queensland and New South Wales both passed amendments to their territorial legislation that 'dovetailed' into each other, which would leave no overlaps or gaps between those two jurisdictions. It did not however provide consistency with any other State or Territory.

The Workplace Relations Ministers Council expressed interest in the above legislative amendments, as did the Heads of Workers Compensation Authorities, which at its July 2003 meeting agreed to support the new legislation as a potential national model. The Government then requested WorkCover to consult with stakeholders regarding the feasibility of adopting the model in South Australia.

Progress of other States/Territories re National Model

Since then, the Parliaments of Victoria, the Australian Capital Territory, Western Australia and Tasmania have all passed legislation consistent with Queensland's and New South Wales'. The legislation has come into force in five of the above six jurisdictions, with the exception being New South Wales, which is yet to proclaim the Bill passed by their Parliament. The Northern Territory government will soon consider a proposal to adopt the national model. .

Aim of National model

The fundamental aim of the proposed national model is to ensure that:

- employers need to register each worker in one scheme and one scheme only, irrespective of temporary movements interstate; and
- every worker is covered by a scheme, that is: no worker or their dependants will 'fall through the cracks' as happened in the unfortunate cases of Ms Smith and Mr Selamis.

SA Bill

The Bill the government is introducing into Parliament today implements the abovementioned national model, moving the country one step closer to historic national consistency in workers compensation territorial coverage. In particular, this Bill is modelled on the Victorian amendments passed in late 2003.

Date of effect

The amendments apply from the date of proclamation and also with limited retrospective effect. There has been significant attention paid to the question of whether the amendments will operate retrospectively. In the government's view, there is a clear case for certain individuals to be compensated for the hardship they have endured as a result of the 1995 amendments – in particular Ms Smith and Mr Selamis. On the other hand, the government was concerned that open-ended retrospectivity may place an unacceptable financial risk on the WorkCover system and further threaten the financial position of the scheme, as it would not be certain how many new claims would emerge.

The government therefore proposes retrospective compensation through two avenues:

1 A person who has made a claim for compensation – which was rejected on the basis of section 6 as it applied at the time – may make a special claim for compensation. If the claim successfully meets the new territorial tests and is otherwise compensable, entitlements could include:

- weekly payments of income maintenance (for a duration not exceeding 12 months);
- weekly payments to a dependant spouse in the event of a claim arising from a worker's death (for a duration not exceeding 12 months);
- medical costs prescribed in section 32 of the Act;
- a lump sum payment to a dependant spouse in the event of a claim arising from a worker's death; and
- a payment to meet funeral costs.

2 An *ex gratia* payment at the complete discretion of the WorkCover Board, where the Board is satisfied that the case is one of substantial hardship and it is otherwise appropriate in all the circumstances to make a payment. This avenue would be available both to those who had lodged a previous (rejected) claim, and those who had never lodged a previous claim.

The two proposed avenues for retrospective compensation are clearly quite narrow. Actuarial analysis of the Bill by WorkCover has indicated that it would result in minimal cost to the scheme – around $1.2 million, with 95 percent confidence that the impact would not exceed $1.6 million. This estimate is based on the considered conclusion that only a small number of previously rejected claims would successfully qualify under the provisions. The WorkCover Board is of the view that the potential cost impact is considered minor and does not pose a significant risk to the scheme.

If the Parliament sees fit to pass this Bill with this provision, the necessary administrative arrangements will be made to alert South Australian workers of their possible entitlements. Workers will be allowed sufficient time to lodge their claim, and the WorkCover Board would establish a specific process to determine ex-gratia claims, and the amount of compensation due.

The inclusion of this provision in the Governments Bill ensures the workers who have fallen through the cracks are not forgotten, whilst at the same time, responsibly minimises the financial risk to the WorkCover scheme.

