LEGISLATIVE COUNCIL

Wednesday 15 November 2006

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. J. GAZZOLA: I bring up the 12th report of the committee.

Report received.

The Hon. J. GAZZOLA: I bring up the 13th report of the committee.

Report received and ordered to be read.

PAPERS TABLED

The following papers were laid on the table:

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

Reports, 2005-06—
South Australian Aboriginal Housing Authority
South Australian Community Housing Authority
South Australian Housing Trust

By the Minister for Police, on behalf of the Minister for Environment and Conservation (Hon. G.E. Gago)—

Reports, 2005-06—
Coast Protection Board
Dog and Cat Management Board
Native Vegetation Council
Upper South East Dryland Salinity and Flood Management Act 2002
Vulkathunha-Gammon Ranges National Park Co-Management Board.

DROUGHT

The Hon. P. HOLLOWAY (Minister for Police): I lay on the table a copy of a ministerial statement relating to drought made yesterday in another place by my colleague the Premier.

CONSTITUTIONAL CONVENTION

The Hon. P. HOLLOWAY (Minister for Police): I lay on the table a copy of a ministerial statement relating to a constitutional convention made today in another place by my colleague the Premier.

QUESTION TIME

VON EINEM, Mr B.S.

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about Bevan Spencer von Einem.

Leave granted.

The Hon. J.M.A. LENSINK: Honourable members would be aware of the newly surfaced allegations in relation to the treatment of Mr von Einem in B division of Yatala. One aspect in particular has highlighted that there is an investigation into possible breaches of standards of conduct of correctional services officers in relation to the purchase of greeting cards. My questions are:

1. Are any other aspects being investigated?

2. When did the minister first become aware of the matter?

3. What prompted the investigation? Was it the *Sunday Mail*, or was it an internal prompt?

4. Over what period are the sales alleged to have taken place?

5. How many officers are involved?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): Of course I am aware of the recent media reports alleging, amongst other things, that correctional services officers have been paying prisoner Bevan Spencer von Einem for paintings. If these allegations are proved, this alleged behaviour is totally unacceptable and reprehensible. These actions are not condoned by this government or departmental management and are the subject, as members have probably read, of a full investigation. Indeed, if true, all the alleged conduct is in breach of the Department for Correctional Services and the South Australian Public Service codes of conduct. The department's code of conduct clearly prohibits staff from entering into any transactions with prisoners outside their normal course of duty. It does not permit staff to have financial transactions with prisoners in any way.

The allegations are far reaching and extend over a period of some years, commencing well before this government's tenure. I am certain that all honourable members are concerned about the allegations that South Australian public servants have engaged in inappropriate behaviour of this nature. If these allegations are true, we will pursue those who have behaved inappropriately with the full force of the law. I am particularly concerned about the hurt and distress that these accusations are likely to have on the victims of this offender. I am disturbed that after all these years information comes to light indicating that this prisoner may have received preferential treatment by some correctional officers. Again, let me assure this chamber that this government does not, and never will, condone this type of behaviour.

All the accusations are taken very seriously and are being comprehensively investigated, as has been reported. I have asked the chief executive to keep me informed if these allegations identify deficiencies in our systems, policies or the Correctional Services Act, and to recommend any changes necessary to improve accountability within the correctional system. I, in turn, undertake to keep the council informed about any actions resulting from this investigation to the fullest extent possible, without the risk of prejudicing any required actions.

The Hon. J.M.A. LENSINK: In the minister's briefings with the department's CEO that she referred to in her response, did the CEO identify any of those deficiencies within the system?

The Hon. CARMEL ZOLLO: Obviously I have been briefed, and I am continuing to be briefed. However, as I have just mentioned, I do not want to prejudice any actions that we may require to be undertaken.

The Hon. R.D. LAWSON: When was the minister first informed of these allegations?

The Hon. CARMEL ZOLLO: I do not have a date in front of me, but it was several days before it appeared in the *Sunday Mail*.

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question on the subject of von Einem.

Leave granted.

The Hon. R.D. LAWSON: On 8 December 2004, I raised in this place allegations about favourable treatment which Bevan Spencer von Einem was receiving in the Yatala Prison. At that time the government criticised me for causing hurt to the victims of von Einem, and brushed aside the serious questions then raised, to which no satisfactory answer was ever provided. Now, two years later, there are further alarming revelations made by Nigel Hunt, a well respected journalist who has been pursuing this issue for some time.

In August last year Mr Hunt published the name of the former prison officer who had assisted Mr von Einem in certain ways. More recently he has revealed to the public that many correctional services regulations were breached not only by that particular officer but by other officers, and it now appears clear beyond doubt that he has received preferential treatment from prison officers for years. The informant states that another officer let von Einem use his mobile telephone, something which is also against prison regulations, because mobile phones, as members will know, are banned inside the gaol, even by staff. My questions are:

1. What action has the minister actually taken since she first became aware that it had been confirmed that von Einem was receiving preferential treatment from prison officers within our system? What action has the minister actually taken to ensure that the prison regulations in respect of this prisoner are enforced?

2. How can the minister account for the fact that these issues were first raised in this place two years ago yet no action appears to have been taken?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): For members' information, I can advise that the prisoner von Einem is accommodated in a protection unit in B Division at Yatala. He has been in that unit for over 20 years—indeed, I understand since the closure of the Adelaide Gaol. He works as a cleaner in the unit and is also involved in some education, and in that regard he can access the education room located next to the unit. He does not receive any special privileges from the system. His daily routine starts at unlock after 8 a.m. and finishes with lock-down at 4.15 p.m. He occupies a single cell.

As we have already heard, these accusations go back a few years. All the alleged behaviours and conduct described in the *Sunday Mail* article are in breach of departmental and SA Public Service codes of conduct. I am deeply concerned about the allegations and I will be outraged if they turn out to be true, because it is totally unacceptable.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: I would like to place on record that, whilst I have no doubt that the majority of our correctional services officers undertake their duties with integrity, I have asked the CE to ensure that no stone is left unturned in investigating those who have suppposedly behaved in the manner alleged. I would also like to point out two things. First, we are building a new prison complex and this new precinct will see a far more accountable and transparent workplace.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: There will be a minimum type of accountable behaviour.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: The honourable member asked about the incident that occurred, I think, two years ago. That incident was described in the *Sunday Mail* and I think the pseudonym used was 'Mary'. 'Mary' resigned before she could be dismissed. All CEs have a list or set of criteria regarding disciplinary actions they can take before someone is dismissed, and before we got to that stage 'Mary' resigned. I am advised that she was actually charged with a criminal offence, was sentenced and served some time.

To say that no action was taken is a total nonsense—to be blunt, a lie. Action was taken. However, I would like to reassure this chamber that in the past five years the criteria for becoming a correctional services officer have changed a great deal. We now have psychological testing for those who wish to become correctional services officers, and in the past two years those criteria have again been strengthened, so they have definitely changed.

The Hon. R.D. LAWSON: I have a supplementary question. Will the minister confirm reports that the 'Mary' to whom she referred in her answer has weekly telephone contact with Bevan Spencer von Einem, and what is the minister doing to stop that?

The Hon. CARMEL ZOLLO: As I have already explained, this is all subject to investigation. I am receiving updates, but I do not believe—

Members interjecting:

The PRESIDENT: Order! Both sides of the council will come to order.

The Hon. CARMEL ZOLLO: Not only is it how they get their questions, Mr President, but it has taken them three weeks to ask one. As I have said, I do not believe it is appropriate for me to prejudice the outcome of my investigations.

The Hon. J.M.A. LENSINK: I have a supplementary question arising from the minister's answer. I may be paraphrasing the minister's answer, but the minister stated that there is no special treatment in the system for von Einem. What constitutes—

The PRESIDENT: The member can ask her question or she can sit down, please.

The Hon. J.M.A. LENSINK: No; I have just referred to—

The PRESIDENT: Well, ask your question.

The Hon. J.M.A. LENSINK: I will. My question is: what part of the prison regime is having bacon and eggs for breakfast?

The Hon. CARMEL ZOLLO: Clearly, the honourable member did not listen to my response.

The Hon. J.M.A. Lensink: I did.

The Hon. CARMEL ZOLLO: No, you did not. What we are investigating here is the behaviour of some correctional services officers, not the system.

The Hon. R.I. LUCAS (Leader of the Opposition): I have a supplementary question. Is the minister denying that, when she first became minister, she was not briefed by senior correctional services officers about allegations of favourable treatment for Bevan Spencer von Einem?

The PRESIDENT: I cannot see that that is part of the minister's answer.

The Hon. CARMEL ZOLLO: I am not quite sure how that is part of it, but, no, I had no reason to be briefed in relation to any special treatment. Of course, as the minister, I asked verbally. I visited Yatala as well.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Well, I obviously asked my CE.

The Hon. R.I. Lucas: What did the CE say?

The PRESIDENT: The minister will not respond to interjections.

The Hon. CARMEL ZOLLO: As I have placed on the record, the system does not offer Bevan Spencer von Einem any special treatment. We have had some allegations about the behaviour of some correctional services officers, which is being thoroughly investigated.

The Hon. R.D. LAWSON: I have a further supplementary question derived from the answer. Minister, are you confirming that you will do nothing to prevent Bevan Spencer von Einem from continuing to call Mary each week?

The PRESIDENT: The minister can answer if she wants.

The Hon. CARMEL ZOLLO: The member opposite is being really quite silly. I said that there has been alleged misbehaviour on the part of some correctional services officers, and the whole issue is being investigated. I cannot come into this place right now—I have undertaken to do that later—and give you a response about individual people, because it is not appropriate for me to prejudice that investigation.

The Hon. R.I. LUCAS: I have a further supplementary question. Given that the minister has just confirmed that she asked the Chief Executive of the department whether Bevan Spencer von Einem was receiving special treatment, did she ask any other officers when she visited Yatala, or any other senior officers, the same question and, if she did, what response did she receive?

The Hon. CARMEL ZOLLO: I have visited Yatala. I am familiarising myself with all our prisons. I still have two prisons to visit, and I hope I can do that before the end of the year or next year.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Well, I have quite a few other portfolios as well, and there are prisons outside the Adelaide metropolitan area I need to go and see. Nonetheless, when I visited Yatala—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: —the prisoner in question was locked down because he was not well. However, I do not have any reason to go around interrogating prison managers or anybody else—

An honourable member interjecting:

The Hon. CARMEL ZOLLO: I think, Mr President, the opposition is quite pathetic.

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question.

Leave granted.

The Hon. S.G. WADE: On Sunday 5 March, the *Sunday Mail* indicated that Mr Severin, the CEO of the Department for Correctional Services, received a copy of an audit into Mr von Einem's bank account. My questions are:

1. Has the minister received a copy of the audit?

2. Will the minister provide a copy of the report to the parliament?

3. What processes are in place to alert prison authorities where a prisoner's bank account movements are extraordinary in the context of the prisoner's known income?

4. What is the nature of the legal issues raised with the Crown Solicitor's Office in relation to the operation of prisoners' bank accounts?

5. While the Crown Solicitor's Office advice is awaited, can the minister assure the council that the supervision of prisoners' bank accounts will not be impaired as a result of these unresolved legal issues?

The Hon. CARMEL ZOLLO (Minisster for Correctional Services): The opposition keeps asking the same question in several different ways.

Members interjecting:

The Hon. CARMEL ZOLLO: Well, you all read the *Sunday Mail*, didn't you? I am briefed, as I said—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: I am obviously aware of an audit. I am aware of the accounts of Bevan Spencer von Einem.

The Hon. J.M.A. Lensink: Aware but not alarmed?

The Hon. CARMEL ZOLLO: It is very difficult for me, as a minister, when I am briefed and I am told that an investigation is occurring and I cannot prejudice it.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: It is going to be part of the whole investigation obviously. It is very difficult for me to give you numbers on the floor of this chamber today.

The Hon. R.D. Lawson interjecting:

The Hon. CARMEL ZOLLO: No, I am aware of the numbers but I cannot do that, the reason being that I do not want to prejudice this investigation. I think any reasonable person would understand that, even somebody like the Hon. Robert Lawson, who has QC after his name. If somebody in the department is undertaking an investigation I cannot stand up here and say, 'Look, he's found out such-and-such,' or whatever. It is very difficult for me to do that. In fact, it would be irresponsible for me to do that.

The Hon. J.M.A. LENSINK: Will the minister undertake to do so when it is actually completed?

The Hon. CARMEL ZOLLO: I wish they had heard the first time I spoke because I actually undertook to do just that.

The Hon. T.J. STEPHENS: Will the minister indicate in what time frame this will be completed so that we will know when to look for an answer?

The Hon. CARMEL ZOLLO: I would anticipate at least a couple of weeks, because quite a few people are being spoken to and all that information will have to be collated and recommendations made. As well, I think it is obvious that we are seeking crown law advice.

CHINESE INVESTMENT

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about Chinese investment in South Australian resource projects.

Leave granted.

The Hon. I.K. HUNTER: The Chinese economy continues to grow strongly and this growth has resulted in a

rising demand for raw materials, in particular oil, coal, natural gas, uranium, iron ore and other minerals. Will the minister explain to the chamber how the state government is promoting Chinese investment in South Australian resource projects?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his question. Buoyant Asian economies have reduced available mineral and energy stockpiles to such an extent that mineral and energy prices have risen dramatically. This, in turn, has promoted significant investment by exploration companies worldwide, and South Australia is competing for these exploration dollars.

The Rann government's strategy has been to invest in the collection and assessment of high quality geoscientific data and its timely provision to all explorers, thereby helping to enhance discovery rates. We have also provided incentives under the PACE program for explorers to fast-track drilling of new concepts. The discovery of the Prominent Hill and Carapateena iron oxide copper gold deposits and the heavy mineral sands deposits in the Eucla Basin has further promoted exploration investment in our state.

Success is a great incentive, and potential Chinese investors are also very aware of these trends. Chinese investors are now looking at the long term and seeking guaranteed supply for raw materials by funding exploration as well as development. The Department of Primary Industry and Resources in South Australia continues to receive numerous inquiries from potential investors, and discussions concerning prospective projects for a broad range of commodities are ongoing.

I have just returned from China where I was pleased to open the newly located South Australian Trade Office in Shanghai. Accompanying me was a 22-member South Australian mission with representatives from a range of industries, including education, mining, migration and banking. Along with important trade, business and education talks, the mission, of course, also helped celebrate the 20th anniversary of the sister state relationship shared by South Australia and Shandong Province.

It is clear that, with the diversification of industries within our economies and the recognition in both regions of the need to diversify and increase innovation, South Australia and Shandong have common interests that will take our relationship into the future and in new directions. There are also growing opportunities for South Australia and China to develop mutually beneficial partnerships in the mining industry in the same way a relationship is building in the education sector—and, of course, we have record numbers of students from China in our state.

While in China, the Northern Territory Minister for Mines and Energy (Chris Natt) and I had the pleasure of opening and speaking at the China Mining conference in Beijing. This is the largest conference of its type in China, and it has broadly similar aims to the Canadian Prospectors and Developers Conference that is held annually in Toronto. This was also the first time that Australian federal and state jurisdictions hosted an Australian resources seminar, just before the conference. I am pleased to report that a number of South Australian mineral exploration companies have recently attracted Chinese investment. Centrex Metals listed on the ASX in July, and it has signed an agreement to sell to Batou Iron and Steel (which is based in Inner Mongolia) half the estimated iron ore production per year for five years from the Wilgerup deposit in central Eyre Peninsula. Similarly, the company has also forward-sold 1 million tonnes per annum to Shenyang Orient Iron and Steel. Shenyang has invested $3 million in the company and Batou has invested $4.38 million.

PepinNini Minerals Limited recently entered into an agreement for the development of the Crocker Well and Mount Victoria uranium deposits in the Curnamona Province. Sinosteel has already invested $1.65 million in PepinNini. I was pleased to have the opportunity to meet the President of Sinosteel and also the Deputy Director of Batou Iron and Steel in China.

Havilah Resources has also signed a memorandum of understanding with Heilongjiang Resources Limited to carry out a feasibility study of the Mutooroo copper-cobalt deposit near Broken Hill. Initial investment is planned at $3 million, with a commitment to fund 100 per cent of mine development until production for a maximum share of mine output of 50 per cent. Feasibility drilling will test the possibility that production of an estimated 10 000 tonnes of contained copper and 1 000 tonnes of contained cobalt or greater is possible.

CITIC Group, one of China's largest state-owned companies, and the Talbot Group from Queensland have invested $2.2 million in Southern Gold Limited, primarily to fund uranium and copper gold exploration in the Gawler Craton. CITIC Group and Talbot Group have also jointly invested $7.15 million in Marathon Resources. This investment will fund further development of the Mount Gee deposit and other prospects in the Paralana fault system in the Mount Painter region. It is quite clear that Chinese investment in South Australian projects is having a significant impact on exploration and development activity, and the South Australian government looks forward to a growing interest from China in our resource stocks.

MULTIPLE CHEMICAL SENSITIVITY

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse, representing the Minister for Health, a question about multiple chemical sensitivity (MCS).

Leave granted.

The Hon. D.G.E. HOOD: I have recently met with a number of people suffering MCS, and it has been drawn to my attention that it is a serious condition and quite prevalent in our community. My colleague, the Hon. Andrew Evans MLC, set out the recent history of MCS in his Matters of Interest speech in this place on 20 September this year. Briefly, for members' interest, MCS is an unusually severe sensitivity or allergy-like reaction to many different kinds of pollutants such as solvents, perfumes, petrol, diesel, smoke and the like, and other naturally occurring matter such as pollen, house dust mites and pet fur, for example.

MCS is unlike common allergies where the causes are understood and the allergy widely accepted. The causes and workings of MCS are not yet understood. The Social Development Committee's inquiry into MCS found that 'MCS is very real and that up to 6 per cent of the population may have MCS'. The inquiry found that around 15 000 people in South Australia have being diagnosed with MCS and that 'many individuals experience considerable suffering, particularly in light of the lack of recognition surrounding the condition'. Medical evidence presented to the inquiry suggested that the incidence of MCS is increasing in the community.

The inquiry warned that research-based evidence linking MCS to exposure to common chemicals should not be ignored and made a number of groundbreaking recommendations, including the development of consistent policies and protocols to assist people with MCS to safely access basic services such as health care. The lack of disability access to essential services such as health care for people with MCS was highlighted in a public rally on the steps of Parliament House just last month, at which I and a number of other members were in attendance. My questions are:

1. When will the Department of Health develop the guidelines and hospital protocols to assist in the access to health care for people with MCS in line with the recommendations that were handed down?

2. Given the proposed dissolution of DAIS in the 2006-07 budget, can the minister please confirm that the government remains committed to providing disability access for people with MCS?

The Hon. P. HOLLOWAY (Minister for Police): I will refer those questions to the Minister for Health in another place and bring back a reply. I am aware of this issue. I know that the Hon. Sandra Kanck referred this issue to the Social Development Committee during the last parliament, but I will seek a response to those questions from the Minister for Health and bring back a reply.

INDUSTRIAL POLLUTION

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Environment and Conservation a question about industrial pollution.

Leave granted.

The Hon. SANDRA KANCK: I am sure that my question will be conveyed to her. I recently visited Browntree Trading, a small grain exporter which has been trading as a successful family business since the 1930s at Port Adelaide. Mr Norm Treloar contacted me because Smorgons Steel has established a hammer mill across the road about 50 metres away and small metal fragments from its operations are blowing across to Browntree and neighbouring businesses and landing on their machinery, rusting their workers' cars and, of course, being breathed into their lungs. Since the hammer mill started, the company has been forced to recalibrate machinery, there have been regular computer corruptions, bolts have fallen out of the roof of the factory and pictures on the office walls are regularly found to be crooked.

Mr Treloar contacted me as a last resort, having complained to the EPA, the Port Adelaide Enfield Council, WorkSafe and the Department of Health over a period of nine months. Logistics company Kerry Intermodal has also complained to the EPA 30 times about air pollution. It was most disturbing to hear during my visit to the area the widely held view among local business people, residents and professionals that the EPA always turns a blind eye to pollution by the big end of town. Members may also be aware that the Port Adelaide Enfield Council recently passed a vote of no confidence in the EPA.

I will be pursuing the more technical aspects of this matter through questions on notice, but my questions to the minister today focus on reports that the EPA has now asked Smorgons to conduct its own testing for dust borne particle emissions. My questions are:

1. Does the minister believe that it is reasonable for the EPA to ask Smorgons Steel, or any company, to arrange their own testing of the pollution created by their operations?

2. How will the EPA verify the accuracy of such testing by Smorgons Steel, or any other company that is testing its own pollution?

3. Does the minister expect that Browntree Trading would have access to the results of tests conducted by Smorgons Steel at the request of the EPA?

4. Does this approach to testing mean that all companies will now be able to conduct their own testing?

The Hon. P. HOLLOWAY (Minister for Police): I will refer those questions to the Minister for Environment and Conservation on her return. However, I do not think we should let pass the comment that was made in the question that the EPA ignores issues relating to the big end of town. I just do not accept that—

The Hon. Sandra Kanck: That is what people are saying.

The Hon. P. HOLLOWAY: People might say it, but I do not believe for one moment that it is true. It is certainly not true in my experience. However, I will refer the questions to the Minister for Environment and Conservation for her response on her return.

STATE EMERGENCY SERVICE

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about our State Emergency Service.

Leave granted.

The Hon. R.P. WORTLEY: The weekend weather and the problems it caused some people have reminded us of the key role the State Emergency Service plays in our community. What is being done to acknowledge the work of our SES volunteers and staff?

The Hon. CARMEL ZOLLO: The weekend storms, though welcomed by many—in fact, most of us—did cause problems for some householders, which meant a busy week for SES—a week that also happens to be SES Week. SES Week is an annual event, which is being held this year from 11 to 19 November. On Friday 10 November I was pleased to launch it by taking part in the annual parade through the city. The parade provided an opportunity for others in the emergency services sector to join with, and to recognise the work of, the SES. Ironically, last year's SES Week was not a quiet one, either, with members responding to storms and flooding throughout the Adelaide Hills, the suburbs and Virginia.

More than 50 SES units are located in rural areas, with a further 13 in the metropolitan area. While the SES has specialist responsibilities for storm and flood response, road crash rescue and land search, amongst others, it also plays a major role in supporting other emergency services. This week provides the opportunity to acknowledge the contribution made to the community by volunteers from the SES and to showcase their skills. As part of the celebrations of the week, the Keith Lane Memorial Award is presented to a volunteer for outstanding achievement within the SES. Keith Lane joined the SES in 1972 and was the unit manager at the then Mitcham unit. He was a great advocate for helping people and for the development of SES volunteers. Normally, the award is presented to only one volunteer, but this year the awards committee could not separate two very worthy nominations and has presented the award to two volunteers—Brian Hunter of the metro south unit and Laurel Shaw of the Port Augusta unit. Our thanks and congratulations go to both Brian and Laurel.

As part of SES Week many local units conduct open training nights, presentation evenings and recruiting drives. I encourage members to promote the SES in their local community as a rewarding volunteering opportunity, with opportunities to work with others who are committed to community preparedness and safety. Members are invited to visit the SES Week displays in Rundle Mall on Friday 17 November from 10 a.m. to 9 p.m. and Saturday 18 November from 9 a.m. to 3 p.m, and to take the opportunity to pass on their expressions of support to the volunteers who will be in attendance and representing their colleagues from across the state.

POLICE DISCIPLINARY TRIBUNAL

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Leader of the Government a question about the police report.

Leave granted.

The Hon. R.I. LUCAS: The SAPOL annual report refers to alleged breaches of the code of conduct involving employees and refers to Police Disciplinary Tribunal hearings. Those numbers show that there was a 50 per cent increase in the number of hearings last year and there has been a 100 per cent increase in two years in the total number of disciplinary tribunal hearings. One of the reported reasons for breaches of the code of conduct relates to accessing and/or releasing confidential information by police officers or staff.

Mr President, you would be aware, as are other members, that there is some controversy in Victoria in relation to police officers accessing information inappropriately, in particular in relation to political party candidates of a different persuasion from the government in Victoria. That has been the subject of much controversy in Victoria. Secondly, in this morning's newspaper, *The Advertiser*, Commissioner Mal Hyde indicated that he was comfortable with opening the police tribunal to the public but wanted protection for whistleblowers. He is quoted as saying:

> That's not a matter that concerns me too much. I'm quite comfortable with increased transparency. However, you need to recognise that there will be occasions that matters need to be kept confidential.

My questions are:

1. Since June 2002 have any police officers been charged with accessing and/or releasing confidential information which relates to any member of parliament or endorsed candidate for a state or federal election?

2. Does the minister support the statements attributed to the Police Commissioner this morning, in particular that he was quite comfortable with increased transparency of Police Disciplinary Tribunal hearings?

3. If he does agree with the Police Commissioner's views, what action has he taken or will he take to implement the Police Commissioner's views?

The Hon. P. HOLLOWAY (Minister for Police): In relation to the first question, I do not have that information, but I certainly hope there have been no instances where police officers have accessed information for political reasons. I am aware that a number of police officers from a range of political parties have stood for election over the past few years, but I hope that none of them or their colleagues would have used information in that way. However, I will obtain that information for the honourable member.

In relation to the second question, I did read the comments attributed to the Commissioner of Police. In fact, I am aware that the Commissioner and the Police Association have been having discussions for some time on possible changes to a number of issues contained within the Police Act. Of course, disciplinary tribunal measures are part of legislation and so the current provisions are, in fact, set by this parliament; if there are any changes, they need to be endorsed by this parliament. The Police Commissioner was giving his view based on questions asked by the media.

The Hon. R.I. Lucas: Do you agree with him?

The Hon. P. HOLLOWAY: I do not have a view on it at this stage. As I said, those conversations are ongoing. I would like to discuss the matter with the Police Association and get its views as well. I think that it is likely that I will introduce some changes to the Police Act at some stage (probably next year). However, as I said, at this stage only discussions are taking place between the Police Commissioner and the Police Association about a number of issues that could make the operation of the Police Act more efficient. I suppose that, ultimately, these are the sorts of issues that could be addressed. If it comes before the parliament, I am sure that all members would like to consult widely, as I would, and get some views on this.