Key elements of Bill: 4-point test

Now I will turn my attention to the detail of the Bill. Central to this Bill and the national model is a four-point 'state of connection' test, which unequivocally links a worker to a jurisdiction in the event of an injury. The test holds that a worker is connected with:

(a) the State in which the worker usually works in that employment; or

(b) if no State or no one State is identified under paragraph (a), the State in which the worker is usually based for the purposes of that employment; or

(c) if no State or no one State is identified by paragraph (a) or (b), the State in which the employer's principal place of business in Australia is located.

If no State is identified by the above three tests, a worker's employment is connected with the State in which the injury happens, provided there is no place outside Australia under the legislation of which the worker may be entitled to compensation for the same matter.

As mentioned earlier, the strength of the four-point test is that at any point in time, a worker will always be linked to one State or Territory, *and one only*, based on a predominant test of where the worker "usually works" (this first test should decide the vast majority of territorial matters).

Guidelines

Some of the terms in the above test, such as "usually works", undoubtedly need further definition. All jurisdictions have anticipated this and jointly developed a guidelines booklet for the national model. Each WorkCover authority has published or is developing its own tailored version of the booklet for use in their jurisdiction. A good example of this is the Victorian *Guide to Cross Border Workers' Compensation Provisions*, September 2004. The Government has asked WorkCover here in South Australia to develop a similar set of guidelines for publication following the passage of the legislation.

The guidelines contain the following explanations of the first three points in the test:

First test: "usually works

A worker will "usually work" in the State in which they spend the greatest proportion of their working time.

In determining where a worker "usually works", one must take into account both the worker's history in the job (up to 12 months ago), where the contract of employment intends them to work, and the employer's and worker's understanding of where future employment will occur. There is no fixed rule stating which factor is more important; it will depend on the facts of each case – for instance whether the employment has just commenced or not, and what the contract of employment says.

Importantly, this first test allows a worker to work temporarily interstate under the same employment contract for up to six months, without altering where the worker "usually works". This prevents employers from having to obtain new workers compensation policies whenever a worker works interstate for short periods.

When six months of temporary interstate work has elapsed, the employer must review workers' compensation insurance for the relevant worker. At this point in time, the employer may determine that:

- the arrangement remains temporary (in which case the employer should keep copies of documentation supporting the temporary status of the arrangement); or
- the arrangement is now permanent, and the worker has a new State of connection. (the employer must take out insurance coverage for that worker in the new State of connection.)

Second test: "usually based

Where a worker works comparable periods of time across a number of States, the worker's employment is connected to the State in which they are "usually based" for their employment contract. The following factors should be taken into account in determining where a worker is usually based:

- the work location specified in the worker's contract of employment
- the location the worker regularly attends to receive directions or collect materials, equipment or instructions for work
- the place where the worker reports for work
- the place where the worker's wages are paid.

Third test: "principal place of business

Where a worker does not usually work and is not based in any State, their employment is connected to the State in which the employer's principal place of business in Australia is located. The employer's principal place of business will be taken to be:

- the address registered on the Australian Business Register for that employer's Australian Business Number (ABN); or
- if the employer is not registered for an ABN, the State registered on the Australian Securities and Investments Commission's National Names Index, as being the jurisdiction in which the employer's business or trade is carried out; or
- if the employer is not registered for an ABN or on the National Names Index, the employer's business mailing address.

Judicial issues: Choice of law

Under the national model, a territorial dispute can be heard in any jurisdiction and need only be heard in one. Once a "designated court" determines the State of connection, designated courts in all other States and Territories must recognise and abide by the decision. This avoids the need for a claimant to litigate in more than one jurisdiction, and the prospect of conflicting decisions from courts in different jurisdictions. In this Bill, the South Australian Workers Compensation Tribunal has been defined as a "designated court". The Bill specifies that, in determining a question relating to a worker's State of connection, the Tribunal must be constituted by one or more Presidential Members. This ensures that the Tribunal is of sufficient judicial standing to make territorial decisions that are binding on other jurisdictions' courts and tribunals.

Consultation

Major employer and employee stakeholders have been extensively consulted regarding both the proposal to adopt the national territorial model, and this specific Bill. It is important to highlight that some stakeholder workshops were held here in 2003, during which the draft model was subjected to exhaustive 'scenario testing', and no examples could be identified that exposed a flaw in the model.