We know that, generally speaking, there are matters that always have to be kept confidential before any disciplinary tribunal. Regarding any changes made by the parliament in 1996 or 1998, or whenever the act was last addressed, I am sure that the parliament, in its wisdom at the time, thought that that was the best approach. If there is evidence for it to be changed, I am prepared to address that. However, until I see any particular proposals, I do not intend to give any definitive viewpoint on that subject.

The Hon. R.I. LUCAS: I have a supplementary question. As a step towards increased transparency, is the minister prepared to provide details of the 29 cases that were found proved last year (five cases where members resigned) in relation to what particular offences those officers were charged with?

The Hon. P. HOLLOWAY: Whether I can provide information depends on the current provisions of the act and the tribunal. I will take up the matter with the Police Commissioner to see whether any further information can be provided.

MUSLIM COMMUNITY

The Hon. J. GAZZOLA: Can the Minister Assisting the Minister for Multicultural Affairs tell the council what the government is doing to encourage a balanced understanding of Islam and the Muslim community in South Australia?

The Hon. CARMEL ZOLLO (Minister Assisting the Minister for Multicultural Affairs): In October 2005, the Premier held an historic meeting with representatives of the Muslim community to listen to their issues and concerns. It was the first meeting of its type ever held in South Australia. At that meeting, the Premier also announced that a Muslim reference group would be established to advise government on short, medium and long-term strategies to improve community relations and promote interfaith dialogue and interracial harmony.

A month later the Premier hosted the first ever South Australian government reception to celebrate Eid-ul-Fitr. To mark the importance of the event that reception was held here in Parliament House. Since then the South Australian Government Muslim Reference Group was formed and met

on many occasions to prepare its advice on strategies to improve public perceptions about Islam and the Muslim community in South Australia. I myself have had the opportunity to attend several meetings of the reference group so that I could listen to their concerns and ideas as well.

Members of the council would not be surprised to hear that the reference group placed a high priority on working with the media. Many Muslims feel and fear a misrepresentation of Islam in the media. Understandably, many are also worried about being alienated and marginalised. These are concerns that certainly I and the government take very seriously. Racism and bigotry have no place in our great state. In South Australia we are fortunate to have good bipartisan support for multiculturalism, and multiculturalism is a valued way of life in South Australia.

We have listened to the reference group and we have prepared an action plan based on its advice. We are now working our way through the action plan. Members of the reference group and others have participated in a special professional development program aimed at building the skills of the Muslim community representatives in managing media interviews and relationships. The group-appointed spokespersons have responded to media inquiries.

The reference group advised the government that there should be a launch in South Australia of the media guide *Islam and Muslims in Australia* developed by the Islamic Women's Welfare Council, Victoria, with the support of a commonwealth government Living in Harmony grant. The media guide attempts to provide factual information for Australian journalists covering issues relating to Muslims.

On 31 October 2006 I was pleased to host the South Australian launch of the media guide *Islam and Muslims in Australia* here in Parliament House. The launch was attended by journalists, members of the Muslim reference group, members of the South Australian Multicultural and Ethnic Affairs Commission, Tasneem Chopra from the Islamic Women's Welfare Council, Victoria, and Professor Peter Manning from the University of Technology in Sydney. The launch provided a valuable opportunity for members of the media to establish links with members of the Muslim community and to gain insights into the issues and events involving Islam or the Muslim community.

Members of the council will also be pleased to hear that on 27 October the Premier again hosted an Eid-ul-Fitr reception. For those who are not aware of the Muslim practices, Eid-ul-Fitr, or the Festival of Breaking the Fast, marks the end of the Islamic holy month of Ramadan and the culmination of a month of fasting for Muslims. Fasting is one of the five pillars of Islam and is considered obligatory for all able Muslims. I am sure that members of the council will welcome the continued strengthening of the relationship between the government and the Muslim communities and the ongoing efforts to improve public perceptions about Islam and the Muslim community in South Australia.

BUSHFIRES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question relating to bushfire prevention.

Leave granted.

The Hon. J.S.L. DAWKINS: The Country Fire Service has indicated that the areas of highest bushfire risk this season will most likely be where there is heavy fuel on the ground, including forest, bushland and plantation areas, national parks, water catchments, roadside reserves, utility corridors and forest/urban interface localities. All of these factors are prominent in the large areas of the Mount Lofty Ranges covered by the Adelaide Hills and Mount Barker councils. My question is: given that each of these two councils employs only one fire prevention officer, what additional resources will the government provide to them to assist in the vital role of fire prevention?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his question, and I thank him also for attending the briefing this morning. I am pleased that many members of this chamber were able to be present for the briefing I organised to advise members of the—

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: If they were members of this chamber, I am sure there was a fair bit of quality. However, I do appreciate that some members may have had other commitments prior to this invitation being received. Members who attended this morning were provided with a copy of Operation Fire Safe and given the seasonal outlook we can expect in this state.

No doubt the fire prevention officer in the Adelaide Hills would have been working very hard with the community, and this government has made further funding available between the past two budgets for community education officers in recognition that this is a very important area in terms of bushfire prevention and mitigation. As far as I am aware, the residents of the Adelaide Hills very much get involved with their community to ensure that their properties are bushfire ready; nevertheless, I am sure that that extra financial support was also welcomed by those who live in that area.

I can also tell the honourable member that I have announced that we are undertaking a bushfire mitigation and prevention review—in fact, there was a meeting this morning. I saw the chair, Mr Vincent Monterola, just prior to coming into the chamber and he told me that the meeting had gone very well. I anticipate it will travel throughout our state and continue to obtain further information. It will involve all those members of our community—whether it is local government, associations or other organisations—who are interested in bushfire prevention and who very much want to have a role in providing information to further strengthen bushfire prevention and mitigation in this state.

It is unfair to say that we have not done anything. A great deal of money has already been provided—as well as ensuring that our firefighters are well protected with personal protective clothing—amongst other funding that has been provided between the two budgets.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Given the extreme concern expressed by SAFECOM and the CFS about that region of the state being an area of great bushfire risk, is the minister ruling out any further assistance to the Adelaide Hills and Mount Barker councils?

The Hon. CARMEL ZOLLO: The honourable member would be aware that that area of the Adelaide Hills, the Mount Lofty Ranges, is one of our high priority zones. We also extended the Mount Crawford airstrip last year, I think it was, at considerable cost and we now have aeroplanes based there; we have increased aerial capacity throughout our state. If there is a particular concern about those two councils, if the honourable member thinks they are not being properly

looked after, I will undertake to get some advice and bring back some information for him.

DRUG DRIVING

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Correctional Services questions in relation to the enforcement of court orders with respect to sentencing through the correctional service system and issues relating to prescription drugs and road safety.

Leave granted.

The Hon. NICK XENOPHON: I refer to the questions asked yesterday by my colleague, the Hon. Ann Bressington, regarding the monitoring of and compliance with home detention orders and drug testing. I have been contacted by the family of William Leslie Cook, who was killed as a result of a motor vehicle collision on 11 March 2004. Andrea Carmel Day was found guilty on 16 June this year of the offence of causing the death of Mr Cook by dangerous driving. His honour judge Clayton, in his sentencing remarks on 20 October 2006, stated that Ms Day's driving was dangerous by reason of her failure to take the bend on the road along Sir Donald Bradman Drive at Lockleys, colliding with the vehicle driven by Mr Cook, and the presence of approximately 0.3 milligrams per kilogram of morphine in her blood. The blood analysis also showed the presence of oxazepam, diazepam and nordiazepam. These were all prescribed medications.

His honour sentenced Ms Day to a term of imprisonment of 24 months and a non-parole period of 12 months, but suspended the sentence. He also referred to the fact that Ms Day had no prior medical conditions, which meant that her condition would be extremely difficult to manage in the Women's Prison. He placed Ms Day on a bond to include home detention conditions whereby the defendant was not to leave home, except for specified purposes, and that she abstain from drugs, other than those prescribed by a medical practitioner, and they must be taken only in the dosages prescribed. My questions to the minister on behalf of Mr Cook's widow, Dale, and his daughters Sandra and Dianne are as follows:

1. How will the sentencing condition relating to drugs be enforced? What powers exist for random drug tests in such circumstances, and how are such tests carried out? Will the family be informed of the results if they so request?

2. How many sentencing orders have been made in relation to abstaining from drug use in the past three financial years? (I appreciate that these are questions the minister will need to take on notice.) How many random drug tests have been carried out over that period? How many positive test results were returned and what were the consequences?

3. What mechanisms are in place to ensure that random drug tests are free from tampering and are truly random, and will the minister provide a breakdown of where such tests take place? What proportion will take place unannounced at a person's home and other locations? What funds have been allocated for the testing?

4. Will the minister provide details of how many random drug tests have taken place of prisoners and remandees in the past three financial years and what the results of those tests have been, including the drugs detected and the consequences of positive test results?

5. On the issue of home detention, how many home detention orders have been made in the past three financial years, and how many of these have been electronically monitored and by what means?

6. Most importantly, in relation to road safety issues, will the minister investigate the link between prescription drugs (including narcotic analgesia) and the risk drivers with such medication in their bloodstream can pose to themselves and other road users? Has the minister consulted—or will she consult—with the AMA and other relevant organisations in relation to this?

The PRESIDENT: Before the minister answers those questions, I do not know whether the Hon. Mr Xenophon thought he could disguise 35 questions by putting them into six parts. It is an extraordinary number of questions the honourable member has asked the minister.

The Hon. CARMEL ZOLLO (Minister for Correctional Services): I think we are all quite used to the length of questions asked by the Hon. Nick Xenophon. First, I am obviously aware of the case to which the honourable member has referred, and we all feel for that family. If my recollection serves me correctly, the reason we were unable to accommodate the particular person is that we do not administer morphine in our prisons: that has to be done at a hospital health centre.

In relation to electronic monitoring, I meant to bring back a response to the Hon. Ann Bressington yesterday. The Hon. Ann Bressington has yet to provide me with further information, but I am happy to receive any further information that will help us work through the case she brought up yesterday. We have a total of 246 electronic monitoring units available in this state, which contrasts with the 158 electronic monitoring devices in use when we came to office in March 2002.

In relation to prescription drugs and driving, again, I think this issue has been raised by the Hon. Ann Bressington. There has been some discussion, because I did say that we would undertake to look at this matter and that it would possibly be part of the review in relation to drug driving that will be undertaken once the trial has ended. One of the issues brought to my attention was that any effect of a prescription drug would depend on the actual level of the drug in the body, as well as the patient's tolerance to the drug. Therefore, we believe it would be impractical to include the prescription drugs as prescribed drugs under the zero tolerance RDT legislation.

I can advise the honourable member that my colleague the Hon. Gail Gago (the Minister for Substance Abuse) has distributed a benzodiazepines, opioides and driving prescriber resource kit. I do not know whether the honourable member is aware of this, but this kit was prepared by DASSA (Drug and Alcohol Service of South Australia) in consultation with the South Australian Division of General Practice. It has been designed to support medical practitioners and specialists to provide information to patients being treated with opioid-based painkillers or benzodiazepines and, in particular, to inform them of the risks associated with driving a motor vehicle whilst under the influence of these medications. As I said, it is currently being distributed through SADI and other appropriate specialists. I am not certain whether other honourable members have received a copy of the kit, but it is certainly available.

Another recommendation that deserves further investigation, at any rate, is the possibility of seeing whether we can make improvements in bringing the potentially harmful effects of some prescription drugs to the attention of patients—for example, through more prominent warning labels. I am aware that that is currently being investigated.

The honourable member asked a whole series of questions where, clearly, I will have to bring back some advice, but the Department for Correctional Services does regularly test offenders randomly, or on suspicion of drug and alcohol use. In the case of offenders on intensive bail supervision, home detention bail offenders who test positive for drugs or alcohol are reported to the courts. In the case of offenders on home detention who test positive for drugs or alcohol, they are reported to the Prisoner Assessment Committee of the Parole Board (where they are parolees), and a decision is then made as to whether or not the offence is serious enough to warrant a formal breach and return to prison.

At the moment I cannot provide details of the number of offender drug tests carried out (in the time that the honourable member asked), or how many positive results were returned on short notice. We will have to do some investigations, and they will take some time. The statistics will take some time to collect, but I will provide them as soon as they are available. In relation to the Hon. Ann Bressington's question, if she gives me details of the case that she raised yesterday I will undertake to get a response for her.

PORTABLE AUTOMATIC WEATHER STATION

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief statement before asking the Minister for Emergency Services a question about a portable AWS.

Leave granted.

The Hon. CAROLINE SCHAEFER: I also took advantage of the briefing on our bushfire risk for this year, and I thank the minister for arranging that. Part of the briefing was on a portable AWS—that is, a portable weather system. The briefing notes state:

> The main advantage of the new Vaisala PAWS is its portability. The entire instrument is carried in three cases which can be loaded into the back of a car or on to an aircraft. This results in very rapid deployment. Their communication is via satellite so the instrument can be set up in very remote locations.

On the very next page there is a photo of the fire and the PAWS at Pinkawillinie on Eyre Peninsula in January 2006. I know that there is no way that a portable weather station could be transported to Pinkawillinie by car under some six hours (if it is housed in Adelaide) or, indeed, by aircraft under 2½ hours. My questions are:

1. Where are these portable weather stations housed?

2. Is there provision to purchase more of these so that they can be strategically placed across the state and, therefore, actually used for rapid deployment?

3. What is the cost of these portable automatic weather stations?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for her questions. Unfortunately, I did not have the opportunity to attend the briefing this morning. I am aware what the honourable member is talking about but I do not have all the advice that I need to respond to her question now, so I undertake to bring back a response.

AUDITOR-GENERAL'S REPORT

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

> That standing orders be so far suspended to enable questions to be asked and replies given relating to the report of the Auditor-General for 2005.

Motion carried.

The Hon. R.I. LUCAS (Leader of the Opposition): My first question based on the Auditor-General's Report is to the Leader of the Government and relates to page 838 of the Auditor-General's Report. That appears to indicate that, in the past 12 months, the police department while undertaking a stocktake found $1.3 million in assets that it did not realise it had. I refer the minister to the reference to 'Assets recognised through stocktake—$1.3 million' and the fact that, for the previous financial year (2005), there is no corresponding item. Can the minister confirm that, indeed, that is what his department's accounts indicate, that is, that the police department found $1.3 million in assets it did not know it had?

The Hon. P. HOLLOWAY (Minister for Police): I am waiting for the report so I can refer to the page, but I will have to take that question on notice and seek to get a reply for the honourable member as soon as possible in relation to that matter.

The Hon. R.I. LUCAS: Mr President, can I speak about that? We have only 60 minutes to question ministers on the Auditor-General's Report. We were generous enough to leave one question hanging over from question time to come out of it. For the first question the minister does not even have his report.

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: Well, the other issue is that the minister does not even have the report to respond to the question. I refer the minister to page 838 of the Auditor-General's Report and the line which refers to 'Assets recognised through stocktake—$1.3 million'.

The Hon. P. HOLLOWAY: I will have to take that question on notice. As I said, I do not have any information on that particular issue. Page 838 is in the notes to the accounts of the Auditor-General's Report. Which particular clause is that under?

The Hon. R.I. LUCAS: Under the line which says 'Assets recognised through stocktake—$1.3 million'.

The Hon. P. HOLLOWAY: I will have to take that on notice.

The Hon. R.I. LUCAS: Can I ask the minister to take on notice the following questions.

1. If it is correct that the police department suddenly has found $1.3 million in assets that it did not know it had, can the minister indicate what those assets were, and can he give an explanation as to why the police department did not know it had them?

2. How often are stocktakes taken?

3. How often is reconciliation to accounting records performed by his department?

I ask the minister to take those questions on notice.

I refer the minister to page 819 of the Auditor-General's Report. On that page under 'Non-current liabilities' there is a reference to long-term borrowings of $200 000 in 2005, and it appears that there has been a repayment of that $200 000. Can the minister indicate from which agency the $200 000 was borrowed and to which the repayment has been made? I presume the minister will need to take this question on notice as well. Is it correct that the repayment should be reflected in the statement of cash flows on page 821? There appears to be no reference to the repayment of long-term borrowings under 'Cash flows from financing activities'. I

accept that the minister may need to take that question on notice.

The Hon. P. HOLLOWAY: Yes, I will take that question on notice.

The Hon. R.I. LUCAS: One question on which I am sure the minister would be well briefed is in relation to questions I have already asked on the first PPP entered into by the Rann government. As I explained in question time earlier in the week, the police department (the minister's department) is making lease payments to Plenary Justice for the police stations which are his responsibility and the courthouses which are the responsibility of another minister, and there is then a repayment regime from the Courts Administration Authority back to the police. In the first instance, will the minister indicate from the Auditor-General's Report, or from the information he has been provided with, exactly how much was paid in the last financial year to Plenary Justice by his department for the first PPP the government has entered into?

The Hon. P. HOLLOWAY: In relation to the amount that is being paid, as the honourable member knows, he asked a question on this the other day and I am currently getting that information.

The Hon. R.I. Lucas: That is for this year and future years. I am talking about last year. How much did you pay last year? That is what the report is about.

The Hon. P. HOLLOWAY: I am still seeking some information in relation to the timing of those particular issues. Of course, some of those assets have not been completed yet, particularly the police station and courthouse at Port Lincoln. There is a section within the Auditor-General's Report that refers to those. I refer to page 827, which states:

> Operating lease payments are representative of the pattern of benefits to be derived from the leased items and accordingly are charged to the Income Statement in the period in which they are incurred. . . In 2004-05 SAPOL transferred control of the Public Private Partnership (PPP) sites to the Minister for Infrastructure for nil consideration and this action resulted in the recognition of a loss on disposal of assets.

Reference is given to notes 4.2 and 13 of the Auditor-General's Report. Further on it states:

> For accounting purposes the lease is an operating lease.
>
> Under the PPP agreement SAPOL is responsible for paying lease payments to Plenary for sites occupied by both SAPOL and the CAA. . . Lease expenditure related to the facilities occupied by SAPOL is recognised in the SAPOL Controlled Statements. Lease expenditure and the associated revenue related to the facilities occupied by CAA is recognised in the SAPOL Administered Items Statements.

That is the reference. If the honourable member wishes me to get those amounts specifically identified, I can do that and provide that information for him.

The Hon. R.I. LUCAS: I take it that the minister has agreed to take it on notice because I am aware of those particular notes, but what I have asked specifically relates to the last financial year; that is, how much was paid to Plenary Justice as part of that PPP? If the minister does not have the answer to that, can he take this aspect on notice as well? I refer the minister's advisers to page 838 of the report, under the operating lease commitments which existed in 2005 and also 2006. The total lease commitments are $147 million for 2005 and $142 million for 2006. That is without the GST component being included. Will the minister take this question on notice and bring back an answer: what number of those totals—$147 million and $142 million—relate to the PPP arrangement; and will the minister also provide the detail of the significant other operating lease commitments that his department has which have been aggregated within those particular totals?

The Hon. P. HOLLOWAY: I will seek that information for the honourable member.

The Hon. R.I. LUCAS: Will the minister bring back a reply as to how much was paid by Plenary Justice to the government or into consolidated account for the unimproved market value of the sites that they used for the building of the police stations and courthouses? For the minister's information, the report does note that the sites were sold to Plenary Justice. We are looking for the total price that was paid by Plenary Justice for the land upon which these assets have now been built.

The Hon. P. HOLLOWAY: I will have to seek that information from my colleague. As I am sure the honourable member is aware, SAPOL is responsible for the lease payments and the Minister for Infrastructure is responsible for the arrangements in relation to that lease. I will need to seek the information from my colleague.

The Hon. R.I. LUCAS: Page 812 of the Auditor-General's Report notes that the risk register (which all departments are required to maintain) in the minister's department has not been formally updated since 2002. Will the minister indicate the reasons given to him that the department had not updated the risk register since 2002? The Auditor-General's Report notes that they have considered the revision of these documents. Will the minister indicate whether he and his department will respond any more positively to the Auditor-General's concerns than that; that is, rather than just considering it, they will undertake the revisions required by the Auditor-General?

The Hon. P. HOLLOWAY: When it is said that the department will consider the request, it is implied that it will address the matters raised by the Auditor-General. I think that is implicit in that. It is my understanding those matters are being addressed.

The Hon. R.I. LUCAS: Why was it not updated since 2002?

The Hon. P. HOLLOWAY: I do not have any advice on that, but it is my understanding that the matters are being addressed. I think that is the important thing from my perspective.

The Hon. R.I. LUCAS: I leave the question with the minister as to whether he is prepared to seek from his department the reason that it was not updated for four years and bring back a reply. Finally, I refer to the same page. The review of the police department's contract register by the Auditor-General indicated that there were a number of contracts into which the department had entered and which were not recorded in the contract register. They did not record the latest terms and conditions of existing contracts and a copy was not held by the procurement and contract management branch. The department has advised that the register will be reviewed. Will the minister indicate whether he has been advised as to reasons why the contract register was not maintained as it should have been; and, if he is not aware, will he undertake to get advice from the Police Commissioner and provide a response in due course?

The Hon. P. HOLLOWAY: I will seek that information from the department. As is indicated within the report, the

department has indicated that those matters are being reviewed. Clearly, there has been an oversight within the department—as there often is within the many requirements of government—but I will seek from the Police Commissioner a more specific response to that question.

The Hon. D.W. RIDGWAY: My questions are directed to the Minister for Environment and Conservation. At page No. 3 the supplementary report states:

> Policies and procedures for procurement were yet to be formalised. Updated policies and procedures are under development;

Will the minister outline why they are yet to be formalised and why they are still under development?

The Hon. G.E. GAGO (Minister for Environment and Conservation): My advice is that the chief executive approved 11 procurement policies, procedures and standards during October 2006. These documents addressed the areas of audit concern. The procurement internal control policy approved by the chief executive during October 2006 articulates DEH's framework of procurement control mechanisms, addressing the sources of authority to procure, risk management, monitoring, communication and reporting.

DEH has a policy of separation of duties between the payment for goods and services and the acknowledgment of receiving goods and services. DEH also has a policy of no secret transactions, which provides a safeguard against inappropriate behaviour by staff with both financial and procurement delegations. To avoid criticism of secret transactions, one delegate should not exercise both the financial and procurement delegation for a single transaction. If this event were to occur, evidence must be shown that another officer is aware that the transaction has occurred and an appropriate file note made.

This policy is communicated annually to all delegates in a letter advising staff of their delegations. I am also advised that DEH is currently considering the Auditor-General's recommendation to further separate the procurement and financial delegations. DEH's early assessment of the recommendation is that this may significantly impact operations due to the limited number of delegations in regional areas and the devolved nature of purchasing in the organisation.

The Hon. D.W. RIDGWAY: Following on from that, the report goes on to state that procurement delegates are also financial delegates. Why was there no segregation of duties in this respect? How was the procurement monitored if there was no segregation of duties?

The Hon. G.E. GAGO: I believe that I have partly answered those questions in my original reply. I do not believe that there is anything further to add; if there is, I will supply the honourable member with that information.

The Hon. D.W. RIDGWAY: I refer to page 4 and, in particular, credit card expenditure. The report states:

> A review of credit card expenditure examined compliance with Treasurer's Instructions and the Department for Environment and Heritage's internal procedures. The outcomes of the review were that the Credit Card Controllers did not:
> - adequately monitor and act upon the splitting of transactions by cardholders to avoid exceeding established transaction limits;
> - ensure that all travel, meals and accommodation purchases were accompanied by written explanations for the purpose of such expenditure and the individuals involved;
> - ensure that sufficient documentation (invoices etc.) was provided to support credit card payments;
> - adequately check the correctness of the General Ledger account codes allocated to the credit card transactions;
> - provide relevant reports to the Chief Executive and DEH Authorised Signatories for confirmation that records of cardholders were current and bona fide.

The DEH's response was that credit card controllers review credit card statements 'as far as practicable'. How far is 'as far as practicable'? What exceptions to reviews are being made? Given that the minister is likely to give me answers to a number of questions, I will put them on the record at this stage. The response to question No. 2 was that cardholders were required to obtain such supporting documentation and provide descriptions; so far, they have not been doing so. My questions are:

1. Do the cardholders who fail to provide descriptions lose their right to a card?
2. What are the sanctions for continual breaches?
3. Will the minister commit to taking cards away from those who continually breach?
4. Supporting documentation for purchase orders, etc., should be there before the transaction, so what are the reasons that cardholders would not be able to attach this documentation to their statements?
5. Source documents (signed credit cards, etc.) are given at the time of the credit card transactions, so what are the reasons that these would not be attached to the statements?
6. Will the minister also commit to taking cards away from those who do not provide sufficient documentation?
7. Who allocates the general ledger codes? Is it the cardholder? Are they the right person to be doing so? Should the delegated officer be allocating it to the general ledgers?

The Hon. G.E. GAGO: The advice that I have is that at the time the Auditor-General identified credit card issues DEH had already commenced a project to replace the credit card management system and review the appropriate policies and procedures. The findings of the Auditor-General have been a useful contribution to this improvement process, especially as DEH aims to strengthen the controls in the following ways: credit card controllers are to review, as far as practicable, credit card statements for obvious breaches of transaction limits; cardholders will be required to provide descriptions for the meal, travel and accommodation transactions on each monthly credit card statement, in accordance with policy; cardholders will be required to obtain and attach supporting documentation for all transactions on each monthly cardholder statement, in accordance with policy; financial delegations are to review the general ledger account codes for their reasonableness, paying particular attention to entertainment expenses; and credit card monitoring and usage reports are to be forwarded to all finance officers and business managers of regional sites on a regular basis.

Subsequent to the review by the Auditor-General, I am advised that DEH has done the following: developed a training program, incorporating improvement areas suggested by the Auditor-General, and rolled this training out to all cardholders; taken appropriate disciplinary action against officers involved in contraventions of DEH policy; revised the policy and procedure, where required; completed the implementations of the new ANZ VIS credit card management system; and disseminated an internal communique to all staff to emphasise the findings of the Auditor-General and the requirements of DEH policy and procedure. The action taken by DEH, I believe, will significantly strengthen these controls around the use of credit cards in the future. In relation to those questions for which I have not provided a

response, I am happy to take them on notice and bring back a response.

The Hon. D.W. RIDGWAY: The fifth point that was raised by the Auditor-General was that the credit card controllers did not provide relevant reports to the chief executive and Department for Environment and Heritage authorised signatories for confirmation that records of cardholders were current and bona fide. In my view, this was not responded to by the department when they said:

> Credit card monitoring and usage reports are forwarded to all finance officers and business managers of regional sites on a monthly basis. The six-monthly reports for the review by DEH of the authorised signatories were distributed during May 2006.

It shows that the cardholders' records were not checked by the CEO and senior management to see that they were current and bona fide. The Department for Environment and Heritage has sent them to the finance officers and business managers, and not to the CEO and senior management. Therefore, what reports and information are going to the chief executive officer now?

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

The Hon. D.W. RIDGWAY: Could the minister inform me how many credit cards her department has had in each of the following years as at 30 June: 2002, 2003, 2004, 2005 and 2006?

The Hon. G.E. GAGO: As I do not have that information with me, I am happy to take that on notice and bring back a response.

The Hon. M. PARNELL: My question is directed to the Attorney-General, represented by the Minister for Police, and it relates to the Residential Tenancies Fund accounts on page 194 of the Auditor-General's Report. My question relates to two figures in that report. The first is the sum of $64 million, which represents security deposits that have been lodged in that fund (these are the bond moneys paid by residential tenants); the other figure is $4.5 million, which is the interest revenue that has arisen from the investment of those funds. Note 1.2 to the accounts says that under the Residential Tenancies Act interest is paid to tenants when a bond is repaid to them but interest is not paid when the bond is paid to a landlord or to third parties. My questions, which I expect to be taken on notice, are:

1. Of the $64 million in bonds lodged, approximately half is described as a current liability and half as a non-current liability. Could the minister explain the difference between those two amounts?

2. What rate of interest is paid to tenants on the refund of their security deposits, and how much interest was paid to tenants? From the accounts, I cannot see any interest paid to tenants; the vast bulk of the income from the fund is applied to the operation of the Residential Tenancies Tribunal and other staffing costs in the agency.

3. Can the minister explain the difference between the interest rate received by the fund and the rate of interest paid to tenants? In other words, what profit is made by the Residential Tenancies Fund on the investment of tenants' money?

The Hon. P. HOLLOWAY (Minister for Police): I will refer those questions to the Attorney-General and bring back a response.

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about mining royalties.

Leave granted.

The Hon. I.K. HUNTER: In the report of the Auditor-General for the year ended 30 June 2006, for the Department of Primary Industries and Resources it states that the amount of royalties received from mineral and petroleum production and gas licences increased by $21.6 million to $122.6 million during 2005-06. I refer the minister to the supplementary report, page 107, under the heading 'Administered funds—Royalties'. Will the minister explain the substantial royalties increase and provide an outlook for future royalty receipts?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): According to the Auditor-General's Report, mining royalties for 2005-06 were $61.1 million—an increase of $13.4 million on the previous year—and royalties for petroleum were $61.5 million—an increase of $8.2 million over 2004-05. The mineral royalty increase is largely due to a substantial increase in world copper prices due to global demand. Royalties from Olympic Dam increased by 29 per cent from 2004-05 to 2005-06, and there has also been an increase in the production of iron ore, especially in the Middleback Ranges iron ore mines, with those royalties increasing by 21 per cent during the last financial year. Increased royalty income has also been generated by the Beverley uranium mine due to rises in uranium contract and spot market prices.

The increase in petroleum royalties is due to the rise in crude oil prices and production levels in the Cooper Basin. The major petroleum operations contributing to the 2005-06 royalty rise were Beach, Santos, Stuart, Victoria Petroleum and Derilyn. Future total royalty payment estimates for the next couple of years, as reported in the state budget papers, are in the order of $120 million. Of course, actual receipts will depend on a number of factors, including changes to world commodity prices, changes to contract prices, and spot market increases or decreases, as well as factors such as changes in production tonnage.

The Hon. J.M.A. LENSINK: These questions are directed to the Minister for Mental Health and Substance Abuse. I refer to Part B, Agency Audit Report Volume 2, in the health section. I refer to page 582, item 9.3—Funding to non-government organisations. A number of those listed there are clearly mental health specific, including Beyond Blue, Mental Illness Fellowship, Richmond Fellowship, Life Without Barriers and Neami Limited. Some of the others listed might also have mental health funding, including Anglicare, Centacare and Uniting Care Wesley. Will the minister advise what other organisations receive specific funding for mental health programs and also why there is such a substantial decrease from 2005-06? Is it slippage or has the grant been reduced?section.

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I am happy to take those questions on notice and bring back a reply.

The Hon. J.M.A. LENSINK: Again, on the subject of non-government organisations, I refer to page 557 (which I assume is a reference to NGO funding through health generally). The Auditor-General expresses some concerns in relation to controlled deficiencies for NGOs and identifies some suggested actions. Given that non-government organisations regularly run on the smell of an oily rag, what will the

government do to assist NGOs through the process of improving their standards?

The Hon. G.E. GAGO: The Auditor-General acknowledges that, since first raising his concerns, the department has undertaken significant work to improve control over funding to NGOs. Obviously, we will follow up implementation of those improvements through 2006-07. In relation to the other matters the honourable member has raised, I am happy to take them on notice and bring back a reply.

The Hon. J.M.A. LENSINK: My last question to the Minister for Mental Health and Substance Abuse relates to pages 584 and 590, where there are two references. One is 'Unexpended funding commitments for quality outcomes (COPO)——Mental Health Funding', of, I think, if I have the right line, $276 000, and the other on page 590 is 'Drugs policy and programs 2006', $51 000. It would be appreciated if the minister could bring back to us some details of what those items are.

The Hon. G.E. GAGO: In relation to the first question, expenditure in 2005-06 for the development of information systems was deliberately delayed in order to allow time to improve the quality of data being collected from existing systems already developed, and compliance has improved 20 per cent as a result. The department is now able to support more system enhancements. It is not uncommon for funds to be unexpended in a particular year. Carryover of $276 000 has been approved by the Treasurer, and I have been advised that consumers were not impacted by that delay in expenditure.

In relation to the transfer of drugs policy and programs from the department to the Southern Adelaide Health Service, the Drug Policy and Program Unit was transferred to SARS to form part of DASSA as part of the Southern Adelaide Health Service.

The Hon. J.M.A. LENSINK: My next questions are to the Minister for Correctional Services. I refer to Part B, Volume I, Department for Correctional Services. A comment appears on the bottom of page 275, under the section entitled 'Review of general control environment'. The Auditor-General raises one of the principal matters of concern and says as follows:

> Address excessive annual leave balances accumulated by 115 department employees.

I note that on page 289 the annual leave provisions from 2005 to 2006 have decreased from 611 000 to 124 000 over those two periods. Will the minister advise whether these two items are related and what reasons there are for departmental employees to rack up excessive annual leave?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): In relation to excessive recreation leave balances, my advice is that audit was recommending DCS employees and managers continue to be reminded of the need to not only take their current year recreation leave entitlement but also to determine a strategy to reduce the entitlements built up in recent years. DCS payroll will continue to send out monthly annual leave liability reports and reinforce the requirement that employees should ensure the required period of annual leave is provided for and taken each year. Payroll will assist business locations with a strategy to reduce employee entitlements in the 2006-07 financial year. The other reference the member made was to page 289, annual leave, and I think we have just referred to that, but if it is something different I will bring back some further advice for the member.

The Hon. NICK XENOPHON: My question is to the Leader of the Government with respect to Part A, Audit Overview of the Auditor-General's Report, commencing at page 8, headed Staff of Members of Parliament Standing for Election: Guidelines for Use of Ministerial and Members' Staff: Audit Comment. The Auditor-General comments on a lack of clear guidance with respect to the obligations of government employees and contractual staff wishing to stand for election to the South Australian parliament. It recommends a possible solution of issue guidance at page 10, based on the New South Wales Legislative Council Members' Guide.

My question is: how will the government respond and act in relation to that audit comment in the Auditor-General's Report? Further to that, it would beg the question about the use of parliamentary staff in the context of election campaigns once the writs are issued, in any event, and whether it is proposed to go a step further—with respect to guidelines about the use of ministerial or parliamentary staff for what could be seen as electioneering purposes—once the writs have been issued.

The Hon. P. HOLLOWAY (Minister for Police): I do note that in his report on page 10 the Auditor-General says that audit has confirmed that there has been no breach of section 45(2) of the Constitution Act regarding the election of staff of ministers at the last election. While the auditor does say there is a need for guidelines, I think it is important to place on the record that the Auditor-General found that there was no breach. In other words, in those cases where—

The Hon. R.D. Lawson: No breach that he had found.

The Hon. P. HOLLOWAY: I do not believe that he will find any breach, certainly as far as ministers' staff are concerned. In relation to the issue going forward, that is really a matter that would have to go before cabinet. I think probably the Attorney-General would have responsibility for this so I will refer the question to him and bring back a response.

The Hon. J.M.A. LENSINK: I have a supplementary question. Will the leader advise whether any staff in the last election, who this applied to, might have been in the position of an office of profit after the writs were issued?

The Hon. P. HOLLOWAY: I do not believe so. I think the Auditor-General specifically refers in his report to the extensive debate that occurred in the Senate in 1996 concerning Senator Jeannie Ferris. He put that position. It was argued that Senator Ferris had contravened section 44(iv) of the Australian Constitution. The issue did not have to be formally decided because Senator Ferris resigned shortly after taking office and was then appointed to the resulting vacancy by the South Australian Parliament. The Auditor-General specifically refers to that case as an example, so I assume that means he is well aware of it and, if there had been any issues that he was aware of that needed to be brought to the attention of the parliament, I am sure he would have done so, given his comment.

The Hon. NICK XENOPHON: I have a question for the Leader of the Government in relation to Part B: Agency Audit Reports, Volume 1 at page 154 in relation to the Attorney-General's Department and credit cards. Comment is made that 'credit cards were issued without specific approval from

the Chief Executive in accordance with Treasurer's Instruction 12 Credit Cards and internal policy and procedures'. The Auditor-General goes on to say that, 'The Department responded that a formal process for the issue of credit cards would be developed and submitted to the Chief Executive for approval by September 2006.' I appreciate that the minister may have to take this on notice. Can he indicate how many credit cards were issued without specific approval? Is the process anticipated by September 2006 now in place, and will the minister give details that it will comply with the Treasurer's instructions in relation to that?

The Hon. P. HOLLOWAY: I will refer that question to the Attorney-General and bring back a response.

The Hon. SANDRA KANCK: My question is to the Minister for Environment in relation to what the Auditor-General has had to say about the Environment Protection Authority. The Auditor-General's Report finds that timely action is required by the EPA in relation to risk management and, specifically, the Auditor-General finds that the EPA should:

1. Create and promulgate a risk management policy and implementation plan, and

2. Create and implement key performance indicators for key risks.

I note that the Auditor-General's Office includes audits of natural justice and procedural fairness as part of its role under section 31(1) of the Public Finance and Audit Act 1997. The EPA, by its very nature as a regulator, faces a number of risks. There is the risk of action by a company against the EPA in response to an order for controlling pollution. There is also the risk of action by third parties whose health or investments have been damaged as a result of the EPA's failing to take action. One example could be the developer of Newport Quays, whose interests are certainly not being served by ongoing concerns about emissions of dust and steel fibres in the vicinity. My questions are:

1. Does the minister believe that the widespread view that the EPA is biased in favour of large companies harms its credibility and, therefore, the extent to which it is able to effectively monitor, respond to and prevent pollution?

2. Is the minister satisfied that the risk of third party action against the EPA has been identified and managed?

The Hon. G.E. GAGO (Minister for Environment and Conservation): My advice is that the EPA has commenced a process for developing a risk management framework, and a dedicated officer has been assigned responsibility for the project. The project plan has identified five key deliverables for the EPA, and they are:

- a risk management policy (draft to be completed by December 2006);
- a risk management framework document for implementation in the 2007-08 financial year;
- a risk management implementation plan with key performance indicators;
- a risk register; and
- risk management templates and tools for use by staff (these will include a risk ratings scale, an EPA guide to risk management, a risk register and a risk action report).

In relation to the other matters that the member raises, I am happy to take those on notice and bring back a response.

The Hon. J.S.L. DAWKINS: My questions will be directed to the Minister for Emergency Services and relate to Volume 4 in relation to the South Australian Fire and Emergency Services Commission. I refer to page 975. Under 'Legislative Compliance and Governance Arrangements—Approval of Workforce Plans', the report states:

> The Act requires that the workforce plans for SAMFS, SASES and SACFS must be approved by the SAFECOM Board. The agencies are unable to appoint staff unless they are detailed in a workforce plan approved by the Board. The workforce plan for SAMFS was not submitted to the Board until late May 2006 was not approved until August 2006. Audit is of the view that submission of these plans should be aligned with the budget and planning cycle of the agency.
>
> SAFECOM responded that it will establish a planning cycle which will include the requirement for the submission of workforce plans.

What is the extent of the planning cycle and when will workforce plans be submitted?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): In relation to the approval of workforce plans, I am advised that SAFECOM will establish a planning cycle that will include the requirement for the submission of workforce plans. The SAFECOM strategic plan includes, as a key activity, the development of a budget and planning cycle that ensures agencies' workforce plans will meet statutory obligations.

The Hon. J.S.L. DAWKINS: I did ask: what is the extent of the cycle? Perhaps the minister could bring that information back.

The Hon. CARMEL ZOLLO: Yes, I will undertake to do that. Mr President, at the risk of perhaps taking a minute of the chamber's time, I am advised—and perhaps it may not be entirely correct—that in the other place the minister is able to have Public Service advisers with them in relation to the Auditor-General's examination, which arose out of the Auditor-General's Report being part of estimates at the time, but seeing that the budget cycle is now out of sync that does not happen. I just think that it would save a lot of time and work by many people if we could have advisers next to us. I will bring back some further advice.

The Hon. J.S.L. DAWKINS: On the same page under 'SAFECOM Charter', the report states:

> Section 8(4) of the Fire and Emergency Services Act 2005 requires that SAFECOM must have a charter stating its function and operations and the charter must be provided to the Minister and be publicly available. A charter for SAFECOM was compiled by the task force in charge of establishing SAFECOM and parts of this charter were available on SAFECOM's website. However, at the time the audit was conducted Audit could find no evidence of the SAFECOM charter being approved by the Board or presented to the Minister.
>
> In response SAFECOM indicated that the Charter would be updated as part of the strategic planning process.

When will the charter be approved by the board and presented to the minister?

The Hon. CARMEL ZOLLO: SAFECOM would update the charter. As has been mentioned, it is part of its strategic planning process. The SAFECOM charter is scheduled to be tabled with the SAFECOM board this month for endorsement prior to being presented to me.

The Hon. R.P. WORTLEY: In part A—

Members interjecting:

The Hon. R.P. WORTLEY: Can I actually do it in silence?

The PRESIDENT: Order! The Hon. Mr Wortley has the floor.

The Hon. R.P. WORTLEY: In part A, Audit Overview of the Report of the Auditor-General, the Auditor-General made a number of overarching comments concerning the information and communications technology governance and control arrangements of government. Will the minister advise the status and relevance of these issues within the Department for Environment and Heritage?

The Hon. G.E. GAGO (Minister for Environment and Planning): On pages 14 to 25, the Auditor-General raises matters regarding management of information and communication technology, information systems, security and control, government control over its communication networks, major ICT projects, project and risk management and monitoring, and future ICT service arrangements.

In relation to the management of information and communication technology, the Auditor-General referred to the new role of the whole of government Chief Information Officer (CIO), with particular reference to the importance of the whole of government ICT strategic plan. The Department for Environment and Heritage information and technology advice committee has been in operation for several years and is currently being re-established under new terms of reference. The committee provides advice to the DEH executive committee on strategic IT proposals and policies and the continuous improvement of the department's IT management and governance, specifically through the development and monitoring of the DEH IT strategic plan.

The Auditor-General also discussed the information systems security and control. The chief executive of DEH is responsible for the approval of all departmental information security policies and currently has approved five of the 18 security policies that have been drafted to comply with the government's information security management framework. DEH has implemented sound controls over its information and associated infrastructure and computer applications, primarily through its strict network access, log-on password management and file access control processes.

With respect to government control over its communications network, DEH adheres to the StateNet security framework document that is provided as a reference for government departments' network security. When necessary, assistance and clarification is sought from the government's information and communication systems branch in the Department for Transport, Energy and Infrastructure and from the future ICT services contract supplier, Managed Network Services.

Finally, the future ICT services contracts are being managed by the future ICT service arrangements. It is a steering committee, which is being developed and administered by the government information and communication systems branch within the Department for Transport, Energy and Infrastructure. While DEH is involved in developing customer agreements for and transitioning to a number of future ICT services contracts, DEH is not involved in the formulation of these contracts nor in the procurement and overarching implementation arrangements.

The Hon. CAROLINE SCHAEFER: My question is to minister Holloway as chief minister for Primary Industries and Resources SA. Why has PIRSA not finalised its financial report to the extent that the audit was not able to be completed by 30 June this year? What actions have been taken to ensure that the financial report will be completed? When will that financial report be supplied to the department?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): Section 23(1) of the Public Finance and Audit Act 1987 provides that agencies submit their financial statements to the Auditor-General within 42 days after the end of the financial year. PIRSA met this requirement under the Public Finance and Audit Act, with financial statements being delivered to the Auditor-General on 11 August 2006. PIRSA's financial statements submitted to the Auditor-General included the planning and development fund as part of its controlled entity. However, late in the audit process audit advised that the planning and development fund should be treated as an administered item.

This is the first time the planning and development fund has been reported under PIRSA's financial statement. As a consequence, PIRSA was required to rework its financial statements in order to ensure consistency with audit's opinion on the treatment of the planning and development fund. PIRSA adjusted its financial statements, consistent with advice from audit. However, this was not able to be completed in time to meet the publishing timeframe for the Auditor-General's Report, but it should be noted that PIRSA's financial statements were published in the supplementary report which came out at the same time that this report was presented to parliament; and they were done without qualification.

The Hon. J.M.A. LENSINK: My question is to the Minister for Correctional Services. At page 278 in the section entitled 'Cash flow statement' there is reference to an increase in cash by $2.8 million to $16.7 million. It states:

> Of this amount $14.3 million is in the Department of Treasury and Finance Special Deposit Account 'Accrual appropriation excess funds—Department for Correctional Services'.

Will the minister advise what the purpose of this account is and what it was being utilised for in that financial year?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): I will have to take that question on notice and bring back a response for the honourable member.

The Hon. J.M.A. LENSINK: On the same page there is reference to service contracts, as follows:

> The status of these contracts is as follows. Prisoner movement and in-court management. This contract is due to expire on 30 June 2007. Home detention monitoring. This contract is due to expire on 10 May 2007.

Will the minister advise when these might be put to tender?

The Hon. CARMEL ZOLLO: In relation to the prisoner movement and in-court management, services were initially undertaken by four agencies—police, correctional services, the Courts Administration Authority and family and youth services. All these services have been contracted out to GSL Custodial Services Pty Ltd since December 1996. The department, in partnership with SAPOL, the courts and the Department of Health and Families SA, monitors the provision of prisoner movement and in-court management services provided by GSL in South Australia. The contract is due for renewal in 2007 and the government is currently considering its preferred option for the ongoing provision of these services.

In relation to home detention monitoring, the department has a requirement for electronic monitoring equipment to monitor offenders and prisoners on home detention or intensive bail supervision. The existing equipment is able to alert the department only if offenders move more than a given distance from their telephone without approval. However, it

is not able to locate or monitor a person's movements. At present, the contracted supplier of the service is GSL Australia Pty Ltd, which leases the monitoring equipment to the department. As written in the report, the contract is due to expire in 2007 and is currently again in the process of being renegotiated.

The department is currently investigating the possibility of global positioning satellite technology (GPS), which may also be able to be applied to the community management of offenders. A feasibility study is due to be conducted in 2007-08.

The Hon. R.I. LUCAS: Mr President, I rise on a point of order and ask you to enter into some discussions with the Leader of the Government and other interested parties in relation to the process we have just been through. I indicate that what we have just seen is, in my view, one of the more disgraceful abuses of the conventions of the Legislative Council we have seen. There was an agreement or a convention between—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: On a point of order, Mr President—

An honourable member: What point of order?

The Hon. P. HOLLOWAY: The point of order is that there is no point of order.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I raise the point of order, Mr President—namely, will you consider the standing orders of the Legislative Council in relation to the process that has just been entered into, given that we do it only once a year, and consider whether or not there have been breaches of the conventions entered into by the parties in this place by the Leader of the Government and ministers by using Dorothy Dixers during this Auditor-General's question time, when it has occurred on no previous occasion? As I said, Mr President, will you consider standing orders and, if it is not an issue that can be resolved through standing orders—

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: If the Hon. Gail Gago wants to say, 'It's a sook,' let me just assure her that, if you want to breach the conventions of the council, there are plenty we can breach, and the other members—

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: Okay, that is fine—if it is on, it is on. If the Hon. Gail Gago says it is a sook—

The PRESIDENT: Order!

The Hon. R.I. LUCAS: We will take them on, and the Hon. Gail Gago—

The PRESIDENT: The honourable member will come to order as the President is on his feet. I intend to respond to a couple of matters, including the matter raised by minister Zollo after question time. First, in response to the Hon. Mr Lucas, it is only his opinion that they were Dorothy Dixers that were asked by government members. Everybody has an interest in the Auditor-General's Report and, in my opinion, everybody should be able to ask questions on it. The opposition had a number questions—I think up to five were asked by the Hon. Mr Lucas; four or five were asked by the Hon. Mr Ridgway; five were asked by the Hon. Ms Lensink; and some questions were asked by the Hon. Mr Dawkins and the Hon. Caroline Schaefer. Two questions were asked by members of the government. Members of other parties who indicated that they wanted to ask questions were also given the call.

I have a sheet in front of me and, normally, those who want to ask questions come to me and indicate that they wish to do so. I write them down, and that is the way I call it. I am happy to talk to individuals and to go back through the records to see exactly how it operated when the opposition was in government. I recall government members asking some questions at that time. I will check that. As to the issue raised by minister Zollo, it is a matter for the council and, if the council has agreement on that, and it thinks that it can be of assistance, I am quite happy to consider it.

I also intend to raise a couple of other issues, the first of which relates to the start of parliament. The bells ring for five minutes, and it is very disappointing that members seem to take six, seven or eight minutes to get here—well after quarter past two. Secondly, it is courtesy for members moving in and out of the chamber not to cross between the honourable member on their feet and the President. There are two doors back here. When members move in or out of the chamber, they need to try to avoid crossing in front of the member on his feet and the President.

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

That standing orders be so far suspended as to enable five minutes to be added to question time.

In this way, there can be no question as to whether or not the opposition has had sufficient time.

Motion carried.

The Hon. J.S.L. DAWKINS: Thank you, Mr President.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.S.L. DAWKINS: I do not mind trying to talk over the top of them. I refer again to volume 4, page 976: South Australian Fire and Emergency Services Commission, Accounting Systems and Processes, Payroll. It states:

The audit of payroll revealed a need for improvement in the documentation of payroll policies and procedures, the timeliness of processing of payroll adjustments for SAMFS and the active monitoring and management of excessive annual leave balances. Audit also noted that bona fide reports were not always issued on a timely basis and that there was inadequate follow up of outstanding reports.

In response, SAFECOM advised that the payroll policies and procedures would be improved and payroll adjustments would be processed in a timely manner. SAFECOM also advised that action would be taken to ensure bona fide reports were distributed and returned in a timely manner and that active management of excessive leave balances would be undertaken.

What action has been taken to address these issues that are reported in this item?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): In relation to payroll, SAFECOM human resources will undertake a quarterly review of annual leave balances in the future, and updated payroll procedures are being prepared. In relation to the issue as a whole, SAFECOM Finance is currently finalising a restructure of its financial and accounting branch to facilitate the changes needed to ensure that issues raised by audit are resolved. SAFECOM has also established a working group to review all financial matters raised by audit. This review will include the update of financial policies for SAFECOM and will be finalised in 2006-07.

It should be recognised that SAFECOM has implemented some restructuring of the management of the financial

operations, with new senior personnel undertaking overall responsibility for the finance functions. It has also identified the need to boost its financial capabilities through the recruitment of additional suitably qualified personnel. Audit considers that this is a positive move in seeking to facilitate the improvements that are needed.

The Hon. CAROLINE SCHAEFER: In the audit overview, the Auditor-General is highly critical of procurement arrangements and how they are carried out by this government. The final comment of the auditor refers to the State Procurement Act and the State Procurement Board and says:

> Further, the board should work closely with the infrastructure agencies of government that are responsible for administering construction procurement to ensure the development of consistent policies and processes relating to the application of the agreement.

Can the leader give us some details as to what actions are being taken to comply with the Auditor-General's highly critical comments?

The Hon. P. HOLLOWAY (Minister for Police): I will take that question on notice, refer it to my colleague and bring back a response for the honourable member.

The Hon. J.M.A. LENSINK: My question is again to the Minister for Correctional Services, referring to the same volume. On page 295 at the top of that page it refers to contract service commitments and the Mount Gambier Prison contract, which expired on 26 June 2005. It notes that the negotiations for a new contract were not finalised by the expiry date. Can the minister advise the reasons for that and indicate whether there was any impact on service delivery?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): There was no impact on service delivery. Departmental staff, through a contract management committee, monitor the effectiveness of the existing contract on a monthly basis, and evidence indicates that it has been operationally effective, has resulted in a value for money outcome and provides safe and secure humane care that meets the needs of prisoners. Statistics and evidence from performance monitoring processes support this conclusion.

Following a review by the department that considered all options, including renewal, replacement of the contract, or return to government management, the decision was taken by cabinet to renew the contract with GSL Custodial Services Pty Ltd (formerly Group 4 Correction Services Pty Ltd) for a further five years. The new contract for the management of the Mount Gambier Prison will now expire in 2010.