Business SA and SA Unions have endorsed the draft Bill and welcome moves to amend section 6 of the Act. The Workers Rehabilitation and Compensation Advisory Committee (WRCAC) and WorkCover Board have also endorsed the draft Bill.

I commend the Bill to the House.

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 *Workers Rehabilitation and Compensation Act 1986*

4—Substitution of section 6

This clause provides a new framework for the application of the Act to workers who may work in more than one jurisdiction.

6—Territorial application of Act

Subsection (1) of new section 6 retains the concept that the Act applies to a worker's employment if that employment is connected with this State. However, the rules to be applied in the following subsections will form part of a nationally agreed approach that is to be adopted in all other States, and the Territories.

Subsection (2) makes it clear that the fact that a worker is outside this State when the injury occurs does not prevent an entitlement to compensation arising.

Subsection (3) sets out the 3 main tests for determining with which State a worker's employment is connected. The subsection provides that a worker's employment is connected with—

- the State in which the worker usually works in that employment; or
- if no State or no one State is identified by the preceding test, the State in which the worker is usually based for the purposes of that employment; or
- if no State or no one State is identified by either of the 2 preceding tests, the State in which the employer's principal place of business in Australia is located.

Subsection (4) provides a special rule for workers working on a ship for whom no State or no one State is identified by the tests in subsection (3).

Subsection (5) provides safety net coverage for workers for whom no State is identified by either subsection (3) or (4) if the injury happens in South Australia and there is no place outside Australia under the legislation of which the worker may be entitled to compensation for the same matter.

Subsection (6) and (7) set out certain rules for applying the tests in subsection (3).

Subsection (8) makes it clear that compensation is not payable under this Act in respect of employment on a ship if

the *Seafarers Rehabilitation and Compensation Act 1992* of the Commonwealth applies.

Subsection (9) contains definitions of ***ship*** and ***State*** for the purposes of the section.

6A—Determination of State with which worker's employment is connected in proceedings under this Act

New section 6A provides a procedure for the Tribunal, or a court, to determine any questions as to the application of the Act on ***territorial*** grounds, and to provide for a record of that determination to be made. If the question arises in proceedings before the Tribunal, the matter must be heard and determined by one or more presidential members.

6B—Recognition of previous determinations

New section 6B provides for the recognition of previous determinations made by the Tribunal or a court under this measure, or by a designated court (as defined) under a corresponding law in force in another jurisdiction.

5—Insertion of heading

This is a consequential amendment to a heading.

6—Amendment of section 55—Prohibition of double recovery of compensation

These amendments revamp the rules intended to prevent double recovery of compensation by workers in order to provide consistency in wording in each relevant jurisdiction.

7—Insertion of Part 4 Division 9 Subdivision 2

This clause inserts new provisions (as part of the national scheme) to specify the applicable law which governs claims for damages in respect of work-related injuries.

Subdivision 2—Choice of law

58AA—The applicable substantive law for work disability claims

New section 58AA (1) establishes the basic principle underpinning these provisions which is that if there is an entitlement to compensation under the statutory workers compensation scheme of a State in respect of a disability to a worker, the substantive law of that State governs whether or not a claim for damages in respect of the disability can be made and, if it can be made, the determination of the claim. The remaining subsections of that section clarify the intended application of this principle.

58AB—Claims to which Subdivision applies

New section 58AB clarifies to which claims for damages and related claims for recovery of contribution the Division applies.

58AC—What constitutes disability and employment

New section 58AC clarifies what constitutes a disability and employment and who is an employer or worker for the purposes of the Division.

58AD—Claim in respect of death included

New section 58AD clarifies that, for the purposes of the Division, a claim for damages in respect of death resulting from a disability is to be considered as a claim for damages in respect of the disability.

58AE—Meaning of "substantive law"

New section 58AE contains definitions which clarify what is meant for the purposes of the Division by ***substantive law***.