MATTERS OF INTEREST

GREENHOUSE EMISSIONS

The Hon. J. GAZZOLA: As I have commented previously, one should never be amazed at the Prime Minister's opportunism. The latest move to recapture the environmental initiative underlines how conservative and ad hoc are the efforts of the Prime Minister and federal government on global warming. With an initial attitude bordering on political panic and parody, our reluctant born again greenie says he has just discovered what scientists have been warning us about for over 40 years. It has only taken the Prime Minister 10 years to act!

Australia's history on greenhouse emissions under this government is patently abysmal, yet the Prime Minister, even given his own recent Damascus conversion, clings to the imperial Kyoto position forged with US President Bush. There are now, however, further winds of conservatism reinforcing this government's response as Mr Howard tries to regain the political momentum. The Prime Minister, while awaiting further instructions from President Bush, seeks to localise the new mood of US domestic politics as he steers the Liberals back towards the centre, and continues to stroke business and public perception that he is in command.

Mr Howard, now with the veneer of Green credentials and the warnings of the Stern report, stills know better than the Kyoto Protocol. We know the protocol is not perfect yet we fail to meet our own emission cap and the Prime Minister still refuses to set a comprehensive and disciplined example for the rest of the world. The Prime Minister says that Australian workers and companies must not be penalised by any agreement but refuses to acknowledge the economic and social losses if we continue down the path of anything less than comprehensive change. His pretence of hard-headed pragmatism in dealing with short-term drought relief and the money allocated to green research and technologies show not only a Prime Minister and government with an eye on shaping the next election and public opinion, but also a government with a profound reluctance to deal with long-term farm, water and global environmental solutions. It seems that Mr Howard knows more than Professor Cullen on strategies for taxpayer assistance for long-term farm solutions, in what the Prime Minister terms 'drought-proofing farms'.

We are led to believe that the federal government has found solutions, the Liberal parliamentary secretary, Malcolm Turnbull, suggesting that state governments embrace the private sector to fund us out of this. That is hardly decisive political leadership. Mr Howard says to farmers who are rightly seeking help that we are a 'wealthy, successful country', yet it seems that we are not wealthy enough nor seemingly concerned enough to dedicate finances to long-term scientific national and global solutions, as have been identified for a very long time.

The science is well known and validated and the action required is equally well known. The apoplexy of the scientific community, apart from the dissent from a few square-earthers, is palpable. We have never needed the drama of the Stern report to tell us how dire are the views of the knowing scientific community about the world's health. It is known, done and dusted, except for a federal government that knows better than the experts. It is patently clear that the Prime Minister, apart from calling summits, is not committed to a scientific view of the very real environmental concerns facing our nation and the world, and the very real action required.

The Stern report warns us that we face not only an environmental crisis but also a profound economic one. This federal government has never been overly concerned with greenhouse emissions; it has steadfastly refused to sign the protocol and has hidden behind the primacies of capital interest and pragmatic politics when we, as a wealthy nation and so-called responsible member of the global community, have exacerbated and ignored the crisis. The federal government says that it wants to save Australian jobs, but the irony will be that there may be precious little to save on any front if we do not act according to the knowledge that we have long

been privy to but which has been wantonly ignored. This government, in regard to both interest rates and the tragedy that is now Iraq, has been found out as lacking both vision and policy; a government that looks to the past and its own self-serving and electoral future.

GOVERNMENT PERFORMANCE

The Hon. R.I. LUCAS (Leader of the Opposition): In June this year Greg Kelton of *The Advertiser*, under the heading 'Arrogance, personal attacks a low light in the house: cocky MPs selling their party short', summarised this government by saying that it was vying for the title of the most arrogant government he had ever seen in 35 years of covering politics. I think that is a fair summary of what we have seen from the Premier, the Deputy Premier and ministers Conlon and Atkinson down to the lowliest of the backbenchers in this government.

We all remember the statement made by Kevin Foley, the Deputy Premier, in the House of Assembly when he indicated that he had the moral fibre to break his promises but the opposition did not. To top that, this year Mr Foley told the parliament's estimates committee that he was not coming in there to be held accountable for a set of words that he said to Matt Abraham. Mr President, that set of words was a specific promise on behalf of the government that there would be no cuts in Public Service jobs to fund any increases in doctors, teachers, nurses and police. The arrogance of this government and its senior ministers is evident not just to the opposition but also to community leaders and senior political writers such as Greg Kelton.

I turn quickly to not just the arrogance but also the abuse, intimidation and bullying which is par for the course for this government, its senior ministers and processes. Time will not permit it today but perhaps on another occasion we can look at examples from the past, including the occasion pre-2002 when two business leaders spoke to me describing the abuse they had received from the now Premier and Deputy Premier because the business leaders had adopted public positions with which the Labor Party were unhappy, in one case threatening that the future Labor government, should it be elected, would not do business with a particular person. Post-2002 there is the example of a business representative who was dragged into a minister's office and directed to issue a press release because the government was unhappy with that business representative's original position.

There are the examples of Cora Barclay, John Darley (the former Valuer-General), the disgraceful abuse of my very good friend and colleague the Hon. Mr Xenophon by ministers Foley and Conlon in recent times (which attracted much publicity) and, of course, the verbal intimidation of the RAA because it had the temerity to take on the government in relation to the condition of public roads. However, the details of those matters will have to wait for another occasion. As it is with bullies, some of them are very thin-skinned. I want to refer to a story in 'Strewth' in *The Australian* of January this year, which said:

> You'd think a politician who has a reputation for being a Labor hard man and who thrives in the rough-and-tumble, would have a thicker hide. Not Kevin Foley, South Australia's Deputy Premier and Treasurer. Foley is upset Strewth told the nation he'd been holidaying in Port Lincoln with girlfriend, 30-year-old local TV presenter Emma Forster.

Further on 'Strewth' highlighted an exchange at a press conference with a journalist from *The Australian*, who was not the author of the 'Strewth' column. Foley told his press secretary to make sure that *The Australian* was never again invited to any press conference with Kevin Foley because he was unhappy with the reference in the 'Strewth' story.

Then there was the story by Michelle Wiese Bockmann in *The Australian* about a particular article in that newspaper in which some business leaders challenged the government over the opening bridges down in the Port. To cut the story short, on the day the advertisement ran the Premier rang five out of those six business leaders and verbally abused a number of them in relation to the advertisement. When Michelle Wiese Bockmann ran that story a number of months later the Premier's adviser, Ms Bottrall, threatened to sue *The Australian* if it published the allegation about the calls. As a result of that *The Australian* was then taken off the mailing list for all government faxes, advices and media releases for a couple of months to the stage where Michelle Wiese Bockmann, for other reasons, has left the employ of *The Australian* and is now working in London. The vindictiveness of and abuse by this government was such that, because they did not like a particular story in *The Australian*, it was banned for a period of two months from being able to cover it. I will continue this contribution at a later date.

Time expired.

TEACHERS, RURAL AND REGIONAL AREAS

The Hon. R.P. WORTLEY: Today I would like to draw the attention of this council to the importance of teachers in rural areas. On 27 October it was World Teachers Day, when many nations around the world recognise the great contribution made by teachers. The important work done by South Australian teachers plays a major role in the well-being of our state, and I applaud the efforts of many excellent teachers working throughout South Australia.

It is important to recognise that the work of teachers is particularly important in rural and regional areas. Education in the bush faces many different challenges that teachers must overcome. An article in *The Advertiser* of 31 July 2006 noted the findings of a national survey into rural and regional education in Australia. According to this article, the survey found that regional schools face 'greater unmet needs of resources and support,' in addition to decreased opportunities for staff professional development and higher staff turnover.

In the light of these challenges, the efforts made by many rural teachers to help educate our students is truly impressive. A fine example of this is Miss Louise Barry of Loxton High School. As part of the World Teacher's Day recognition of teachers, Mrs Barry was selected as an example of the theme 'Teachers wear many hats', and was the subject of an article in the *Loxton News* of 1 November 2006. The article highlights the many ways in which Mrs Barry contributes to education in the region, including teaching maths, coordinating the maths department, as the year 12 coordinator, working with the student leaders, and representing the staff on the school's governing council. Additionally, she has been involved in the development of a 'Maths South Australia Standard and Accountability' teaching resource, and she has organised mathematics quiz nights in her local area. This commitment and effort demonstrates the outstanding contribution made by many of our teachers to education in rural areas.

Quality education is a priority for this government, and the work of experienced teachers like Mrs Barry plays an important role in helping regional students in their studies.

For this reason, the government is acting to attract more teachers of this calibre to the country areas of South Australia. Experienced teachers with specialist skills are being targeted for regional areas through the recently announced C-Change program. This program aims to address the challenges faced by schools in attracting teachers with expertise in the fields of maths and science. Under the program, teachers will be employed at leadership level and will be offered significant financial incentives. The program aims to facilitate teachers becoming local leaders in their area, as their duties will include providing training and advice to neighbouring maths and science teachers, as well as support to student teachers. Schools under the program will also receive a $7 000 grant for the provision of training for maths and science teachers.

Through these initiatives, the government is aiming to support regional schools and teachers to provide quality education in maths and science to students in the country. This program complements the government's country teaching scholarships program in helping to attract teachers to the regions of our state. Application for this scholarship is open to country residents who are either studying teaching at university or about to enter university as a mature age student, or who have completed year 12. The scholarship offers financial assistance to students in their studies and guarantees graduating teachers a position in country schools.

Of the 42 scholarship positions offered this year, over 80 per cent are targeted at specialist teaching positions in areas of need in country education. This demonstrates the way in which Labor is acting to address the need for teachers with specialist skills in the schools of regional Australia. I hope these initiatives will be effective in improving education in the regions of South Australia. As we work to provide quality education for South Australian students, it is important that we recognise the need and challenges faced by our regions. The efforts and commitment of many country teachers has played a significant role in improving education for many students, and I applaud them for it.

DEFAMATION LAW

The Hon. R.D. LAWSON: I wish to propose an improvement in the Australian law of defamation, particularly in relation to the freedom of the press and journalist sources. It might be suggested that we have recently reformed the law in this area and that the opportunity for further reform has now passed. True it is that only last year all Australian states adopted a uniform defamation law, the Defamation Act 2005. That law was described as historic. It was our first nationally uniform statute, although it does purport not only to include statutory law but to leave the common law intact, except to the extent of its inconsistency.

What happened in 2005 was not a reform of the law of defamation. It was, in effect, a process of finding the lowest common denominator which all states were prepared to accept and which was acceptable to the commonwealth, which was threatening to use the commerce power to extend commonwealth legislation in this area. But I do suspect that this uniform law now provides us with a foundation from which we can actually make reforms. Australian defamation law is remarkably hostile to the media and to reporters. The merest mistake on the part of a journalist or an editor will often be fatal to any defence in a defamation action, and this has long been the case. Some have suggested that politicians, who have been traditionally the principal beneficiaries of libel action, never had much enthusiasm for reform, and it was left to the courts to alter the laws.

The situation became so acute that the High Court of Australia ultimately had to step in. In a case decided in 1997 (Lange, New Zealand Prime Minister against Australian Broadcasting Corporation), the High Court held that the common law defence known as qualified privilege exists for the dissemination of information, opinions and arguments concerning government and political matters affecting the people, subject to the publisher proving reasonableness of that conduct. So there was an historic development by a High Court that was criticised for being proactive.

However, the United Kingdom courts did not go down that route, that is, of identifying some generic privilege for political discussion. In a case in 1997, a very influential case called Reynolds, Lord Cook wrote a trenchant criticism of the Australian approach and of limiting this privilege to political matters. He said in a wonderful passage that he could not see why it was a sound principle to 'single out politicians as the only acceptable targets of falsehood.' So, in Reynolds, the House of Lords developed a more comprehensive defence which was encompassed in a judgment of Lord Nichols of Birkenhead. He said:

> In general, a newspaper's unwillingness to disclose the identity of sources should not weigh against it. Further, it should always be remembered that journalists act without the benefit of the clear light of hindsight. Matters which are obvious in retrospect may have been far from clear in the heat of the moment. Above all, the court should have particular regard to the importance of freedom of expression. The press discharges vital functions as a bloodhound as well as a watchdog. The court should be slow to conclude that a publication was not in the public interest and, therefore, the public had no right to know, especially where the information is in the field of political discussion. Any lingering doubts should be resolved in favour of publication.

The House of Lords in the Reynolds case developed a test which is broader in its operation than the Australian test, and it is one which focuses more clearly on freedom of expression and the right of the media to publish matters which are of public concern. I propose amendments to our law and I will be introducing them with pleasure.

Time expired.

EMBRYONIC STEM CELL RESEARCH

The Hon. D.G.E. HOOD: I rise today to place on record Family First's position on embryonic stem cell research and therapeutic cloning. Late on Tuesday 7 November 2006 the commonwealth Senate passed Senator Patterson's private member's bill to overturn the 2002 moratorium on embryonic stem cell research. I note that this a complete reversal of her position of some four years ago.

For the record, a Family First senator from Victoria, Steve Fielding, voted against the bill. The supporters of the Patterson bill (or backflip, if you like) liken embryonic stem cell research to the discovery of penicillin. Perhaps the best judge of whether the right decision was made will be the citizens living when this parliament celebrates, say, its 250th anniversary in the brave new world that our parliaments will have created.

Family First is against this expansion of research into embryonic stem cells and therapeutic cloning. Ethically, we reject the creation of human life and then harvesting from that life the cells required for the therapy of others. The medical mantra of 'do no harm' seems to have been given second place to a new mantra of 'do the maximum possible good.' How could medicine do no harm to a human embryo by

harvesting cells from it and, in many cases, then destroying it? In our view creating life for the purpose of destroying it is simply wrong and never justifiable. We deplore talk of the bill enabling an aborted female child to be used as a 'mother' for a cloned embryo which is then destroyed for research, as if the two wrongs would make a right.

On a more practical level, we worry that too research has occurred into the merits of adult or umbilical stem cell research. Embryonic stem cell research and therapeutic cloning are, in one sense, the 'easy road'. Hence, if that path is easier it is true that the financial cost of working with that particular vein of research may, in fact, be less. But, in my view, the cost is never too high when such huge ethical considerations are at risk, especially when research, like adult stem cell research, is a very viable option. Indeed, Professor Alan Mackay-Sim of the National Adult Stem Cell Centre said:

> It is probable that adult stem cell lines will render therapeutic cloning irrelevant and impractical.

We are also concerned that embryonic stem cell use can go wrong, with the cells failing to behave in the way that scientists have 'programmed' them. Embryonic stem cells remain unproven in testing on animals and have been proven to have the capacity to produce tumours in humans. To Family First those pushing for embryonic stem cell research may be seen as somewhat over-confident because underlying their push is a suggestion that they know or believe they know all there is to observe in nature, such that this research will do 'no harm'—that is the assumption.

If our view does not prevail, we urge the medical community to exercise the utmost caution and respect for the human life that they are tampering with. We urge our parliamentary colleagues in the other place to seriously weigh the arguments regarding the Hon. Bob Such's motion supporting embryonic stem cell and therapeutic cloning research, and we earnestly hope that in conscience they will join us in rejecting that motion.

WATER SUPPLY, SALISBURY

The Hon. I.K. HUNTER: In the driest state in the second driest continent, we are currently in the grip of what the Premier has called a 'one in 1 000 years drought'. We need to continue efforts to preserve our most precious resource—that being water. Of course, this government has long recognised this imperative and there are already important initiatives under way to protect and preserve our water supply, including an allocated $241 million over the next four years to improve the general health of the River Murray.

The government has also dedicated $2 million over four years for rainwater tank rebates to encourage domestic use of rainwater, but there are important initiatives that can be taken up at local government level as well. Drive around the suburbs of Adelaide and you will see grass verges and median strips all turning many hues of yellow and brown. School ovals and sports fields are dry and cracked, affecting many thousands of kids who are trying to enjoy their Saturday morning sports. But not so in the City of Salisbury. Salisbury's initiatives and partnerships with industry are leading the way in water management on a local level. Under the leadership of Mayor Tony Zappia, CEO Stephen Haines, director of contracts Colin Pitman, and the rest of the team, the City of Salisbury has become a national leader in water management and is providing a model for all metropolitan councils.

Salisbury has invested heavily in the establishment and maintenance of its more than 50 wetland systems. During the wet months excess stormwater (filtered and cleaned by these wetlands) is pumped into underground aquifers around 150 metres below the ground. When summer comes, rather than relying on scarce mains water, the council can irrigate its ovals and playing fields from these aquifers. This makes good sense environmentally and economically, relieving pressure on the state's already overstretched reservoirs and on the River Murray.

Mayor Zappia was quoted in a recent story in *The Advertiser* as saying that the substantial amount of water saved by this process, and the council's capacity to collect some 7 billion litres of water each year through its wetlands, will be used to keep public areas and sports fields green and useable. He said:

> Even with the water restrictions we'll be able to continue to irrigate these reserves and maintain them, whereas had we been reliant on mains water, we would not be able to.

The City of Salisbury's aquifer storage and recovery initiative has shown that water conservation can make good economic sense. In partnership with Australia's largest wool processing company (G.H. Michell and Sons) the City of Salisbury has also developed the Parafield Stormwater Harvesting Project.

According to the city's website, stormwater is diverted from the main Parafield drain to a 50 million litre capacity capture basin. From there it is pumped to a similar capacity holding basin and ultimately gravitates to a 2 hectare cleansing reed bed. This natural system reduces pollutants by up to 90 per cent and dramatically reduces the water salinity. GH Michell no longer has to use hundreds of millions of litres of mains water annually to wash its wool, saving it money and reducing the pressure on our water supply.

The water received from the project is nearly half the salinity of the water from the River Murray. According to the City of Salisbury, the current supply capacity of the Parafield stormwater harvesting scheme is 1 100 million litres per year, and the second stage will add other catchments to boost this supply to 2 100 million litres per year. It is hoped that this project will foster the growth of new and established industries within the City of Salisbury. The project also supplies half of the 800 million litres of grey water used by Mawson Lakes annually.

This is a world-class scheme. In recent months, Salisbury and its engineering partner KBR were presented with a global award at the International Water Association World Congress in Beijing. Mayor Zappia also tells me that, in partnership and with the CSIRO, SA Water and the University of South Australia, the City of Salisbury are using the Parafield project to carry out research on behalf of the European Economic Community on the reclamation of potable water. Schemes such as this are both environmentally responsible and, to reclaim an often misused and abused term, economically rational. They provide a model for local governments across the state. Mayor Zappia and the team he leads in Salisbury deserve to be recognised in this place for leading the state in these environmentally sound and economically far-sighted projects. The City of Salisbury water management is the envy of local government bodies across the state, and its residents are enjoying the benefits, thanks to Mayor Zappia.

ENVIRONMENT PROTECTION AUTHORITY

The Hon. SANDRA KANCK: Eighteen months ago, parliament amended the Environment Protection Act with amendments that were supposed to give the EPA more teeth. But, having given it more teeth, the government then decided to muzzle it so that it could not bite. We saw this in particular with the licence conditions for pollution that the EPA had put in place for OneSteel at Whyalla. The government took control of that issue and basically wiped the slate. But it did not wipe it clean: in fact, it left it extremely dirty with the passage of that act. This action itself gave a very clear message to industry that, if you are big enough and wealthy enough to get an audience with Premier Rann, the law can be changed to allow you to be dirty enough. All it takes is a threat, or even just an implied threat, that the company might move away from South Australia and the government becomes compliant. It is also a very clear message to the EPA to pull its head in when it comes to the big guys.

The consequence of this interference by the government has been to scare off the EPA. Now, when residents come to it about an issue and the offender is a large company, often the initial phone response will be an indication of the hopelessness involved in taking on a large company. Government intervention has sent a clear message to the EPA and, despite that body's apparent independence, it knows who funds it, and that is the government. When Browntree Trading at Port Adelaide contacted the EPA nine months ago about pollution emanating from the nearby Smorgon hammer mill, it was told, 'These things are always very difficult.' And, whilst the EPA website indicates that body is able to undertake appropriate air monitoring, the EPA itself has told Browntree Trading that it does not have the equipment. In fact, I asked a question earlier today about whether it is true that the EPA has asked Smorgon to do its own pollution checks. If so, I query how reliable the results will be. The EPA went to that establishment and took some noise measure levels, but it did so on a day when the hammer mill was not operating.

Residents at McLaren Flat have ongoing issues relating to inaction by the EPA in regard to pollution and the expansion of Aldinga Table Turkeys. There have been allegations of very bad odours and release of untreated waste water after dark, when the EPA is not available to check things. Earlier this year, I was provided with some very graphic photos of turkey body parts that had found their way into the yard of a nearby resident. Pollution does not always occur during the 9 to 5 operating hours of the EPA, and that is a very common complaint from the people who have contacted me with their frustrations about the EPA.

At Devon Park, near the Entech manufacturing company, 32 people have sold their homes in four nearby streets in the past 12 months. Something must be wrong. The land is in a hollow and, despite increases in the height of the smoke stack, a local resident in her 60s started getting asthma attacks for the first time in her life shortly after Entech moved in. She has never smoked a cigarette in her life but has been told by a specialist that she has the lungs of a chain smoker. Entech has won defence contracts which will see the factory operating 24 hours per day. The EPA claims to have visited the site on 20 occasions but has not detected pollutants at excessive levels—and I wonder, of course, what time of day the tests were done and with what equipment, given that they are asking Smorgon to test for its own pollution. In another case, the location of which I will not reveal in order to protect the complainant, the EPA went to the offending site, took some measurements, then indicated that it would be difficult to deal with because, 'it's political'.

On 17 October, Port Adelaide Enfield Council unanimously passed a motion of no confidence in the EPA. This motion was in response to tests around the Bradken foundry at Kilburn and Adelaide Brighton Cement at Birkenhead which showed that the NEPMs are being breached in those areas. At Whyalla, the rate of NEPM exceedances is increasing, with eight in October alone, when the standard is no more than five per year. Yet there is no EPA office in Whyalla—and, not only that, but the EPA has basically told residents not to bother sending in their regular complaints about red dust pollution because there is nothing it can do about it. The EPA needs to be able to act independently. We, as a parliament, must consider whether this body ought to be as independent as our Auditor-General, reporting directly to parliament.

Time expired.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ANNUAL REPORT

The Hon. R.P. WORTLEY: I move:

That the 59th report of the committee entitled 'Annual Report July 2005-2006', be noted.

It has been a busy year, with the committee completing two inquiries, tabling five reports and assessing five aquaculture policies and 42 planned amendment reports.

The Hon. Sandra Kanck: It is a hardworking committee.

The Hon. R.P. WORTLEY: As the honourable member said, it is a hardworking committee. The first inquiry completed was into the marine protected areas about which the committee made 25 recommendations, and I am pleased to report the minister's response supported all 25 recommendations. This was the first inquiry from the committee to produce a minority report, and of the four recommendations proposed in the minority report, the minister supported one of the recommendations. The second inquiry completed was into native vegetation and the Eyre Peninsula bushfire, and included the committee's visiting the area affected by the bushfire. The committee made 21 recommendations in respect of this inquiry and the minister's response supported 20 of them.

During this year, the committee also had statutory obligations under the Upper South-East Dryland Salinity and Flood Management Act 2002, which requires the committee to report to the council. Several issues were raised by the committee by land-holders regarding the construction of drains in the region. The committee visited the area in September 2005 to view first-hand the progress of the scheme and to talk with a variety of land-holders, both those in support of the construction of the drains and those less supportive of the approach being taken. The committee also provided advice to the Minister for Environment and Conservation on the issue of the construction of the Didicoolum drain. The committee intends to table the annual report covering the period 2005-2006 very shortly.

Pursuant to the Aquaculture Act 2001, the committee considered five aquaculture policies and had several briefings

from departmental staff. Under the Development Act 1993, the committee considers all plan amendments reported once gazetted. Further information was obtained and/or witnesses called for six of the 42 planned amendment reports considered during the year. This included the City of Adelaide, Central West Precinct Strategic Urban Renewal Plan Amendment, which resulted in the committee's tabling the PAR before this council. Parliament was prorogued prior to the matter being finalised, but I am pleased to report that the committee's involvement contributed to a timely resolution of the issues between the parties.

Following the March 2006 state election, there has been a change in membership of the committee. The member for Giles and the Hon. David Ridgway are the only two members remaining on the reconstituted committee. I thank the previous members—the Hon. Gail Gago, the Hon. Sandra Kanck, the Hon. Malcolm Buckby (the previous member for Light) and the member for West Torrens for their work during the operation of that committee. The new members of the committee comprise some old and new faces—the member for Schubert (a previous member of the committee), the member for Fisher, the Hon. Mark Parnell and me. I also thank our presiding member, the member for Giles, and the Hon. David Ridgway for their work in the past few months, and I look forward to continuing our work together.

The committee has resolved of its own motion to undertake two inquiries: the first into coastal development, and the second into natural burial. The committee expects to hear witnesses early next year. I look forward to reporting to this council on the inquiry in due course. I take this opportunity to thank all those who have prepared submissions and presented evidence to the committee. The committee members appreciate the work undertaken and the time required in preparing information for the committee, and we also would like to thank members of the public and government departments who have assisted in our understanding of the issues. So, thank you. I thank the staff of the committee, Phil Frensham and Alison Meeks, for their assistance with the preparation of materials for the committee and the coordination of our meeting and committee visits. With that, I commend this report to the council.

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

WORKCOVER CORPORATION (AUDITOR-GENERAL) AMENDMENT BILL

The Hon. NICK XENOPHON obtained leave and introduced a bill for an act to amend the WorkCover Corporation Act 1994. Read a first time.

The Hon. NICK XENOPHON: I move:

That this bill be now read a second time.

The catalyst for this bill arose out of statements that the Treasurer, Hon. Kevin Foley, made at a function on Thursday of last week. It was the opening of the crash seminar put on by the Motor Accident Commission. At that function, according to a number of members of the legal profession who contacted me afterwards, the Treasurer was quite open and frank in comparing the performance of the Motor Accident Commission (which by all accounts is performing very well—and Geoff Vogt, the CEO of the Motor Accident Commission, his board and the management team deserve to be congratulated) with the performance of WorkCover in less than flattering terms. I think that would be a fair summary of what occurred.

I believe that the Treasurer should be congratulated for his candour in expressing his concerns about WorkCover. What concerned me particularly was that, when questions were put to him from the floor following his speech about whether there could be cuts to the benefits of injured workers, the Treasurer said that he was not prepared to rule anything in or out. That does not mean that there will be cuts, but I think it indicates that there is some concern at very senior levels of government about the performance of the scheme. My principal concern is that injured workers in this state get a fair deal. I disclose, as I have in my register of interests, that I am still the principal of a law firm which undertakes WorkCover work and I have acted for injured workers on a regular basis before I came into this place. My concern is that the scheme is under significant pressure and that there are systematic problems. One important step in dealing with these systematic problems is to give the Auditor-General the power to audit the books of the corporation.

Under the present legislation, the WorkCover Corporation Act allows for the auditing of the books by private auditors. It excludes, in a sense, the Auditor-General looking at the books of the corporation. The Auditor-General can only look at the books of the corporation in a circumspect way, given the strictures placed on him by virtue of the legislation. Why should the Auditor-General look at the books of this particular entity? It is a statutory corporation. It obtains its fund from a levy. I note that the levy is one of the highest in the nation, and, of course, the flipside to ensuring that workers get a good deal in terms of fair compensation is to ensure a competitive levy for businesses in this state. They are the competing interests, but the concerns of the business community must also be taken into account.

The Auditor-General in his 2004-05 report sets out his concerns. He referred to 'contingent liabilities of government arising under the implied government guarantee'. The Auditor-General made reference to an article by the late Hon. Brad Selway, a former solicitor-general of this state and a former justice of the Federal Court before his untimely and all too premature death. In an article published in the *Australian Journal of Public Administration* (Volume 54, No. 3, September 1995) headed, 'Managerialism and the implied guarantee', Mr Selway discussed the importance of governments having a role where there was an implied guarantee with respect to statutory corporations or in areas where the government was the ultimate guarantor if things went wrong. The article states:

> The implied guarantee may arise irrespective of whether there is government fault, or whether there is government control or government ownership or even government financial involvement. . . Where the failure of the government to support the entity may have a significant political backlash. For example, a government may have to support a major entity within the jurisdiction if its failure to do so will have significant effects upon its citizens.

Clearly, that would be the case in the case of WorkCover Corporation, in terms of the impact on businesses in this state and in terms of compensation for injured workers. The article continues:

> The risks arising from any government guarantee are not limited to the contingent liability itself. The existence of the guarantee has effects upon the management practices within the body enjoying the guarantee. These effects seem to be threefold: [including] the organisation is freed from the effect of monitoring by the marketplace. . . [secondly] the body can raise moneys on competitive terms. . . [thirdly] by reason of the above two factors, management

has a greater opportunity to act imprudently and will be subject to less market supervision if it does so.

Mr Selway talks about proposed solutions and the importance of monitoring. I see monitoring (as proposed in this bill) as entirely consistent with the issue of implied guarantee set out by Mr Selway. The Auditor-General in his report of 2004-05 (as circumscribed as the Auditor-General is in the sense that he cannot be the auditor of the corporation's books) in a discussion headed, 'Observations regarding audit scope for WorkCover under current arrangements', said:

> WorkCover is a statutory authority. Further, notwithstanding the fact there is no formal government guarantee, on the basis of governmental involvement in the operations of WorkCover, as illustrated in the Under Treasurer's letter, and on the basis of views expressed by former solicitor-general, Brad Selway QC, there is an 'implied guarantee' that would necessitate governmental action to maintain the viability of the WorkCover should the circumstances arise. This could be achieved by way of premium increases, benefit reductions or injection of funds from the Consolidated Account. The inclusion of the WorkCover liabilities in the whole-of-government accounts clearly indicates that the government accepts this position.
>
> Having regard to the experience of the State Bank, it is, in my opinion, imperative, notwithstanding the different nature and immediacy of the liabilities of WorkCover and the State Bank, that WorkCover be subject to the same standard of audit assurance as are public authorities.

That is the nub of the argument: there ought to be that level of scrutiny. This should not be a finger pointing exercise. I believe there are deep systemic problems with WorkCover in terms of the way in which it is structured, but let the Auditor-General examine the books and the practices, as he has the power to do under the Public Finance and Audit Act. If we do not look at these problems and if we do not give the Auditor-General those powers, we are losing a valuable opportunity to have a level of scrutiny and accountability of WorkCover Corporation, given the concerns about its blow-out in unfunded liabilities.

What we do know is that over the years unfunded liabilities for WorkCover Corporation have increased dramatically. Given that WorkCover Corporation has such a significant role to play, in terms of premiums and compensation for injured workers, then this matter must be addressed. We know that five years ago the unfunded liability was some $67 million. We know that the unfunded liability is now some $694 million. That is an area of significant concern. There are some who would criticise the former Liberal government for reducing the levy, and there are some who may criticise this government for not dealing with systemic issues in terms of how long-term claims are dealt with. The point is that we should give the Auditor-General the powers to look at the books of the corporation and look at the practices (as he is entitled to do) under his broad powers under the Public Finance and Audit Act; powers such as section 34 to obtain information, making recommendations under section 37, and looking at the efficiency and practices of a public corporation. These are matters that must be dealt with.

The Auditor-General has warned us in his report that he does not have those powers. We know that this bill should be a no-brainer for the government, given that on 13 May 2003 the Minister for Industrial Relations (Hon. Michael Wright) introduced the Statutes Amendment (WorkCover Governance Reform) Bill. The bill included amendments that dealt with the Auditor-General's powers. In his second reading explanation, under the heading 'Auditor-General', the Hon. Michael Wright stated:

> The powers of the Auditor-General will be fully applicable to the WorkCover Corporation. This will provide for greater scrutiny of the WorkCover Corporation's financial arrangements.

I am simply seeking to assist the government to implement its policies. I am just trying to be helpful.

The Hon. Carmel Zollo: You are always so helpful.

The Hon. NICK XENOPHON: Indeed. What excuse could the government have for not giving this power, as contemplated in legislation that the government introduced in 2003? The bill lapsed in the previous parliament, and I understand that. The Hon. Michael Wright was absolutely spot on in seeking to deal with these government issues, particularly with respect to the Auditor-General. I am just seeking to assist the government to implement its legislative program, namely, that the Auditor-General have the power to look at WorkCover's books.

The Public Finance and Audit (Auditor-General's Powers) Amendment Bill 2005 (another lapsed bill) also expanded the Auditor-General's powers. According to the second reading contribution of the government, this bill would ensure that in future the Auditor-General had all the powers he or she needed to report to the parliament and the public on matters which ought to be examined in the public interest. Clearly, that would have covered WorkCover. So, here we have two government bills which have lapsed and which would clearly have given the Auditor-General the power to look at WorkCover's books. I urge the government to deal with this bill with considerable speed.

If, at a public forum, the Treasurer of this state is prepared to express his concerns to members of the legal profession about the state of WorkCover, comparing it unfavourably with the Motor Accident Commission, it indicates that there is a real need for a level of scrutiny which has been contemplated by the government in two previous bills in the previous parliament. That is why we need to get on with it. This is not something about which the government can say, 'We can deal with this next year.' The unfunded liability has blown out to $694 million. At the end of the day, my concern is that the injured workers of this state could well be the fall guys, in terms of reduced benefits, for the scheme not performing. Businesses of this state could face premium increases which, of course, is not good in terms of our competitiveness with other states.

I urge honourable members to support this bill. Given what I believe is the considerable urgency to deal with this matter, and given the Treasurer's very candid comments less than a week ago, I will seek a vote on the bill in the next sitting week of parliament. There is a wry smile from the President, but I do not think that it is unrealistic, given that these issues were raised in the previous parliament—admittedly, not in this parliament. The proposal that the Auditor-General should have these powers should come as no surprise to this government, given that these sorts of powers were contemplated in two previous government bills.

The bill is very simple. It just gives the Auditor-General the power to audit the books. There is no commencement date in the bill, so that means that, on assent, the Auditor-General could move in and look at the corporation's books. I would be gobsmacked if the government did not support it with considerable alacrity, because I am simply assisting it to pass a key part of its legislative program in the previous parliament (as set out in two previous bills), namely, to deal with the Auditor-General's powers.

In the previous parliament, the Hon. Angus Redford raised these issues on a number of occasions, full credit to him, and

I note that the Leader of the Opposition (Hon. Iain Evans) has also spoken out about his concerns about the WorkCover Corporation. I see this bill as a mechanism for greater scrutiny and accountability, and the sooner it is passed the sooner we can get some light on the condition of WorkCover, which has been acknowledged as being less than satisfactory by no less than the Treasurer of this state. I commend the bill to honourable members.

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

WATERWORKS (WATER MANAGEMENT MEASURES—USE OF RAINWATER) AMENDMENT BILL

The Hon. D.W. RIDGWAY obtained leave and introduced a bill for an act to amend the Waterworks Act 1932 and to make a related amendment to the Sewerage Act 1929. Read a first time.

The Hon. D.W. RIDGWAY: I move:

That this bill be now read a second time.

Today, I introduce three private members' bills, which I will speak to in order, and they all relate to making water use more efficient in Adelaide. At this moment, we see South Australia in the depths of a significant drought. We have a government with a strategy of waterproofing Adelaide, and we have seen it do absolutely nothing over the past 4½ years it has been in government.

As I mentioned last night in my appropriation speech, this Waterproofing Adelaide strategy is a bit like their strategic plan: it is a bunch of warm, fuzzy destinations without any plan of actually how to get there. The Liberal Party, and I in particular, have decided that it is time to put some of these small measures in place to try and help South Australians cope with this the worst drought in the last 100 years.

This first bill is to allow people to connect their homes directly to rainwater tanks. At present when somebody has a rainwater tank on their home property it cannot be connected directly into the SA Water main. When I was on the ERD Committee we looked at stormwater, and a recommendation from that committee was made to the government that homes be dual-plumbed for rainwater tanks. So if you choose to run your house on rainwater you are able to do so and you can be connected to the SA Water mains as well.

The government came out and made it mandatory that after July 2006 all new homes should have rainwater tanks, and that at present all tanks would be required to be plumbed to a toilet, water heater or cold water outlet in the laundry. Most members would know that I have recently sold my property in the South-East and now live in Mitcham. The house the family and I have is some 40-odd years old and it is very typical of a number of houses built in that particular era. It is almost impossible, without going to great expense, to plumb rainwater back into that house. If you do plumb it separately into a new pipe network, you have got to cut up concrete floors, chisel through walls; it is quite a significant construction and engineering feat to connect rainwater to your house.

If you were allowed to hook into the same network that SA Water has provided to your house then it would make it much simpler. At present my understanding is that SA Water do not allow this because they are fearful that their water would be contaminated by the potential of backflow from a rainwater tank on your property back into the mains. If, for some reason, that water was not satisfactory to drink or use, which I cannot imagine it would be, they are concerned about backflow into their network and, of course, there would be a liability if something went wrong with SA Water's network.

That can be solved very simply by fitting an appropriate backflow valve, or check valve, or non-return valve; there is a whole range of names for them, and they range in price from a matter of a few dollars for plastic ones right up to $200 for quite significant industrial and medical ones. I would assume that the ones we are talking about would be in the range of somewhere around about $100. This amendment bill requires, if people wish to connect a rainwater tank to the existing pipe network within the house, that there must be a backflow valve or check valve installed immediately after the meter; so a valve is fitted straight after the SA Water meter, to which the rainwater tank would be connected.

I look at my circumstances in Mitcham: we do not have a huge garden but I have estimated that I could probably bury two concrete tanks in the garden that would allow me to store probably 40 000 litres of water (two 20 000-gallon tanks) which during the winter rainfall period would give me enough water not to run the house for a whole year but certainly allowing me to run it for a good portion of the year, depending on the rainfall events.

So being able to connect straight into the network is a much cheaper and more efficient operation. It would be very simple just to turn off the SA Water valve at the meter so that you do not take any more water from the SA Water network, have your backflow valve in place and then just use your rainwater tanks and a pressure unit to provide your house. You could run your house on that method for—and I estimate—probably six to eight months, depending on the rainfall events. Adelaide receives rainfalls quite a lot in the summer as well, so you might find that in particularly good seasons you could run a house for pretty much all year long.

I suspect when people did connect their rainwater tanks, even under normal circumstances, it would almost be impossible to get any backflow into the SA Water main, because the SA Water mains operate usually at an average of about 8 to 10 metres of head pressure in them and sometimes up to 15 metres, and it would be very unlikely that you would actually get backflow, even without a valve. Notwithstanding that, to protect other consumers and to protect SA Water, if somebody wishes to connect a rainwater tank to the existing network, if a backflow valve is installed—at the home-owner's cost, I might add—that would then allow them to do so.

With the number of roofs on dwellings—some 300 000 houses in Adelaide, and most of them are not new houses where it is mandatory to have rainwater tanks plumbed into them—it would actually give people the flexibility to be more cost-effective by installing rainwater tanks and thereby reducing the pressure on the River Murray. I am sure that there will be some debate on this matter from other members, and I commend this small bill to the house.

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

SEWERAGE (WATER MANAGEMENT MEASURES—USE OF WASTE MATERIAL) AMENDMENT BILL

The Hon. D.W. RIDGWAY obtained leave and introduced a bill for an act to amend the Sewerage Act 1929. Read a first time.

The Hon. D.W. RIDGWAY: I move:

That this bill now be read a second time.

I think this is the most important of the three amendment bills I am introducing today—not that connecting rainwater tanks is not important. I believe this bill will address the inaction of this Labor government—in particular, their attitude to waterproofing Adelaide—on many fronts, especially in light of the drought and the tough season we are having.

The Hon. Mark Brindal, in a former parliament, sought to introduce this bill (as well as a couple of other small bills, including the rainwater tank bill). He also spoke about a couple of other bills, to which I will allude towards the end of speaking on my third bill. This bill allows prescribed entities to establish a pumping station to extract material from the sewer, to recycle the water, and discharge the solid material back into the sewer stream. This is commonly known as sewer mining, and it takes place in nearly every other capital city and state in Australia.

The bill affords protection from just anyone setting up sewer operations, and the details are prescribed by regulation to allow the government greater detail in administering the scheme. Effectively, the bill sets up a licensing system to allow people—perhaps industry, perhaps a park or garden, or a council—to access our sewers and take out material. Only yesterday we heard Adelaide Lord Mayor Michael Harbison talking about the 750 000 litres that are squirted down the drain when it comes to back-flushing the filters of the Adelaide Aquatic Centre, so you can see that there is actually a lot of pretty reasonable quality water available. However, this also allows people to access the sewers.

For example, there may be an industrial use, where water is used in a factory for non-potable reasons—perhaps for cooling, rinsing or washing. This bill allows them to access a sewer, take out however many thousands of litres of water a day they might need, filter it and clean it up, take out the solids and materials they do not want, and put that back into the sewer to continue on downstream and be processed with the rest of the waste water and sewage. In the case of bigger operations interstate, they actually take the product out of the sewer main, treat it, and then take the solids and on-sell them.

Sewer mining could be used by councils. You only have to look at our current water shortage in terms of all the parks and gardens in Adelaide (and I am sure we will see more stringent water restrictions as summer approaches). However, the actual waste water stream is almost constant all the time, and it would allow councils and other commercial enterprises with large lawn or garden areas, nurseries—anywhere where non-potable water is used—to tap into this valuable resource. I know that in other states it is accessed on a 'first in, best dressed' basis, so that if there were not enough available flow to sustain a sewer mining operation it would not be allowed to occur.

Only recently we saw media coverage of the Toowoomba council area's overwhelming 'No' vote, which showed that the wider community has some doubts about using recycled water for drinking; however, I think we now have to look very seriously at other options to preserve our dwindling water supplies. I recently attended a briefing with the Murray-Darling Basin Commission where I was told that one New South Wales town is facing the same dire consequences of this drought as are many South Australian towns. If their town water supply becomes too saline because of falling river levels and the ingress of saline ground water, they have gone so far as to have a contingency plan to use that non-potable water for washing in their homes and will provide bottled water for drinking and cooking. That is the only way they can get through this drought. We have an opportunity to use sewer mining for some of those towns, and especially Adelaide.

An article in *The Sydney Morning Herald* last year stated that Sydney industry could save between 20 billion to 30 billion litres of water a year by using substituted recycled water, so you can see that there is a tremendous opportunity here. Obviously, this bill does not allow people to access the water for drinking but only for commercial and industrial uses. The bill provides for appeals to be made to the ERD Court to ensure that the decisions made by SA Water, the corporation, are fair and subject to judicial appeal. I could have gone for a much more detailed, third party access regime type of amendment bill, but this is a simpler one and I think the government will find it very difficult not to support it.

The Business Council of Australia recently released their paper, 'Water Under Pressure: Australia's water scarcity and how to fix it', which has provided governments around Australia with many options for relieving the demands on our ever-diminishing water resources. The Business Council of Australia states that one of the key steps to reforming urban water is removing the various impediments to waste recycling—and one of the current obstacles in this state is that there is no access to our sewerage or stormwater. Recently, New South Wales accrued more than $1.5 million in external legal fees to block Services Sydney, an infrastructure company, from accessing the city's sewers and diverting waste water into a recycling plant for agricultural, industrial and environmental users, thereby competing with Sydney Water for fees. This seems crazy at a time when we all agree that something needs to be done to change the way we think about our use of water resources in Australia.

In this particular environment—with the Premier talking about a temporary weir at Wellington, with restrictions in metropolitan Adelaide, and with our irrigators faced with 60 per cent restrictions—it just seems commonsense that we would support this bill and, given the right conditions imposed by regulation and the minister, authorise entities other than SA Water to use the water in our sewerage stream and thereby take some of the pressure off our ever- dwindling water resources. I commend the bill to the council.

The Hon. B.V. FINNIGAN secured the adjournment of the debate.

SEWERAGE (GREYWATER) AMENDMENT BILL

The Hon. D.W. RIDGWAY obtained leave and introduced a bill for an act to amend the Sewerage Act 1929. Read a first time.

The Hon. D.W. RIDGWAY: I move:

That this bill be now read a second time.

This is the simplest of the three amendment bills I will move this evening. This bill is to allow people to discharge on a

permanent basis water from their domestic washing machines onto their lawn or garden. The current act provides that, if a property is connected to the undertaking (the undertaking being the waste water pipe network), it is illegal for someone to discharge any waste water onto their property. One of the reasons for its being illegal is that, often, the health department says that you cannot discharge waste water onto your property for a whole range of health reasons, whether it be food scraps or, if you have a young family with a number of children in nappies, maybe there would be material in the washing water that you would not want on your lawn or garden, and that is one of the reasons the department opposes this.

However, in these times of particularly tough water restrictions, the Department of Health has issued a leaflet or bulletin that talks about the manual bucketing of grey water, where you can capture grey water in a bucket and put it on your lawn. The leaflet states:

> Grey water is waste water generated from bathrooms, showers, baths, spas and handbasins, laundries, washing machines, troughs, kitchen sinks and dishwashers. However, kitchen water can contain particles of grease, oils and fats, and it is not recommended for use, particularly without treatment.

I think we can all accept that often there is material in the waste water and even in the grey water from houses that we do not want on our lawns. The reason I am seeking to amend this act to allow people to connect a hose to their washing machine to water the lawn is that pretty much the laundry in every house has an outside door or window; it is on the way in and out of the house, other than perhaps in some of the modern apartments, which, in any case, may not have gardens or lawns to water.

What we seek to do is to allow people to permanently connect a hose to their washing machine to allow the grey water to flow onto their lawn. I accept that there would be occasions when this would not apply, for example, in the case of a diesel mechanic, whose clothes would be particularly dirty and heavily soiled. It would be commonsense not to put that water on your lawn. Likewise, a family with a couple of babies in cloth nappies. If you were washing clothes of that nature, it would be commonsense not to put that material on your lawn.

If I look at my own situation, we have a small dog which, unfortunately, puts material on the lawn most days that is probably more dangerous and more unpleasant than something you would find after a child's nappy had been washed in a washing machine. In my circumstance, we are a family of five, with two teenage daughters. As people with teenage daughters would know, much of the clothing they go through is rarely actually dirty; certainly, it would be a little creased and maybe a little grimy. I know in this place we all work long hours and we all work reasonably hard, but our clothes would not be particularly soiled. My seven year old sons gets a bit grubby from time to time, but his clothes are rarely heavily soiled with anything contaminated.

If I looked at my family's washing load each week, I would find that the water that goes through the automatic washing machine is largely clean, containing a little detergent. If someone wanted to go to the extent of recycling that water to put it on their lawn or garden, they would certainly make sure they were using phosphate free and environmentally friendly detergents. When I look at my own family, we probably have 10 or 12 loads of washing a week, including bed linen, bath towels, etc. In other words, it is washing that is mostly not dirty in the true sense of the word. So, I am talking about thousands of litres of water in my own household that goes down the sewer each week—and I would think there are many thousands of houses around Adelaide where exactly the same thing happens. This is a very simple bill that amends the Sewerage Act to allow the discharge of grey water onto lawns and gardens. I commend the bill to the council.

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

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANNUAL REPORT

Adjourned debate on motion of Hon. B.V. Finnigan:

That the annual report of the committee, 2005-06, be noted.

(Continued from 1 November. Page 841.)

Motion carried.

SUMMARY OFFENCES (TICKET SCALPING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 September. Page 657.)

The Hon. I.K. HUNTER: I rise today to express the government's opposition to this bill. The reasons for the government's opposition to the bill are essentially the same as they were last year when it was previously introduced. The bill makes it an offence to resell a ticket at more than a 10 per cent increase on the original price. No reference is made to the committing of an offence in buying the tickets in the first place. The most obvious problem with the bill from the outset is enforceability. It does not attempt to attack the scalper buying the tickets for the purpose of resale; rather it attacks at the point of resale. This is understandable. After all, it would be very difficult to prove intent at the original point of purchase, and such an approach may unintentionally capture such innocent transactions as, for example, the secretary of a community group buying in bulk, with no intention of profiteering or scalping.

However, the current bill (where the offence is committed at the point of resale) has its own problems. At the point of resale or, rather, at the point immediately before resale—as the buyer is most unlikely to report the offence after the resale—it would be almost impossible to secure a conviction. The alleged scalper could, in most cases, claim that it was a misunderstanding or that pre-sale discussions never took place. The gathering of enough evidence for a prosecution, let alone a conviction, would be next to impossible. Provided that the scalper was not foolish enough to advertise the resale of tickets for more than the cost, plus 10 per cent, it is difficult to see how the offence would even come to the attention of the authorities, let alone how a conviction might result.

The experience of the Office of Consumer and Business Affairs (in relation to attempting to prosecute backyard vehicle dealers), and the age-old problem of policing prostitution laws, demonstrates how difficult it is to prove these types of offences when both parties are willing participants. It is worth nothing that similar legislation was introduced in Victoria in 2002 relating to major sporting events (such as the AFL Grand Final and the Rugby World Cup) but I am advised that, to date, there have been no

successful prosecutions under that legislation. The government believes that the bill, as it stands, does not adequately address the problems of evidence gathering and enforceability which are apparent and, therefore, it will not be supporting it.

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

EVIDENCE (USE OF AUDIO AND AUDIO VISUAL LINKS) AMENDMENT BILL

The House of Assembly disagreed to the amendment made by the Legislative Council and made an alternative amendment as indicated in the following schedule in lieu thereof:

Clause 4, page 4, after line 7—
Insert:

(7) In proceedings relating to an offence (other than proceedings to which subsection (4) applies), the prosecuting authority must object to the use by the court of an audio visual link or an audio link if requested to do so by—

(a) an alleged victim of the offence; or

(b) if an alleged victim of the offence—

(i) is a child—a parent or guardian of the alleged victim; or

(ii) is deceased or unable to represent himself or herself because of some physical or medical condition—a member of the alleged victim's immediate family.

(8) In subsection (7)—

immediate family of an alleged victim means—

(a) a spouse (including a putative spouse; or

(b) a parent or guardian; or

(c) a grandparent; or

(d) an adult child; or

(e) an adult grandchild; or

(f) a brother or sister;

victim, in relation to an offence, means—

(a) a person who suffers physical or mental injury, damage or loss as a result of the commission of the offence;

(b) a person who suffers psychological injury as a result of being directly involved in the circumstances of the offence or in operations in the immediate aftermath of the offence to deal with its consequences.

STATUTES AMENDMENT (JUSTICE PORTFOLIO) 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.

From time to time there is a need to make sundry amendments to legislation within a portfolio. This Bill makes some minor, uncontroversial amendments to legislation within the Justice Portfolio. In addition, there is an amendment to the *Water Efficiency Labelling Standards Act 2006*. While that may, at first glance, seem incongruous, the amendment deals with appeals to the District Court, and the courts and jurisdictional matters clearly come within the Justice Portfolio.

The Bill clarifies some provisions that we know from experience are uncertain or ambiguous. The Bill, for example, removes any doubt that a co-operative can register as a company and makes it clear that a legal practitioner appointed under the *Australian Crime Commission (South Australia) Act 1984* is a member of the staff of the Australian Crime Commission.

The Bill also updates some references to repealed legislation. References to the now repealed *Industrial Conciliation and Arbitration Act 1972*, for example, are replaced by references to the *Fair Work Act 1994*.

Amendments to the *Professional Standards Act 2004* and the *Prisoners (Interstate Transfer) Act 1982*, agreed to at a national level, are also included in the Bill.

The Bill makes other minor miscellaneous and uncontroversial amendments to Acts including the *Acts Interpretation Act 1915*, the *Judicial Administration (Auxiliary Appointments and Powers) Act 1998*, the *Limitation of Acts Act 1936* and the *Trustee Companies Act 1988*, to name a few.

Acts Interpretation Act 1915

The Bill amends the definition of commencement in the *Acts Interpretation Act*. The term is currently defined to mean the day on which an Act or statutory instrument comes into operation. This definition does not recognise that an Act may commence at a particular time on a specified day. Part 2 of the Bill corrects this oversight.