58AF—Availability of action in another State not relevant

New section 58AF makes it clear that the availability of a cause of action in a State other than the State with which the worker's employment is connected is not relevant to the operation of the Subdivision.

8—Insertion of heading

This is a consequential amendment to a heading.

9—Amendment of section 59—Registration of employers

This amendment is to provide that, in certain circumstances, an employer will have a defence to a prosecution for failing to register under the Act in respect of the employment of a particular worker if the employer can show that the employer believed, on reasonable grounds, that the worker's employment was not connected with this State.

10—Insertion of section 72A

72A—Reasonable mistake about application of Act

This amendment relates to the payment of levy and "matches" the amendment contained in the preceding clause.

11—Insertion of Schedule 5

Schedule 5—Adjacent areas

This amendment provides for the concept of ***adjacent area*** for the purposes of the definition of the ***State*** in new section 6 of the Act. The concept will be based on the concept of ***adjacent area*** under the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth.

Schedule 1—Transitional provisions

This schedule sets out various transitional provisions relevant to the operation of this Act.

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

GEOGRAPHICAL NAMES (MISCELLANEOUS) AMENDMENT BILL

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

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 Geographical Names Act provides a process of determining and assigning geographical names to places in South Australia, and altering existing place names (including suburb boundaries).

The Act came into effect on 9 January 1992. The Act establishes the Geographical Names Advisory Committee to advise the Minister and the Surveyor-General on the performance of their functions under the Act.

One of the outcomes of this amendment is to disband the Geographical Names Advisory Committee.

The Committee meets approximately every two months to review and comment on nomenclature proposals lodged with the Surveyor-General. In practice, the Surveyor-General's staff researches all proposals, involving significant consultation with emergency services providers, Australia Post, Councils, and the community. The outcome of this consultation forms the basis of the Surveyor-General's recommendations to the Minister in relation to a proposal. The Surveyor-General cannot forward a recommendation without first consulting the Committee. This can result in unnecessary delays in dealing with naming proposals where there is often a significant level of public interest.

This Government has a commitment to disband Boards and Committees that get in the way of efficient public administration and considers the Geographical Names Advisory Committee to fall within this category.

The second part of the Bill is also about more efficient public administration and provides a simple process to allow minor changes to be made to suburb and locality boundaries. Suburb and locality boundaries by and large follow property boundaries. As a result of land divisions, it is not uncommon for a property boundary to change resulting in a misalignment between the suburb or locality boundary and the property boundary. While this is mainly a matter of presentation, misalignment can have an effect if, for example, the particular boundary is an electoral boundary or a census district boundary. The provisions set down in the Bill allow the Minister to make minor changes to suburb and locality boundaries through a simple administrative process.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The Act will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Geographical Names Act 1991*

4—Amendment of section 3—Interpretation

5—Amendment of section 6—Functions of Minister

6—Amendment of section 7—Power of Minister to delegate

These clauses delete references to the Geographical Names Advisory Committee. These amendments are therefore

consequential on the proposed repeal of Division 3 of Part 2 by clause 7.

7—Repeal of Part 2 Division 3

This clause repeals Division 3 of Part 2. Sections 10 and 11 of Division 3 establish and set out the functions of The Geographical Names Advisory Committee.

8—Amendment of section 11B—Assignment of geographical name

The amendment inserts new subsections (4) and (5) into section 11B of the principal Act. New subsection (4) provides that if a division or amalgamation of allotments of land does not result in a change of address of any allotment involved in the division or amalgamation, the Minister need not comply with subsection (2) in altering the boundary of a place in respect of which a geographical name has been assigned or approved under this Act so as to align it with a boundary of an allotment of land resulting from the division or amalgamation. Consequently, the change can be made without the need for consultation.

Subsection (5) provides that the new arrangement applies to divisions and amalgamations that took place before the commencement of the subsection, as well as to future divisions and amalgamations.

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

ADJOURNMENT

At 5.59 p.m. the council adjourned until Tuesday 19 September at 2.15 p.m.