Associations Incorporation Act 1985

A board member of an incorporated association is in a similar position to a director of a company. He owes certain duties to the organisation, under both the *Associations Incorporation Act 1985* and at common law. He could be liable in damages to the association for a breach of these duties. Examples of breaches are a failure to exercise due care and diligence or a conflict or interest. It is also possible that a board member could be liable to cover the debts of the association incurred while trading insolvent.

The skill and care required of a board member is that of an ordinary person in the circumstances of the particular board member. This means that board members possessing particular skills (e.g., accountancy or law) may be held to a higher standard in terms of that skill. Executive board members may be held to a higher standard in respect of their knowledge of the day-to-day affairs of the association. Although an association can indemnify a board member, its power to do so limited.

The *Associations Incorporation Act 1985* is silent on the extent to which a board member may rely upon the advice of experts. The common law recognises that board members need not personally perform every task within the scope of their duties and may delegate to, and rely upon, the advice of professionals and the executive management of the organisation. However, the extent that a board member may rely upon expert advice, without making his own inquiries, is not clear.

This inconsistency was recognised by the Commonwealth in the context of directors' duties when it put its Corporate Law Economic Reform Program Act ('the CLERP Act') on director's duties through Parliament in 1998. In order to remedy this situation, the CLERP Bill inserted section 189 into the *Corporations Act*.

Part 3 of the Bill amends the *Associations Incorporation Act 1985* by inserting a provision similar to s189 of the *Corporations Act*. It makes it clear that an officer of an Association can rely on the advice of others where (1) the reliance is made in good faith and (2) the officer has made an independent assessment of the advice.

Businesses Names Act 1996

The amendment in Part 5 of the Bill will make the offence of trading under an unregistered business name expiable. As assessment of whether an offence has been committed is straightforward and turns on objective criteria, the offence is suited to expiation. The penalty for the offence is $5 000 and many other offences that carry this penalty are expiable. The expiation fee will be set at $315.

Civil Liability Act 1936

At common law, the family of a person whose death was caused by the wrongful act of another person was unable to bring an action against the wrongdoer for damages. Section 23 of the *Civil Liability Act* was introduced to overcome this problem. The action created by section 23 is, however, restricted to a claim for financial loss. It does not give family members an entitlement to damages for the grief or sorrow they may have suffered because of the death of the deceased.

Sections 28 & 29 of the *Civil Liability Act* were introduced to provide for the payment of *solatium* (i.e. compensation for grief). *Solatium* is only available to the parents or spouse or both of the deceased person and it is limited to a maximum of $3,000 for parents or a maximum of $4,200 for spouses. These figures have not changed for more than 30 years. The Government thinks that the grief payment available to the relatives of people killed by a wrongful act is too low. The maximum amount of solatium payable to both parents and spouses will be increased to $10,000.

Also, Part 2 of the *Civil Liability Act 1936* no longer exists. Part 2 has been redesignated as Part 5. However, section 69 of the *Civil Liability Act* still refers to Part 2 of the Act. Clause 8 of the Bill will amend section 69 so that it refers to Part 5 of the Act instead of Part 2.

Companies (Administration) Act 1982

The *Companies (Administration) Act 1982* is to be amended to allow the Corporate Affairs Commission to delegate its powers and functions to a specified position and not just a specified person. When delegations are made to a specified person those delegations must be remade each time the person takes leave or changes job. The power to delegate to both people and positions is common and it helps to overcome the problem outlined above. Part 7 of the Bill provides this power.

Correctional Services Act 1982

Before 1 July, 2006, a person could be appointed (by the Governor) as a Visiting Tribunal if he or she was (1) a Magistrate, (2) a Special Justice or (3) a Justice of the Peace. However, following the commencement of the *Justices of the Peace Act 2005*, a Justice of the Peace can no longer be appointed as a Visiting Tribunal.

Although a Justice of the Peace can no longer be appointed as a Visiting Tribunal, appointments made before the commencement of the *Justice of the Peace Act 2005* will be saved and continued by operation of section 16 of the *Acts Interpretation Act 1915*.

Section 47 of the *Correctional Services Act 1982* gives prisoners a right of appeal from Visiting Tribunals. If the Visiting Tribunal is a Magistrate, the appeal is to the District Court. If the Visiting Tribunal is a Special Justice, the appeal is to the Magistrates Court. However, there is no provision for Visiting Tribunals that are Justices of the Peace.

Clause 12 of the Bill amends section 47 of the *Correctional Services Act 1982* so that prisoners clearly have a right to appeal to the Magistrates Court, from a decision of a Visiting Tribunal that is neither a magistrate nor a special justice.

Clause 11 of the Bill also amends the definition of definition of child sexual offence and the definition of sexual offence found in the interpretation provisions of the *Correctional Services Act 1982*. A child sexual offence is defined by reference to particular criminal offences. In some cases, the name of those criminal offences or the name of the Act that creates those offences has changed. It is important that the definition of child sexual offence includes, in addition to the current offences, similar offences under amended or repealed legislation. The Bill clarifies that both the definition of child sexual offence and the definition of sexual offence include offences under corresponding previous enactments.

It has also been noted that the definition of child sexual offence refers to section 58A of the *Criminal Law Consolidation Act*. Section 58A was deleted by the *Criminal Law Consolidation (Child Pornography) Amendment Act 2004*. References to s58A are now meaningless and are to be replaced by references to Division 11A of Part 3 of the *Criminal Law Consolidation Act*.

Criminal Law Consolidation Act 1935

The Office of the D.P.P. has highlighted a problem with the operation of section 49 of the *Criminal Law Consolidation Act 1935*. Section 49 creates the offence of unlawful sexual Intercourse and is divided into subsections. To prove the offence created by subsection (1), the prosecution must show that the victim was under the age of 14. To prove the offence created by subsection (3), the prosecution must show that the victim was over the age of 14. Where the conduct occurred around about the time of the victim's fourteenth birthday, it may be difficult to prove, beyond reasonable doubt, whether the victim was under, or over, the age of 14. In this case, it is possible that neither subsection (1) nor (3) would apply, even though the victim was clearly under 17 years of age. Part 10 of the Bill clarifies that where the conduct occurred around the time of the victim's fourteenth birthday, and it is unclear whether the victim was over 14 years of age, section 49(3) will apply. The same problem arises in the context of the offence of sexual servitude, created by section 66 of the Act, and clause 14 of the Bill makes a similar amendment to that offence.

Fire and Emergency Services Act 2005

Section 29 of the *Fire and Emergency Services Act 2005* provides that appointments to the Metropolitan Fire Service are to be notified to all officers of equal or lower rank and that any one or more of them can appeal to the District Court.

The Government is of the view that the most appropriate forum for the resolution of these appeals is the Industrial Relations Commission. The appeals are really of an industrial nature, that is, they are about deciding whether the nominee or any of the appellants is the best candidate for the job. The Bill provides for appeals under section 29(2) of the *Fire and Emergency Services Act 2005* to be heard by the Industrial Relations Commission.

Judicial Administration (Auxiliary Appointments and Powers) Act 1998

A local judge, well known to other local judges, may be a party to a dispute. The Chief Judge says that, in such cases, it would be appropriate for a judge of another jurisdiction to hear the matter. However, under the terms of the *Judicial Administration (Auxiliary Appointments and Powers) Act 1998*, a serving judge of another jurisdiction can be appointed as an auxiliary judge only if he or she is a South Australian legal practitioner. This criteria is too narrow and should be changed. Part 14 of the Bill provides for a serving judge of another jurisdiction to act in a judicial office as an auxiliary.

Also, the *Judicial Administration (Auxiliary Appointments and Powers) Act 1988* provides that a judicial officer may hold concurrent appointments to two or more judicial offices. Judicial office is defined to include the office of Magistrate. It is unclear, however, whether the term judicial office includes the office of Chief Magistrate. The Solicitor-General has suggested an amendment to the *Judicial Administration (Auxiliary Appointments and Powers) Act 1988* to make it clear that the term 'judicial office' includes the office of Chief Magistrate. Clause 19E includes the proposed amendment.

Justices of the Peace Act 2005

Section 13 of the *Justices of the Peace Act 2005* requires that the Attorney-General maintain a public roll of Justices that records (among other things) both the home and work contact details of justices. There are some Justices, however, who assert that they should not have their after-hours phone number on the Roll. They say they are Justices only because their employer required them to be. There are also some justices who do not want their business-hours phone number on the Roll. They say that they are not permitted by their employers to take telephone calls of the type they would receive as Justices of the Peace during working hours.

The Government accepts that it is unreasonable to expect Justices of the Peace to be available 24 hours a day. There are some times when Justices have other things to do and quite reasonably cannot, or do not want, to be contacted about J.P. work. The amendment to section 13 of the *Justices of the Peace Act 2005* will ensure that justices no longer have to provide both their home and work contact details. One or the other will do.

Limitation of Actions Act 1936

The Bill removes references to section 37 of the *Limitation of Actions Act 1936* from sections 39 & 40 of that Act. Before the *Defamation Act 2005* came into operation, section 37 of the *Limitation of Actions Act* imposed time limits on the commencement of two types of action: (1) actions for defamation; and (2) actions for penalties, damages, or sums of money given to any party by any statute. Time limits on the latter category of action were removed by the *Defamation Act*. The references to section 37, in sections 39 and 40, were only ever intended to apply to latter category of action. Since the latter category of action is no longer part of section 37, the references are obsolete and Part 16 of the Bill removes them.

Magistrates Court Act

On 1 July, 2006, the *Justices of the Peace Act 2005* came into operation. The Act provides for the Governor to appoint some Justices of the Peace as Special Justices. Special Justices will exercise all the powers and functions of a Justice of the Peace and, in addition, some judicial and some quasi-judicial functions. The Act also creates the Petty Sessions Division of the Magistrates Court. It provides that the Petty Sessions Division has jurisdiction to hear minor traffic matters and review decisions of the Registrar about arrangements for paying fines.

It was intended that the Chief Magistrate would be able to appoint Special Justices to preside over hearings in the Petty Sessions Division of the Court. Section 7A of the *Magistrates Court Act 1991*, however, provides that the Magistrates Court may only be constituted of a Special Justice if there is no Magistrate available. The Bill amends section 7A of the *Magistrates Court Act 1991* to enable the Petty Sessions Division of the Court to be routinely constituted of a Special Justice.

The Bill also amends section 9A of the *Magistrates Court Act 1991* to extend the jurisdiction of the Petty Sessions Division to include the review of enforcement orders under the *Expiation of Offences Act 1996*. The grounds for review are limited and straightforward. They include, for example, the fact that the applicant failed to receive a notice required by the *Expiation of Offences Act 1996*.

The Bill therefore provides for the review to be heard in the Petty Sessions Division of the Magistrates Court.

Prisoners (Interstate Transfer) Act 1982

The Bill amends the *Prisoners (Interstate Transfer) Act 1982*. That Act forms part of a national co-operative legislative scheme that permits inmates to be transferred between participating jurisdictions. After a 2002 Federal Court decision, there has been some concern about the factors that the relevant Minister must consider when making a decision to refuse the transfer of a prisoner. The Standing Committee of Attorneys-General considered the decision and agreed that the Minister should be able to consider factors other than the welfare of the prisoner, for example, the protection of the public and the administration of justice. The national Parliamentary Counsels' Committee drafted a uniform amendment and Part 19 of the Bill includes this amendment.

Professional Standards Act 2004

All States and Territories have enacted professional standards legislation that provides for the approval of schemes under which the occupational liability of members of occupational or professional associations is limited in return for the members:

- holding compulsory insurance (or minimum business assets) up to a prescribed level; and
- adopting risk management and dispute-resolution procedures.

The Commonwealth legislated in 2004 to amend the *Trade Practices Act 1974* and related Acts to provide for the application in Commonwealth law of professional standards schemes in force under State law. This legislation fulfilled a pledge given by Insurance Ministers nationally in response to the perceived insurance crisis.

South Australia's Act is based on the NSW *Professional Standards Act* and was assented to on 25 November 2004. It is not yet in operation in this State.

In late 2005, some occupational associations applying to register schemes in Victoria and renew schemes in NSW raised concerns over a drafting anomaly in the legislation in those States that affected their ability to satisfy the requirements necessary to obtain capped liability where the insurance policy relied upon was cost-inclusive.

These amendments, in Part 20 of the Bill, correct this drafting anomaly by enabling professionals, who are members of capped liability schemes, to hold either costs-inclusive or costs-in-addition insurance cover. The amendments also seek to ensure that consumers of professional services will not be disadvantaged because the professional's maximum liability to the consumer will still remain up to the amount of the cap, as determined under the Act, regardless of whether the relevant professional holds a costs-inclusive or costs-in-addition insurance policy. The amendments are to be uniform national amendments and have the in-principle support of the Standing Committee of Attorneys-General and are based on a draft Bill prepared by the Parliamentary Counsel's Committee. It is necessary for South Australia to pass the amendment in Part 20 of the Bill so that the legislation remains consistent across the jurisdictions.

Residential Tenancies Act 1985

The Residential Tenancies Tribunal can, in certain circumstances, terminate a residential tenancy and make an order for possession of the premises. However, where the landlord is a close relative of the tenant, it can be difficult to enforce such an order because:

- in practical terms you need the landlord to co-operate for an eviction to occur. Neighbours, for example, do not have a key to the premises and would not be able to let the bailiff in or change the locks; and
- even if the tenant does vacate the premises, the same tenant could enter into a new residential tenancy agreement shortly after. The Tribunal can only prevent the landlord from entering into a new agreement for a maximum of three months.

Part 22 of the Bill addresses these problems. It provides the Residential Tenancies Tribunal with the power to (1) order the landlord to take action to help take possession of the premises, and (2) not permit the tenant to occupy the premises (whether as a tenant or otherwise) for a specified period or until further order.

Security and Investigation Agents Act 1995

The *Security and Investigation Agents Act 1995* was amended last year to exert stronger controls over security agents. In particular, these agents are now liable to psychological testing and fingerprinting. Those licensed as crowd controllers are also subject to drug and alcohol testing. Some small alterations are now proposed to enable these reforms to work better. The amendments are contained in Part 23 of the Bill.

- First, it has been noted that some agents, and directors of agents, who are required to undergo fingerprinting, are located outside South Australia. The South Australia Police are not able to provide a fingerprinting service in other States and so the current requirement is that those persons must travel to South Australia to have their fingerprints taken. This is often inconvenient and it would be helpful if the Commissioner for Consumer Affairs were able to make arrangements for fingerprinting to occur outside South Australia, for example, by an arrangement with the police force of another State. These amendments will open up that possibility.
- Second, the amendments will clarify the time limit for appeals against decisions to suspend or cancel a security agent's licence. The Act is silent on those time limits in some cases. That means that the time allowed by the rules of court would apply. However, it was thought helpful to specify the time limit on the face of the statute. These amendments would allow one month from the date of the decision.
- Third, in section 23E, the right of appeal is currently stated to apply to decisions of the Commissioner to suspend a licence. In fact, under sections 23A and 23B, the Commissioner can make other decisions, for example, a decision to confirm a suspension. It is intended that an appeal also lie against that decision and this amendment makes that clear.
- Fourth, the Bill inserts an immunity provision that is simply a variant of an existing immunity provision. It clarifies that the Commissioner's immunity applies not only to decisions to suspend but also to cancel a licence.

Subordinate Legislation Act 1936

Part 26 of the Bill amends the *Subordinate Legislation Act 1936* so that regulations made pursuant to an agreement for uniform legislation expire in the same way as other regulations. The rationale for the expiry of regulations is that they become outdated and should be subject to periodic review. This rationale applies also to regulations that are made pursuant to uniform legislation.

Summary Procedure Act 1921

Section 5 of the *Summary Procedure Act 1921* establishes and defines three classes of offence including: (1) summary offences (2) minor indictable offences and (3) major indictable offences. The classification of some offences is not as Parliament intended and Part 27 of the Bill corrects this.

First, an aggravated offence of serious criminal trespass, against either a residential building or non-residential building, is a major indictable offence. The *Statues Amendment and Repeal (Aggravated Offences) Act 2005*, in its current form, would result in the offence being reclassified as a minor indictable offence. The reclassification of the offence was an unintended and undesirable consequence of restructuring the provisions of the *Criminal Law Consolidation Act 1935*. Aggravated forms of the offence should continue to be tried as a major indictable offence. Clause 54(2) of the Bill will ensure that this is so.

Second, the offence of indecent assault against a child of 12 or 13 years of age is a minor indictable offence. It was intended to be and should be a major indictable offence. Section 56 of the *Criminal Law Consolidation Act* creates the offence of indecent assault. It provides for a higher maximum penalty where the victim is under 12 years of age. The *Statutes Amendment (Sentencing of Sex Offenders) Act 2005* increased the critical age from 12 years of age to 14 years of age. The increase in the critical age has not been reflected in the *Summary Procedure Act 1921*. For the purpose of classifying offences, the *Summary Procedure Act* still refers to a victim under the age of 12. Clause 54(1) of the Bill corrects this oversight and ensures that the offence of indecent assault, when committed against a child of 12 or 13 years of age, is as a major indictable offence.

Part 27 of the Bill also updates the interpretation provisions of the *Summary Procedure Act 1921*.

- It has been noted that the definition of Industrial Magistrate in the *Summary Procedure Act 1921* refers to the *Industrial Conciliation and Arbitration Act 1972*. The *Industrial Conciliation and Arbitration Act 1972* has been repealed and replaced by the *Fair Work Act 1994*. Clause 53(1) of the Bill updates the definition of Industrial Magistrate so that it refers to the *Fair Work Act 1994* instead of the repealed Act.
- Second, the meaning of the word "Justice", as it appears in the *Summary Procedure Act 1921*, is obscure and ambiguous. The definition could be interpreted to mean that (1) magistrates are authorised to act as justices of the peace;

or (2) magistrates can act as Justices of the Peace, but only if they are authorised (separately) to do so. To avoid further uncertainty and confusion. Clause 53(2) of the Bill removes the definition of Justice from the *Summary Procedure Act 1921*. The definition of Justice in the *Acts Interpretation Act 1915* will instead apply.

· Third, with the exception of the definition provisions, the term Industrial Court is no longer found in the *Summary Procedure Act 1921*. The definition of Industrial Court serves no purpose and is removed by clause 53(3) of the Bill.

· Fourth, the definition of child sexual offence refers to section 58A of the *Criminal Law Consolidation Act*. Section 58A was deleted by the *Criminal Law Consolidation (Child Pornography) Amendment Act 2004*. References to s58A are now meaningless and are to be replaced by references to Division 11A of Part 3 of the *Criminal Law Consolidation Act*.

Trustee Companies Act 1988

Some trustee companies have changed their name. Schedule 1 of the *Trustee Companies Act 1988*, which lists the names of all trustee companies, needs to be updated to reflect this. Part 28 of the Bill deletes the name *Australian Executor Trustees Limited* from the Schedule and replaces it with the name *Tower Trust Limited*. Two other similar changes are made to provide for trustee companies that have a new name.

Water Efficiency Labelling and Standards Act 2006

The *Water Efficiency Labelling Standards Act 2006* is part of a national scheme of legislation and it provides for appeals to the District Court against decisions made by the Commonwealth Regulator. As the Act stands, it is arguable that the right of appeal is to the Civil Division of the District Court. This was not intended and it involves more complex procedures and higher fees. Part 29 of the Bill amends the *Water Efficiency Labelling and Standards Act 2006* so that it is clear that appeals are to be heard by the Administrative and Disciplinary Division of the District Court.

This amendment is to an Act that is not part of the Justice Portfolio. While that may, at first glance, seem incongruous, the amendment deals with appeals to the District Court, and the courts and jurisdictional matters clearly come within the Justice Portfolio.

Amendments that clarify provisions that are uncertain or ambiguous

There are provisions that we know from experience are uncertain or ambiguous. Some changes are proposed to clarify these provisions so that they operate as intended.

· First, it was thought that a legal practitioner appointed to assist the Australian Crime Commission (the "A.C.C.") would have the same powers and obligations as a member of the staff of the A.C.C. There is some doubt about this. Part 4 of the Bill amends the *Australian Crime Commission (South Australia) Act 1984* so that it is clear that a legal practitioner appointed under the Act is a member of the staff of the A.C.C.

· Second, section 301 of the *Co-operatives Act 1997* provides for a co-operative to apply to become incorporated as a company under the *Corporations Act*. However, despite this provision, the recent case of *Medical Defences Association of Western Australia Inc. v Australian Securities & Investment Commission* suggests that a co-operative may not be able to register as a company. Part 8 of the Bill will ensure that section 301 operates as intended so that a co-operative can register as a company under the *Corporations Act*.

Amendments that remove references to repealed Acts and update references to provisions

The Bill also removes references to repealed Acts and updates other references to provisions.

· First, section 3(5) of the *Debtors Act 1936* purports to limit the effect of the *Debtors Act* on the provisions of the *Insolvent Act 1886*. Since the *Insolvent Act 1886* has been repealed, section 3(5) of the *Debtors Act* has no work to do. Part 11 of the Bill repeals section 3(5) of the *Debtors Act 1936*.

· Second, the *Statutes Amendment and Repeal (Aggravated Offences) Act 2005* identifies section 64 of the *Criminal Law Consolidation Act 1935* as the section that creates the offence of procuring sexual intercourse. The relevant section is in fact section 60. Part 25 of the Bill corrects this mistake.

· Third, the accepted abbreviation for an incorporated limited partnership is I.L.P. The *Partnerships Act 1981* mistakenly lists the accepted abbreviation as L.P. As a result, both limited partnerships and incorporated limited partnerships are identified by the same abbreviation. This is confusing and misleading. Part 18 of the Bill ensures that an incorporated limited partnership will be recognised by its correct abbreviation.

· Fourth, the penalty of imprisonment *with hard labour* has been abolished in this State. However, some South Australian Acts still purport to impose a penalty of imprisonment with hard labour. References to hard labour are obsolete and are to be removed from Acts within the Justice Portfolio.

I commend this Bill to the Honourable Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Acts Interpretation Act 1915*

4—Amendment of section 4—Interpretation

The proposed amendment broadens the definition of ***commencement*** to mean the day or time on which the Act or statutory instrument comes into operation.

Part 3—Amendment of *Associations Incorporation Act 1985*

5—Insertion of section 39AB

This Act imposes duties on officers of incorporated associations that are very similar to the duties imposed on directors of companies. It is proposed to insert a new section 39AB that will deem that the reliance by an officer of an incorporated association on information or advice provided by persons who are reasonably believed to be qualified to give such advice will, in the absence of proof to the contrary, be taken to reasonable reliance. The new section mirrors section 139 of the *Corporations Act 2001* of the Commonwealth.

Part 4—Amendment of *Australian Crime Commission (South Australia) Act 2004*

6—Amendment of section 3—Interpretation

This clause inserts a new paragraph (ga) into the definition of ***Commonwealth body or person*** to enable a legal practitioner appointed under section 7 of the principal Act to be captured by the definition.

Part 5—Amendment of *Business Names Act 1996*

7—Amendment of section 7—Certain business names to be registered

It is proposed to allow an offence against section 7(1) (trading under an unregistered business name) to be expiated on payment of a fee of $315. The maximum penalty for such an offence is a fine of $5 000.

Part 6—Amendment of *Civil Liability Act 1936*

8—Amendment of section 28—Liability to parents of person wrongfully killed

Currently the surviving parents or parent of a child wrongfully killed are entitled to a maximum payment of $3 000 where the death occurred after the commencement of the *Wrongs Act Amendment Act 1974*. This clause proposes to increase the maximum payment from $3 000 to $10 000.

9—Amendment of section 29—Liability to surviving spouse of person wrongfully killed

Currently the surviving spouse of a person wrongfully killed is entitled to a maximum payment of $4 200 where the death occurred after the commencement of the *Wrongs Act Amendment Act 1974*. This clause proposes to increase the maximum payment from $4 200 to $10 000.

10—Amendment of section 69—Definitions

This clause amends an incorrect cross-reference.

Part 7—Amendment of *Companies (Administration) Act 1982*

11—Substitution of section 7

It is proposed to repeal current section 7 and substitute a new section to provide for delegations by the Commission. The substituted provision is drafted in the current style and will allow a delegation by the Corporate Affairs Commission of any of its powers, authorities, functions or duties—

· to a person employed in the Public Service; or

· to the person for the time being holding a specified position in the Public Service;

and, for a delegated power, authority, function or duty to be further delegated if the instrument of delegation so provides.

Part 8—Amendment of *Co-operatives Act 1997*

12—Amendment of section 9—Exclusion of operation of Corporations Act

It is proposed to insert an additional paragraph into section 9(2) to provide that the application of provisions that relate to the registration of a co-operative as a company under Part 5B.1 of the Corporations Act are not excluded matters in relation to co-operatives.

Part 9—Amendment of *Correctional Services Act 1982*

13—Amendment of section 4—Interpretation

Subclause (1) inserts the expression "a corresponding previous enactment or" in the definition of ***chid sexual offence***. The addition of the phrase "or a corresponding previous enactment" will allow an offence under now repealed legislation that corresponds to any of the offences listed under the definition of ***chid sexual offence*** to be captured by that definition.

Subclause (2) amends an incorrect cross-reference.

Subclause (3) inserts the expression "a corresponding previous enactment or" in the definition of ***sexual offence***. This addition of the phrase "or a corresponding previous enactment" will allow an offence under now repealed legislation that corresponds to any of the offences listed under the definition of ***sexual offence*** to be captured by that definition.

14—Amendment of section 47—Appeals against orders of Visiting Tribunals

This section was amended consequentially by the *Justices of the Peace Act 2005*. Prior to the enactment of that Act, justices of the peace and not just special justices could constitute Visiting Tribunals. There are currently a number of Visiting Tribunals who are not special justices who will remain Visiting Tribunals until their appointments are revoked. It is proposed to amend this section so that appeals from decisions of such Visiting Tribunals may be made to the Magistrates Court.

Part 10—Amendment of *Criminal Law Consolidation Act 1935*

15—Amendment of section 49—Unlawful sexual intercourse

Section 49(1) provides that it is an offence carrying life imprisonment for a person to have sexual intercourse with any person who is under the age of 14 years. Section 49(3) currently provides that it is an offence for a person to have sexual intercourse with a person who is of or above the age of 14 years and under the age of 17 years, the penalty for which is imprisonment for 7 years. It is problematic to prove the exact age of a child at the time an offence is alleged to have been committed when the child victim is, at the time of the alleged offence, around about the age of 14. Should the offence charged be the offence against subsection (1) or the offence against subsection (3)? It is proposed to delete the words "of or above the age of 14 years" from subsection (3) so that the offence under that subsection will be having sexual intercourse with a person under the age of 17 years. This will mean that, where the prosecution is unable to prove that the child victim was under 14 years of age at the time of the alleged offence but is able to prove that the child victim was under the age of 17 years at the relevant time, the offence to be charged will be the offence against subsection (3).

16—Amendment of section 66—Sexual servitude and related offences

Currently, the penalties for offences against subsections (1) and (2) of this section are split so that different penalties apply depending on whether the age of the child victim at the time of the offence was under the age of 14 years or whether the child victim was of or over the age of 14 years. Thus the same difficulty as discussed above in relation to unlawful sexual intercourse might arise in prosecuting such an offence. It is proposed to delete the words "or over the age of 14 years" in the penalty provisions and substitute "under the age of 18 years". Thus, if there are difficulties in proving that the child victim was under the age of 14 years at the time of the offence, but it is proved that the child was under the age of 18 years at the time, the lesser penalty will apply.

Part 11—Amendment of *Debtors Act 1936*

17—Amendment of section 3—Abolition of imprisonment for debt

This clause deletes subsection (5). Subsection (5) makes an outdated reference to the *The Insolvent Act 1886*.

18—Amendment of section 4—Penalty for debtor absconding or attempting to abscond

The proposed amendment removes the power of the court to impose a sentence of imprisonment "with or without hard labour" for this offence. Section 73 of the *Criminal Law (Sentencing) Act 1988* prevents a court from ordering a penalty of hard labour in respect of a person sentenced to imprisonment.

Part 12—Amendment of *Drugs Act 1908*

19—Amendment of section 47—Penalties for offences

20—Amendment of section 59—Punishment for forging certificate or warranty

The proposed amendments to the principal Act remove the power of the court to impose a sentence of imprisonment "with hard labour" for either of these offences.

Part 13—Amendment of *Evidence Act 1929*

21—Amendment of section 41—Certifying a false document

The proposed amendment removes the power of the court to impose a sentence of imprisonment "with hard labour" for this offence.

Part 14—Amendment of *Fire and Emergency Services Act 2005*

22—Amendment of section 3—Interpretation

This clause proposes to insert a definition of ***Industrial Relations Commission*** into the Act as a result of the amendments proposed to section 29.

23—Amendment of section 29—Other officers and firefighters

Currently, the Act allows appeals against a nomination for appointment under section 29 to be instituted in the District Court. The proposed amendments will delete references to the District Court and substitute references to the Industrial Relations Commission to enable appeals under this section to be heard by the Industrial Relations Commission instead of the District Court.

24—Amendment of Schedule 1—Appointment and selection of assessors for appeals under Part 3

This clause proposes to make consequential amendments to Schedule 1 by providing for the appointment and selection of assessors for appeals to the Industrial Relations Commission under Part 3 of the Act.

25—Transitional provision

The transitional provision ensures that the amendments to the principal Act apply only in relation to proceedings commenced after the commencement of this section.

Part 15—Amendment of *Judicial Administration (Auxiliary Appointments and Powers) Act 1988*

26—Amendment of section 2—Interpretation

The proposed amendment inserts a reference to Chief Magistrate into paragraph (d) of the definition of ***judicial office***. The insertion of the reference to Chief Magistrate removes any doubt that the office of Chief Magistrate is a judicial office for the purposes of the principal Act.

27—Amendment of section 3—Appointment of judicial auxiliaries

This clause deletes paragraph (c) and inserts new paragraphs (c) and (d) into section 3(2) of the principal Act. New paragraph (c) extends the list of specified courts. Paragraph (c) provides that a person who has retired from office as a judge of a specified court may be appointed to act in a judicial office on an auxiliary basis. New paragraph (c) also provides for the appointment of retired magistrates as judicial officers on an auxiliary basis. New paragraph (d) provides that a person may be appointed to act in a judicial office if that person currently holds office as a judge of a specified court, or, currently holds office as a magistrate.

This clause also inserts new subsection (2a) which provides that a person cannot be appointed under paragraph (d) of section 3(2) except with the concurrence of the judicial head of the other Court.

Part 16—Amendment of *Justices of the Peace Act 2005*

28—Amendment of section 13—Roll of justices

Section 13 of the Act specifies the information that must be recorded in the roll in relation to each justice. Paragraph (b)

currently requires each justice to provide information about the town or suburb in which the justice resides and the town or suburb in which the justice works. Paragraph (c) currently requires each justice to provide information about the telephone number on which the justice can be contacted during business hours and after business hours. It is proposed to delete paragraphs (b) and (c) and substitute new paragraphs. New paragraph (b), will enable each justice to provide information about (either or both) the town or suburb in which the justice resides or the town or suburb in which the justice works. New paragraph (c) will enable each justice to provide information about (either or both) the telephone number on which the justice can be contacted during business hours or after business hours.

Part 17—Amendment of *Landlord and Tenant Act 1936*

29—Amendment of section 28—False declarations

The proposed amendment removes the power of the court to impose a sentence of imprisonment "with or without hard labour".

Part 18—Amendment of *Limitation of Actions Act 1936*

30—Amendment of section 39—Absence from State of person liable

31—Amendment of section 40—Absence from State of a joint debtor

These clauses amend sections 39 and 40 of the *Limitation of Actions Act 1936* to remove obsolete references to section 37 of that Act.

Until the principal Act was amended by the *Defamation Act 2005*, section 37 of the principal Act set a two year limitation period for "all actions for slander and all actions for penalties damages or sums of money given to any party by any statute". That section was repealed by the *Defamation Act* and a new section inserted. Section 37 is now limited to actions for defamation. The remainder of the repealed section (ie, the part of the section dealing with penalties damages and sums of money given to a party by statute) has not been re-enacted as it is obsolete. Although a number of current statutes include civil penalties (eg, the *Environment Protection Act 1993*, the *Development Act 1993* and the *Natural Resources Management Act 2004*), those Acts set their own time limit for the issue of proceedings for enforcement of such penalties. Sections 39 and 40 of the *Limitation of Actions Act* both refer to section 37. Section 39 provides a plaintiff with extra time to sue a person who is absent from the State or "beyond the seas" when his or her cause of action arises. Section 40 is concerned with the right of a plaintiff to sue a joint debtor who is absent from the State. Research conducted into the history of these provisions has revealed that they were only ever intended to apply to causes of action for civil penalties. As section 37 no longer makes reference to such causes of action, sections 39 and 40 are amended to remove the obsolete cross-references to section 37.

Part 19—Amendment of *Magistrates Court Act 1991*

32—Amendment of section 7A—Constitution of Court

The proposed amendment will enable the Petty Sessions Division to be constituted of a special justice (whether or not a Magistrate is available). The proposed amendment will continue to provide that if the Court is constituted of a special justice, the Court may not impose a sentence of imprisonment in criminal proceedings.

33—Amendment of section 9A—Petty Sessions Division

The proposed amendment gives the Petty Sessions Division of the Magistrates Court jurisdiction to conduct a review of an enforcement order under section 14 of the *Expiation of Offences Act 1996*.

Part 20—Amendment of *Oaths Act 1936*

34—Amendment of section 27—False declaration

The proposed amendment removes the power of the court to impose a sentence of imprisonment "with hard labour".

Part 21—Amendment of *Partnership Act 1891*

35—Amendment of section 75—Identification of limited partnerships and incorporated limited partnerships

This clause amends an incorrect reference.

Part 22—Amendment of *Prisoners (Interstate Transfer) Act 1982*

36—Substitution of Part 2 heading

The current heading is to be repealed and the heading "Transfer at request of prisoner" is to be substituted. The new heading better reflects the intent of the proposed amendments.

37—Amendment of section 7—Requests for, and order of, transfer

Currently, this section allows the Minister to authorise the transfer interstate of a prisoner on the request of the prisoner where the Minister is satisfied that it is "in the interests of the welfare of the prisoner" for the prisoner to be so transferred. The welfare of the prisoner is but one of the matters to be taken into account in the proposed amendments (see clause 38) and so that phrase is to be deleted from the section.

38—Insertion of section 10A

New section 10A (Matters to which Minister may have regard) provides for a list of matters, to which the Minister may have regard in forming an opinion or exercising a discretion under Part 2.

39—Amendment of section 11—Reports

This proposed amendment provides that the Minister may refer to reports of parole and prison authorities of the State and of any participating State to assist the Minister in forming an opinion as to whether a particular prisoner should be transferred interstate.

40—Amendment of section 23—Ancillary provisions

The amendments proposed to this section are consistent with the previous amendments.

Part 23—Amendment of *Professional Standards Act 2004*

41—Amendment of section 4—Interpretation

The proposed amendments to this section insert a definition of ***costs*** (relevant to the concepts of damages and defence costs) and substitutes a definition of ***damages*** to clarify the meaning of that term and (in particular) to include in that meaning interest on costs ordered to be paid in connection with an award of damages.

A new subsection is to be inserted to ensure that references in the Act to an occupational liability insurance policy extend to a policy that provides cover that is inclusive of defence costs.

42—Substitution of section 23

43—Amendment of section 24—Limitation of liability by reference to amount of business assets

44—Amendment of section 25—Limitation of liability by multiple of charges

The proposed amendments to each of these sections are consequential on the proposed subsection to be inserted in section 4 (see above) and to omit certain words that are redundant in light of section 30(2) of the Act (and see also the proposed amendment to section 30(2)).

45—Insertion of section 28A

Proposed section 28A will make it clear that although a defence costs inclusive insurance policy may (as compared with one that is not defence costs inclusive) reduce the amount available to be paid under the policy to a scheme participant's client in respect of a claim, this does not lower the cap on the scheme participant's liability to the client. The scheme participant will continue to be liable to the client for any difference between the amount payable to the client under the policy and the amount of the cap.

46—Amendment of section 30—Limit of occupational liability by schemes

The proposed amendment to this section are consequential.

47—Insertion of Schedule 4

Proposed Schedule 4 will enable any necessary regulations of a savings and transitional nature consequential on the passage of this Part to be made and will also validate certain schemes in certain circumstances that were approved before the commencement of these proposed amendments.

Part 24—Amendment of *Renmark Irrigation Trust Act 1936*

48—Amendment of section 187—Forgery

The proposed amendment removes the power of the court to impose a sentence of imprisonment "with hard labour".

Part 25—Amendment of *Residential Tenancies Act 1995*

49—Amendment of section 90—Tribunal may terminate tenancy where tenant's conduct unacceptable

It is proposed to amend section 90 to explicitly provide that the Tribunal may (when making an order for possession on application by an interested person) order the landlord—

- to take such action as is specified in the order for the purpose of taking possession of the premises; and

- not to permit the tenant to occupy the premises (whether as a tenant or otherwise) for a specified period or until further order (and any agreement entered into in contravention of such an order is void).

Part 26—Amendment of *Security and Investigation Agents Act 1995*

50—Amendment of section 8B—Applicant for security agents licence required to provide fingerprints

Under section 8B of the *Security and Investigation Agents Act 1995*, the Commissioner for Consumer Affairs must require each applicant for a security agents licence to attend at a specified time and place for the purpose of having his or her fingerprints taken by a police officer. Police officers are presently the only persons authorised to take fingerprints for the purposes of the Act. However, under proposed new section 36AA, to be inserted by clause 56, fingerprints to be taken under the Act must be taken by a police officer *or a person authorised in writing by the Commissioner for the purpose*. The amendment made by this clause is therefore consequential on the proposed enactment of section 36AA and removes the requirement that fingerprints must be taken under the section "by a police officer".

51—Amendment of section 11AB—Power of Commissioner to require security agent to provide fingerprints

The amendment made by this clause to section 11AB is also consequential on the proposed insertion of section 36AA.

52—Amendment of section 23E—Appeal

The purpose of the first amendment made by this clause is to clarify that a person whose security agents licence has been suspended by the Commissioner may appeal against any decision made by the Commissioner under section 23A or 23B in connection with the suspension.

Section 23E does not specify a period of time within which an appeal must be instituted. This means that the appeal period is set by the rules of the District Court. The second amendment made by this clause introduces a new subsection that specifies that an appeal must be instituted within one month of the making of the decision appealed against. This is consistent with the appeal period specified in section 11 in relation to other appeals under the Act.

53—Repeal of section 23F

Section 23F, which provides an immunity for the Commissioner and the Crown in respect of the exercise in good faith of the Commissioner's power to suspend a security agents licence, is repealed by this clause. The section does not refer to the Commissioner's power to cancel a licence. The section is therefore re-enacted in substantially the same terms by proposed new section 36B, which refers to the Commissioner's power to suspend *and cancel* a security agents licence. Section 36B is to be inserted by clause 57.

The immunity provision has been moved to Part 5 of the Act (Miscellaneous) because under Part 3A Division 1, where it is currently located, the Commissioner has power to suspend, but not to cancel, a security agents licence.

54—Amendment of section 23Q—Appeal

Section 23Q, which provides a security agent with a right of appeal against a decision of the Commissioner to cancel his or her licence under section 23O, does not specify a period of time within which an appeal must be instituted. This means that the appeal period is set by the rules of the District Court. The amendment made by this clause introduces a new subsection that specifies that an appeal must be instituted within 1 month of the making of the decision appealed against. This is consistent with the appeal period specified in section 11 in relation to other appeals under the Act.

55—Amendment of section 25—Cause for disciplinary action

Section 25(1)(f) specifies possible causes for disciplinary action in relation to a person "licensed *or formerly licensed* as a security agent". Subparagraph (iii) of that provision incorrectly refers to "the licensee" rather than "the person". This amendment corrects that error.

56—Insertion of section 36AA

Proposed section 36AA(1) provides that fingerprints to be taken under the Act must be taken by a police officer or a person, or a class of persons, authorised in writing by the Commissioner for Consumer Affairs for the purpose. This widens the group of persons able to take fingerprints under the Act, which is currently limited to police officers (ie, a member of South Australia Police).

Under section 36AA(2), a notice requesting or requiring a person to attend at a specified time or place for the purpose of having his or her fingerprints taken may, if the person does not reside in South Australia, specify a place outside of this State.

57—Insertion of section 36B

Proposed section 36B inserts an immunity provision relating to the Commissioner's power to suspend or cancel a security agents licence. The new provision is re-enactment of section 23F (repealed by clause 53) but, unlike section 23F, includes a reference to the Commissioner's power to cancel a licence as well as the power to suspend. The new section is inserted into Part 5 (Miscellaneous) because under Part 3A Division 1, where section 23F is currently located, the Commissioner only has the power to suspend a licence. The Commissioner's power to cancel a security agents licence appears in Part 3A Division 2.

58—Amendment of Schedule 2—Repeal and transitional provisions

This amendment to a provision of the Schedule dealing with the taking of fingerprints is consequential on the proposed insertion of new section 36AA by clause 56. With the enactment of section 36AA, police officers will no longer be the only persons authorised to take fingerprints under the Act. Persons authorised in writing by the Commissioner for the purpose will also be able to take fingerprints.

Part 27—Amendment of *Stamp Duties Act 1923*

59—Amendment of section 108—Penalties for certain offences

The proposed amendment removes the power of the court to impose a sentence of imprisonment "with or without hard labour".

Part 28—Amendment of *Statutes Amendment and Repeal (Aggravated Offences) Act 2005*

60—Amendment of section 18—Amendment of section 60—Procuring sexual intercourse

This clause amends an incorrect cross-reference.

Part 29—Amendment of *Subordinate Legislation Act 1978*

61—Amendment of section 16A—Regulations to which this Part applies

The proposed amendment deletes paragraph (d) from section 16A of the principal Act.

62—Transitional provision

The proposed transitional provision ensures that the regulations specified in subclause (3) are brought into the expiry program under Part 3A of the principal Act.

Part 30—Amendment of *Summary Procedure Act 1921*

63—Amendment of section 4—Interpretation

This clause updates references in the principal Act following the commencement of recent amendments to the *Fair Work Act 1994*.

64—Amendment of section 5—Classification of offences

Section 5 provides for the classification of offences as summary offences or major or minor indictable offences.

Section 12 of the *Statutes Amendment (Sentencing of Sex Offenders) Act 2005* increased the threshold age of a child from 12 to 14 below which a person who indecently assaults a child is guilty of an aggravated offence. The first amendment proposed in this clause to section 5 is consequential on that change.

Subclause (2) provides for a further consequential amendment to section 5 following the restructuring of sections 169 and 170 of the *Criminal Law Consolidation Act 1935* by the *Statutes Amendment and Repeal (Aggravated Offences) Act 2005*.

65—Amendment of section 99AA—Paedophile restraining orders

Subclause (1) inserts the expression "a corresponding previous enactment or" in the definition of ***chid sexual offence***. The addition of the phrase "or a corresponding previous enactment" will allow an offence under now repealed legislation that corresponds to any of the offences listed under the definition of ***chid sexual offence*** to be captured by that definition.

Subclause (2) amends an incorrect cross-reference.

66—Amendment of section 106—Taking of evidence at preliminary examination

The proposed amendment to this section is consequential on the enactment the *Statutes Amendment (New Rules of Civil Procedure) Act 2006*.

Part 31—Amendment of *Trustee Companies Act 1988*

67—Amendment of Schedule 1—Trustee companies

The proposed amendment corrects and updates references to the list of trustee companies in Schedule 1 of the principal Act.

Part 32—Amendment of *Water Efficiency Labelling and Standards Act 2006*

68—Amendment of section 7—Definitions

The proposed amendment to section 7 will insert a definition of District Court. The new definition will mean that a reference in the Act to the District Court will mean the Administrative and Disciplinary Division of that Court. As a consequence, reviews of decisions etc under the Act will be dealt with by that Division of the Court rather than the general civil division as is currently the case. This is in keeping with other similar regulatory legislative schemes in this State.

Part 33—Amendment of *Worker's Liens Act 1893*

69—Amendment of section 33—Penalty for claim with intent to defraud

70—Amendment of section 45—Penalty on attempt to deprive worker of lien on goods

The proposed amendments delete references to hard labour.

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

CRIMINAL LAW CONSOLIDATION (DRINK SPIKING) 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.

On 23 April, 2006, the Premier announced that the Labor Government would create a specific offence of drink spiking.

The announcement responded to a series of recent reports about drink spiking. The common (media) reporting of drink spiking concentrates on allegations of a serious type of criminal behaviour. That is the supposed addition of a date-rape drug (such as a form of amphetamine) to a drink (commonly an alcoholic drink) without the knowledge of the victim to induce an extremely inebriated state in the victim with the additional intention of taking sexual advantage of the victim or actually doing so. Such cases are at an extreme end of the continuum of this kind of behaviour. Lesser examples may be the addition of strong drink to (say) orange juice, or additional alcohol to an already alcoholic drink, as a so-called "prank" to make a fool of the victim (at a bucks' party, hens' night or the like).

There is currently no separate offence category in any Australian jurisdiction for the act of spiking someone's drink as such. Instead there are a range of more general offences that depend on the effects of the spiking, the intention with which it is done and the type of substance used to spike the drink. This Bill proposes the introduction of a mid-level specific offence to cover what is considered a gap in the criminal law.

In July 2003, the Australian Institute of Criminology (A.I.C.) was commissioned by the Commonwealth Government to conduct a national project on drink spiking. Drink spiking was identified as an emerging issue for examination by the Ministerial Council on Drug Strategy and has received much media attention in the last couple of years.

The A.I.C. Report took a very broad view of drink-spiking. According to the A.I.C., the term 'drink spiking' refers to drugs or alcohol being added to a drink (alcoholic or non-alcoholic) without the consent of the person consuming it. For an incident to be defined as drink spiking, it need not involve further criminal victimisation, even though such offences can occur after an incident of drink spiking.

The A.I.C. report: -

- found that there is currently no way to determine the exact number of drink spiking incidents that occur. This is owing to—
  - (a) high levels of under-reporting, and
  - (b) fluctuations in reporting owing to awareness campaigns,
  - (c) jurisdictional differences in data recording and extraction procedures and
  - (d) difficulty in verifying whether a reported incident actually occurred;
- estimated on the basis of victim self-reporting (which is notoriously unreliable) that between 1 July 2002 and 30 June 2003 (i.e. over a 12-month period):
  - (a) between 3000 and 4000 suspected incidents of drink spiking occurred in Australia;
  - (b) about one third of these incidents involved sexual assault; and
  - (c) between 60 and 70 per cent of these incidents involved no additional victimisation.

The A.I.C. report was published in November 2004 and was presented as a report to the Ministerial Council on Drug Strategy. The Council referred the legal aspects of the report to the Standing Committee of Attorneys-General (SCAG) who, in turn, sought the advice of the Model Criminal Code Officers Committee. The Model Criminal Code Officers Committee have prepared a discussion paper that examines the coverage of existing laws (as they apply to drinking spiking). In the paper the committee recommends the creation of a new offence of drink spiking.

The foundation of the law is a series of offences based on the intentional and reckless causing of harm, serious harm and fatal harm. Harm includes unconsciousness and serious harm includes "serious and protracted impairment of a physical or mental function". There can be little doubt that serious drink-spiking would fall under these categories of offence according to the relevant harm caused and the fault with which it is done. So murder, manslaughter, intentionally or recklessly causing serious harm or mere harm, reckless endangerment of life, serious harm or mere harm are all potentially relevant depending on the circumstances. So too are the severe penalties available under section 18 or 32 of the *Controlled Substances Act* (administration of a drug) depending on the kind of drug administered.

The Model Criminal Code Officers Committee examined the coverage of existing laws (as they apply to drink spiking) and found that, with one exception, these laws that cover drink spiking do so adequately. The weakness in the law lies at the lower end of the scale-prank spiking where there is no additional criminal victimisation.

Where the amount of alcohol or other substance is small, the victim may not be harmed and the act of spiking the victim's drink may not have recklessly endangered the victim's life or created a risk of harm to the victim. None of the more general offences against the person would apply.

If the spiking agent is a prohibited drug, it may be an offence against the *Controlled Substances Act*. However, the offences of the administration of drugs found in the *Controlled Substances Act* are not really designed for this purpose (being aimed at consensual drug-using behaviour), and the massively complicated classification and scheduling of drugs means that the application of these offences is difficult to fathom. In any event, the over-administration of alcohol (and other, slightly more exotic, things) does not fall within the scope of existing administration offences.

Therefore, MCCOC recommended that all Australian jurisdictions enact an offence of drink-spiking (without further intent) and that the offence extend to any substance (any classification of poison, substance, drug, alcohol, traditional aphrodisiac) that is likely to impair the consciousness or bodily function of the victim, or which is intended to do so, whether or not the spiked drink is drunk wholly, partly or at all.

The Bill address the problem of drink-spiking and goes one step further. That extra step is food-spiking.

The Government believes that a person should not escape prosecution simply because he or she administered a drug or other substance by food rather than drink. Food spiking is no less dangerous and no less abhorrent than drink-spiking. The Bill therefore applies equally to both food and drink-spiking.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement
3—Amendment provisions
These clauses are formal.
Part 2—Amendment of *Criminal Law Consolidation Act 1935*
4—Insertion of Part 3 Division 7C
This clause inserts a new Division into Part 3 of the *Criminal Law Consolidation Act 1935* as follows:
Division 7C—Food and beverage spiking
32C—Spiking of food or beverages
This provision creates an offence of adding a substance, or causing a substance to be added, to any food or beverage intending to cause, or being recklessly indifferent as to causing, impairment of the consciousness or bodily function of another person who will or might consume the food or beverage without knowing of the presence of the substance. The maximum penalty for the offence is imprisonment for 3 years.

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

[Sitting suspended from 5.58 to 7.47 p.m.]

MAGISTRATES (PART-TIME MAGISTRATES) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 14 November. Page 934.)

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their indications of support for this bill. The Hon. Stephen Wade asked whether the recent experience of resident magistrates has led to an increased rate of disqualification from individual cases because of concerns about the appearance of bias. I am advised that the Acting Chief Magistrate has been consulted and, although speaking without the benefit of having consulted all of his resident magistrates, he indicated that, to his knowledge, this has not been a problem.

The Hon. Robert Lawson noted that, although the matter of resident magistrates was the subject of a favourable report of the Legislative Review Committee and the relevant communities have received the existing appointments favourably, the former attorney-general and chief justice, the Hon. Justice King, had expressed concerns about such appointments. The Hon. Dennis Hood also mentioned these concerns. Like the Hons Mr Lawson and Mr Hood, the government considered these arguments when formulating its policy and this legislation. Having consulted the Chief Justice and the former chief magistrate, both of whom support the bill, the government is confident that, in the unlikely event that there are any problems with regional appointments such as those referred to by former chief justice King, these will be appropriately managed by the relevant heads of court. I should also add that, in his regular meetings with the Chief Justice and acting and former chief magistrate, the Attorney-General receives regular and positive reports on the current appointments.

The Hon. Mr Lawson also noted favourably the restrictions on part-time magistrates engaging in other occupations or businesses without the approval of the Chief Justice, given the concurrence of the Chief Magistrate. He has, however, sought an assurance that it is not the intention of the government to permit persons who are legal practitioners continuing to practise as legal practitioners while holding appointments as part-time magistrates. The government shares the Hon. Mr Lawson's concerns. Not only is it the government's intention that part-time magistrates cease to practise as legal practitioners, but section 18A new subsection (4)(a) expressly prohibits a part-time magistrate practising law for fee or reward.

The authority conferred on the Chief Magistrate and Chief Justice under section 18A new subsections (4)(b) and (5) to approve a part-time magistrate practising any profession for remuneration, carrying on any trade or business, holding any paid office in connection with a business or engaging in any paid work does not apply to the practice of law. These provisions will apply to all part-time magistrates, whether appointed before or after these amendments commence, with the sole exception of an acting part-time magistrate and then only to the extent that the instrument of appointment specifies they do not.

The Hon. Mr Hood made a valuable contribution, noting Family First support for both resident and part-time magistrates. I have already addressed his comments on the perceived disadvantages of resident magistrates. He did, however, raise a couple of other matters on which comments are appropriate. Firstly, he expressed concern that, like other part-time appointees, part-time magistrates may come under pressure to work longer than their designated hours. The government acknowledges that this is a risk, as it is with any part-time position, particularly senior ones.

The state's full-time magistrates work very long hours. However, the government is confident that the Chief Magistrate will monitor the situation to ensure that part-time magistrates remain part-time. Secondly, he noted that the bill does not expressly provide for a part-time magistrate to convert his or her appointment to full-time. He cited the example of a magistrate who, having converted from a full-time appointment to part-time status to have a child, seeks to increase her hours back to full-time once her children have started school or are in child care. He asked why a magistrate in such circumstances should not be able to resume her full-time career. This situation is dealt with in new subsection (5)(ii)(d), which provides that the hours of duty specified in an agreement under which a full-time magistrate reduces his or her hours to part-time may be varied by written agreement between the magistrate and the Chief Magistrate, provided the Attorney-General approves this. The hours of duty specified in the instrument of appointment of a magistrate appointed as a part-time magistrate may also be varied under an agreement made under new subsection (2)(d).

The ability to convert a part-time appointment to a full-time appointment does present some risks. The former Law Society president in her article cited by the Hon. Mr Hood referred to these risks. The government acknowledging these risks has not provided for this in the legislation: a new appointment would have to be made. This would subject the appointment to the consultation requirement set down in section 5 of the act (as amended). The government believes that to be appropriate. That said, if the Hon. Mr Hood would like the matter pursued, the government would be prepared to raise it with his Honour the Chief Justice and the Acting Chief Magistrate. However, it is the government's view that this need not delay the passage of the legislation.

Thirdly, the Hon. Mr Hood asked why the provisions of section 18A, which restricts a magistrate's work and business activities, apply only to part-time magistrates. This was the single most difficult issue the government dealt with when considering whether to allow for the appointment of part-time magistrates. Most magistrates, including the two representative bodies—the Magistrates Association of South Australia

and the College of Magistrates—opposed initially any restrictions on outside commercial activities for magistrates—part-time or otherwise. The magistrates argued that, as they are not covered by the judicial pension, they have to make their own superannuation arrangements, although they are now covered by the same super arrangements as are public servants. In many cases, this involves activities such as owning rental properties, interests in businesses, participation in family trusts, etc. To require magistrates to seek approval from the Chief Justice or Chief Magistrate for these activities would mean requiring magistrates to disclose private financial information about themselves and potentially others, requirements to which no other judicial officers are subject.

That they would be required to do this and seek permission to continue the relevant activity where there is no suggestion that any magistrate is engaged in improper work, business or investment activities would be, the magistrates argued, unnecessary and unreasonable. This is particularly the case given that magistrates are covered by the Guide to Judicial Conduct put out by the Australian Institute of Judicial Administration and the requirements of the Magistrates Act, specifically section 11 which provides for the removal of a magistrate on, among other grounds, improper conduct in the course of their duties. Having consulted the former chief magistrate and the Chief Justice, the government accepted these arguments as reasonable when applied to serving full-time magistrates.

This raised the question of where to draw the line. Arguably the government could have sought to impose the requirements of section 18A on all new magistrates, part-time or full-time, appointed after commencement of the provision. However, this would have meant that there were two classes, if you like, of full-time magistrates—those who work and whose business activities have to be approved by the Chief Justice and those who do not. In the government's view, this would be untenable. For the reasons that I outlined in the second reading explanation on the bill, the government believes that some restrictions on the non-judicial activities of part-time magistrates is appropriate, given they have the potential to engage in other substantive employment or be involved in an operational sense in commercial activity by virtue of the fact that they are engaged on a part-time basis only. Having consulted the former chief magistrate and the Chief Justice, the government settled on applying the restrictions to part-time magistrates only. Again, I thank members for their contributions and indications of support for this bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.D. LAWSON: Will the minister indicate when the government proposes that this bill will come into operation?

The Hon. P. HOLLOWAY: My advice is that the government wishes to have this in operation reasonably quickly but we cannot give a specific date. We do not wish to delay it unduly.

Remaining clauses (2 to 9), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 14 November. Page 949.)

The Hon. CAROLINE SCHAEFER: This budget is yet another indictment of a government which has promised South Australia everything and delivered nothing. In just one year, we have made two of these speeches—one at the time when the government should have delivered its budget but was too incompetent to do so and, again, now, when it has finally delivered a budget which is full of false promises and wasted opportunities. At a time when it has $2.7 million more a year to spend than ever before—and I might say that extra income is largely due to the GST, which was so stridently opposed by Mr Rann and his cohorts—we have a budget that has been accurately described by the President of the Farmers Federation as 'an AAA rating'—'all about Adelaide'; and, even in Adelaide, where is there any vision and where is the new capital investment? Unless you count a $20 million tram extension (which no-one wants) or a botched Northern Expressway (which is not a new project and which is 80 per cent funded by the federal government) there is none.

What this government has given us is a strategic plan without any strategies and without any plan. In today's *Advertiser* a letter entitled 'Action, not talk' puts it succinctly. The letter states:

> I love SA, having lived here, by choice, for 50-plus years, but am sick and tired of talk, talk, talk and yet more talk taking the place of action. There was talk of changing the state's name recently. May I suggest Gunnaland as perfectly appropriate.

This government is good at harking back to a time when a Liberal government was in power—even though that is now five years ago—and blaming us for all and everything. What the government fails to address is that we inherited one of the greatest per capita debts in the civilised world. By comparison, the government has had access to some $8 billion in additional funding. I ask every year: where has it gone? I never get an answer. What do we have to show for this $8 billion? We now know, of course, that most of it has gone into paying 8 000 additional public servants instead of the 1 000 that were budgeted for—just a lazy 7 000 more paid employees than it budgeted for.

If any private business was that sloppy with its budgeting, it would be very quickly bankrupted. Perhaps such an unbelievable blow-out would be forgivable on some grounds—though certainly not on the grounds of financial accountability—if the additional positions were for police, teachers and nurses but, of course, they are not. As the Hon. Rob Lucas has shown, only 2 000 of the 9 000 jobs have gone to people in the field. That leaves 6 000 people who have simply been absorbed into some grey amorphous mass in a city-based office somewhere. No-one knows who they are, where they are or what they do—including their ministers.

As if that were not enough proof of the management inadequacies of this government, I want to remind the council that when we left government the unfunded liability for WorkCover was $67 million. Not quite five years later, it is sitting perilously close to $700 million—and rising. Yet we have one of the highest priced levies in the nation and one of the lowest claimant satisfaction levels; in other words, if WorkCover was a private company and not being underwritten by the South Australian taxpayer, it would be bankrupt. Even the Treasurer has finally recognised what we have been trying to tell him for some time. We have the worst WorkCover performance in Australia. We are underwriting its debt and, sooner or later, it will affect our financial rating.

Let me now turn to the regional statement of the budget. It should not take very long because there is virtually no new funding at a time when much of rural South Australia is on its financial knees. There is no indication that the government understands that and no indication of support. Primary Industries still account for some 70 per cent of the state's exports, yet the agriculture, food and fisheries portfolio now gets only 1.8 per cent of the budget. Yesterday's *Advertiser* carries a damning indictment of the state's Food Plan. This year's scorecard shows that the plan has fallen so far behind that there is now little or no hope of reaching the target of $15 billion by 2010. More concerning is the report which indicated widespread dissatisfaction from the all important industry sector. An article in *The Advertiser* states:

> The evaluation identified a number of flaws in the plan, including a limited central concept, failure to explain how the vision would be achieved and significant omissions. It showed the food industry had failed on a number of measures between 2002-03 and 2004-05, including little growth in gross food revenue, declining overseas exports and static processed food value. Industry stakeholders said the top three issues limiting growth were market development, value adding and development of companies and products that could compete in global markets. The industry/government partnership also drew heavy criticism, with industry members concerned the partnership was in decline. It follows criticism of the state government's commitment to the plan and its lack of support for food promotions in the past year.

In other words this government has dropped the ball, lost interest, turned its back on the Food Plan and failed the private practitioners who originally put so much into the concept. I understand that only four or five industry members bothered to attend the last Food Council. They are increasingly voting with their feet; that is, if the Premier does not see the council as important enough to attend, neither do they. I am also informed that there was significant and constant criticism of the governance of the state Food Plan, and that the morale of officers within the department is at an all time low.

Even the regionally-based food industry development officers do not know whether they will have jobs next year. Against this background, the budget line for the State Food Plan has been cut from $4.05 million for 2005-06 to $3.801 million for 2006-07. In fact, the budget line from the actual expenditure in 2004-05 shows a slashing of $800 000 over that time. So much for value adding, the food plan or regional development. Apparently, the Premier believes that a guitar festival is more important than the State Food Plan—he can find $2 million for that. We now understand where that money has come from: it has been funded, at least in part, by the food industry.

Not only has this government turned its back on the food sector but it has also turned its back on minister McEwen's entire portfolio. As I explained previously, the agriculture, food and fisheries portfolio now accounts for only 1.8 per cent of the budget. In the immediate future, the fishing and aquaculture industry faces its greatest legislative shake-up for the past 20 years. It is being asked to cope with a new fisheries bill, new marine parks legislation and new crown lands legislation all at once, all of which will affect its livelihood. Two ministers (the Minister for Agriculture, Food and Fisheries and the Minister for Environment and Conservation) have mentioned compensation for loss of resource share as a result of this legislation, yet there is no budget line and no forward estimates to cover that expenditure. Is this yet another broken promise and should this industry be terrified? I am afraid that it should.

What of the other departments? Surely there must be something that this government has done for regional South Australia, but I can find nothing new anywhere. Regional road funding now has a backlog of some $200 million, and the only new funding is a bit of shoulder sealing. The only new funding for health is a long overdue renal unit at Port Augusta, but the government still persists in closing down local hospital boards and regional health boards and going back to a centralised city-based system of governance for regional health. We have all recently heard of the diabolical need for mental health practitioners outside Adelaide, yet the only residential places for them are at Glenside—which, of course, this government would like to close down.

I turn now to what is an integral part of the budget process—the estimates committees. A House of Assembly information sheet states:

> Estimates Committees are for the purpose of examining the Appropriation Bill (the Budget) in greater detail than the procedure of the committee stage of a bill in the house permits. The Parliament's financial authority is the most important of the powers traditionally and constitutionally devolved to the Executive (Government). The examination by the Estimates Committees is therefore an integral part of the process of ensuring Executive accountability to the Legislature.

This government has taken the procedure to an all-time low. It is now so arrogant that it is prepared to mock not just the opposition but also the entire parliamentary process. This year, I was horrified to hear the Treasurer on one occasion call an early halt to questioning not, as he suggested, because the opposition had run out of questions but because he had set himself up as judge and jury and had deemed that the questions were inappropriate. I see this as an insult not only to the questioners but also (and more importantly, perhaps) an insult to the parliament itself.

On another occasion, the Treasurer was ruled to have used unparliamentary language. I was listening that day, and he called one of the questioners a liar. He then simply refused to apologise. What an insult to his own party's presiding member, as well as to the institution of the parliament. I listened (while I could stay awake) to the Hon. Gail Gago take anything up to 20 minutes to read answers to her own party's Dorothy Dixer questions, all to avoid legitimate scrutiny by the opposition.

I am appalled by the arrogance, the lack of respect and the utter ignorance displayed by members of the government towards the parliamentary process in general and the budgetary process in particular. As members know, members of the Legislative Council are not permitted to participate in estimates committees, in spite of the fact that we have three shadow ministers in this place. However, we saw again today this government employ the same filibustering tactics to avoid answering questions during our time to scrutinise the government over the Auditor-General's Report.

We have always engaged in some light-hearted banter in this place, but yesterday the Hon. Mr Wortley used his contribution on the Appropriation Bill to heap personal abuse on the Hon. Robert Lucas and to accuse me of taking my pay while doing nothing. I can be accused of many things, but laziness is not and never has been one of them. Mr Wortley and many of his colleagues would do well to check the facts before frothing at the mouth again. I support the second reading.

The Hon. S.G. WADE: Over the past few weeks, across portfolio shadow ministers have highlighted the fact that this is a budget of missed opportunities. First, it misses the

opportunity to embrace the future. It lacks vision. Thanks to the hard work put in by the federal Liberal government, Australia has a strong economy with improving living standards. Riding on the coat-tails of the federal government, the state government is collecting record revenues following the introduction of the GST. With high cashflows, the government has had an unparalleled opportunity to invest in infrastructure, laying the foundation for future prosperity.

But what have we seen? In the past four years, in spite of 14 per cent growth in revenue and a 14 per cent increase in expenditure, capital expenditure increased by only $160 million. This shows a lack of vision, a raft of wasted opportunities. While capital expenditure has increased in this budget, we are now playing catch-up. Despite the record revenue, and record expenditure to match, Mr Foley has failed to deliver infrastructure or show vision.

Infrastructure projects which have been foreshadowed reflect spending on a whim, rather than on a plan. We had the third South Road underpass announced (without consultation) during the election campaign, and the lifting bridges announced after a public meeting. We have had transport projects like the Noarlunga rail line extension, with the feasibility study announced at a public meeting almost two years ago but still no outcome.

The Premier and his ministers make spur-of-the-moment decisions in response to political pressure, with no regard for the long-term infrastructure needs of the state—no planning, no strategy, no vision. Where is the coherent transport blueprint which directs and organises the investment in this state? Vision is nowhere to be found in this budget.

Secondly, the budget misses the opportunity for tax relief. With the government collecting $2.7 billion more revenue than when they were elected, with an additional $500 million this year alone, there is room for tax relief and tax reform. Private sector investment is crucial to the economic strength of South Australia. We need to attract businesses—high taxes merely drive businesses away. South Australian families are paying record levels of land tax and stamp duty, and it is still a burden on individuals and small businesses. Since 1999-2000 property tax collections have increased by 35 per cent in this state. According to the Commonwealth Grants Commission, South Australia has the highest tax effort of any state, at 117.7 on a base of 100 in 2004-05, with the next highest being Western Australia on 103.3. Instead of providing some tax relief, instead of encouraging business and helping families, this government continues to rake in the revenue.

Thirdly, the budget is a missed opportunity because the government is failing to positively engage the private sector. Having lost faith in socialism, the Labor Party has not been able to replace it with a fresh vision; instead we are left with the remnants of the class struggle and a chronic anti-private sector bias from ALP members. We have seen it over the last week with the Minister for Transport refusing to provide buses for tens of thousands of fans to travel to a U2 concert at AAMI stadium, because the organisers might make a profit. Does this mean that the government has no commitment to public transport to retail centres or sporting events or workplaces because the organisers need to make a loss?

Labor has never understood business; they need to know that business makes a profit only if it makes revenue, and business raises revenue only if it gives customers what they want to buy. We saw this anti-private sector bias yesterday when the Hon. P. Holloway responded to a question of mine on public transport by attacking the outsourcing of bus contracts; contracts which this government has renewed. If the operators and the contracts are so evil, why have they been renewed by this government?

This ideological confusion is evident in the budget, which provides for the winding up of the Modbury Hospital contract. This anti-private sector initiative has cost the people of South Australia $42 million; a payout which will mean less money for patient services. On the other hand, the budget uses public/private partnerships to fund $134 million of school projects, which will facilitate the closure of 14 100 per cent publicly owned schools. This ideological confusion of modern Labor is clearly leading to inconsistent, illogical decision-making. If the Labor Party cannot find another ideology to justify their existence, the least they could do is give their consideration to the capacity of the private sector to facilitate the delivery of government services.

Fourthly, this budget is a missed opportunity to put in place sound public administration. In 2002 the government estimated that they would need an increase of 1 135 public servants over four years; instead the government employed 8 885. The only explanation possible is slack management. Either the government are poor planners and they underestimated their staffing needs by nearly 8 000, or the government are poor human resource managers and they cannot control their own recruitment.

In early September, in a classic piece of understatement, the Treasurer admitted that 'managing the numbers in the public sector has not been as good as it should have been'. The government has failed to effectively lead and manage the Public Service. Rather than seize the day and use the revenue windfall to lay the foundation for future prosperity, the Labor Party let go of the reins. We have seen a similar lack of application in relation to WorkCover. Since Mr Rann came to power, unfunded liabilities have skyrocketed from $67 million to almost $700 million under Labor; but while Rome burns, Nero plays his fiddle. Mr Rann and Mr Foley have just let WorkCover wander. Until this government decides to take action, unfunded WorkCover liabilities will continue to undermine the viability of the scheme. It is time for this government to take decisive action to secure WorkCover.

Fifthly, this budget is a missed opportunity to fund services for people with a disability. This budget had a cut of $12 million (7 per cent) in disability funding, some $10 million having been removed on the basis that it was one-off funding in 2005-06. South Australia remains the lowest spender on disability services per capita per disability service user. South Australia is spending less than half that of New South Wales. Clearly, in an election year, the government made political responses to disability funding, but people with disabilities still wait for adequate, ongoing funding.

Finally, the Rann budget is a missed opportunity to develop a broad-based strategy to address obesity. This budget is a high fat budget. It will fuel obesity and burn scarce health dollars. All the research suggests that the obesity epidemic is being driven by a range of factors: from food, to sleep patterns, to exercise, to genetics and so on. Yet while the state government is fixated on fast food advertising, decisions in 2006-07 can only exacerbate other risk factors. Cuts to school water safety and aquatics will undermine physical activity. The closing of small schools to make way for the super schools will increase the number of students no longer able to walk to school.

The replacement of the $4.5 million Be Active-Let's Go program with the Premier's $0.4 million Be Active Challenge

represents a 90 per cent reduction in focused physical exercise activity funding. Cuts to the Small Schools program will deny schools the funds that are often used for the purchase of recreation and sports equipment. The government is investing $22.5 million in elite sports infrastructure—more than five years funding for the Be Active-Let's Go program.

Let us be clear: the abolition of the Be Active—Let's Go program is another broken Labor election promise. The ALP's Healthy Children policy of the last election states that the new Premier's Be Active Challenge will build on the Be Active—Let's Go program—in fact, under this budget it will replace it. This government needs to take a holistic approach to obesity and ensure that the health implications of decisions across government are considered.

This budget is a disappointment. It is riddled with missed opportunities, ideological decisions and slack management. Last night you could almost smell the disappointment when the Hon. Mr Wortley spoke on the Appropriation Bill. Earlier in the year we had heard him wax lyrical about Mr Foley in terms of his being a great Treasurer but, faced with a visionless budget, the Hon. Mr Wortley was forced to focus on the past. He tried to rewrite history. Well may he be disappointed. It is time for this government to offer a vision for South Australia, to invest in its future. This budget was a missed opportunity, and still we wait.

The Hon. B.V. FINNIGAN: I stand with some trepidation following such a devastating display of oratory. The Liberal opposition invested a great deal in this budget. After the election when, having not presumed on the judgment of the South Australian people, the government delayed the budget until September, the Liberal Party was quite excited. They thought it must be going to be a horror budget and therefore they put all their eggs in that one budget basket. We had lots of predictions of disaster coming from the members opposite—the Hon. Carolyn Schaefer wondered whether a budget would even be brought down at all. She said, in her Supply Bill contribution:

> Will Mr Foley be able to bring down a budget in September, or will we have another Supply Bill? Who knows?

That was the opposition's stance; they tried to call into question whether the budget would even be brought down at all, or on time. The Hon. David Ridgway's contribution on the Supply Bill was that he suspected that the voluntary separation packages were only the tip of the iceberg and we would see the full extent of the iceberg emerge in September. They invested in the horror budget they thought was coming; they questioned whether it would be brought down on time and they predicted massive cuts and mass sackings of the sort they had envisaged before the election. That was their position. In fact, they got a budget that must be a great disappointment to them, because it delivered another surplus—the fifth consecutive budget surplus under this government. It was a budget that saw every promise kept, a record investment in health, education and police, and the maintenance of the AAA rating for South Australia.

We know a lot about the various initiatives within the budget and I will not go through them all in detail—there are so many. However, we know that the government is investing over $3 billion in health expenditure in 2006-07 (5.7 per cent real growth budget to budget) with $19.9 million over four years for mental health. Over $2 billion will be invested in education expenditure in 2006-07, with $216 million for education works, and there will be a substantial investment in policing and in protecting our community with $152 million over the next four years, including $109.5 million for 400 additional police. The Appropriation Bill also sees $3.7 billion invested in capital projects over the next four years, and let us not forget a more than $500 million investment in prisons with a new state of the art men's and women's prison to be built at Mobilong.

This is what the government has put forward in its budget, and we well know the Liberal Party's record when it was last in government—four consecutive budget deficits amounting to over $1 billion compared to four net operating budget surpluses under the Labor government, totalling over $1 billion. That record continues with our fifth budget. We know that the government has maintained its sound fiscal record in contrast to the appalling record of the previous Liberal government.

In a press release of 19 September, just a few days before the budget, the Hon. Michelle Lensink boldly predicted that prisons would again be overlooked in the upcoming budget. That was her brave prediction, that prisons would be ignored, but what do we have? We have the largest single investment in prison infrastructure in our state. However, that is the sort of accuracy we have come to expect from the Hon. Michelle Lensink, who has a website—www.michellelensink.com—which boasts that she is the newest and youngest member of the Legislative Council. That might be news to the seven newer members of the Legislative Council, but the Hon. Michelle Lensink says that she wants to use the internet and electronic media to assist in 'timely and effective communication'—so timely that she has forgotten that there are, in fact, seven new members of the Legislative Council. That has been the case for seven months, but the honourable member has not found time to update her website. That is the sort of accuracy we have come to expect from the Hon. Michelle Lensink and that is the sort of accuracy we got in her prediction that prisons would be ignored, that there would be nothing in the budget for prisons.

This highlights the problem with the Liberal Party's policies: they do not quite know what they are for. They do not know whether they are for cutting public servants or whether they are interested in preserving the Public Service; they do not know whether or not they want to build new prisons, even though the Hon. Robert Lawson said, in his contribution to the Supply Bill, that the women's prison required urgent replacement. Here we are, making the largest investment in prisons in the state's history, and the Liberal opposition just cannot work out whether they are for it or against it, because they have not quite worked out their position on anything. And that illustrates the Liberal Party's key problem: there is simply no vision, no plan for what they are going to do with the state.

I did something that most members of the Liberal Party are evidently unwilling to do these days—that is, I took the advice of the Hon. Rob Lucas. I looked up the budget speech made by the Hon. Iain Evans, the Leader of the Opposition in another place, as the Hon. Rob Lucas recommended all members do, and what did I find? I found a very poor attempt to try to criticise the budget, with no vision or plan and no alternative. It is one of the most insipid budget responses ever made.

So, it is hardly any wonder that there is such speculation within the Liberal Party about the leadership of the Hon. Iain Evans. Christian Kerr of *The City Messenger* said that the problem is that the Hon. Iain Evans spends too much of his time on party matters. I find this puzzling because, according

to media reports, the group with which the Hon. Iain Evans is aligned, was soundly thrashed at the most recent Liberal Party ballots. So, if that is what he is devoting his time to, he is obviously not doing a very good job of that, either. The Hon. Iain Evans seems to be losing in the party and in the parliament, and he is not quite sure where he is. It is hardly any wonder that the members for Bragg and Waite in another place are actively circling and trying to position themselves for what may well be inevitable change.

The Hon. Rob Lucas, of course, had the opportunity to address the failure of his leader by making a decent budget response himself, but instead we had the same tired old speech we have come to expect from the Hon. Rob Lucas. I have had the honour of being a member of the Legislative Council only since May, and I have already heard this speech three times: once in response to the Address in Reply, once to the Supply Bill, and now in respect of the Appropriation Bill. The Hon. Rob Lucas must have in his office a very dog-eared, well-worn handful of pieces of paper that he simply dusts off every time a supply bill or a budget speech is required. He digs out the same old speech, 'The defence of the Hon. Rob Lucas: why I was a good treasurer. Even though I had four budget deficits in a row, you should not judge me as a poor treasurer of the state.' That is all we hear from the Hon. Rob Lucas. I have already heard that speech three times in seven months. Fortunately for all of us, his most recent contribution had a real air of historical record about it, so we can probably expect that it may be one of the last contributions we hear from him on the budget.

I do not intend to go through much more of what is contained in the Appropriation Bill. We know that it has delivered the fifth consecutive surplus for the Labor government, with a massive investment in health, education, prisons and policing—the things that matter to South Australians. We are getting on with the job of governing the state responsibly, of being sound fiscal managers, despite the federal government's determination to neuter the states and make them irrelevant by taking all power from them through the corporations power. Nonetheless, the Labor government has been getting on with the job.

The Rann government has delivered its fifth consecutive budget surplus. It is a sound budget that maintains our AAA credit rating. It has massive investments in the things that matter to South Australians, unlike the very tired response we have heard again from the Liberal opposition. It is quite disappointing that the opposition is not able to provide any alternative vision for the state. The opposition has not even decided what its own policies are going to be—and, of course, they are weighed down by the leadership speculation that simply will not go away. In contrast to that, the Rann Labor government has delivered again with another fine budget, despite the predictions from the Liberal opposition. It is a budget that will set the framework for good governance of this state for the next four years. I commend the bill to the council.

The Hon. J.M.A. LENSINK: It gives me great pleasure to follow such a luminary new talent on the Labor benches. I confess that he has caught me out for not having updated my website post election, and I concede that he is the newest and youngest member of this chamber, but with perhaps the 'back to the future' vision for the Labor of the future, because I think he belongs to what we might describe as the democratic Labor faction of the Labor Party. Indeed, I found his contribution had much the same standard as the last time we were opponents, which casts me back many, many years to when I was a Young Liberal and he was a member of Young Labor. His level of substance has not changed much since our days together in mock parliaments. I just wonder what value all these retired unionists across the way add to this chamber, when they are provided with some speech notes by the relevant minister that they just prattle—

The Hon. B.V. Finnigan: Whose handwriting is this?

The Hon. J.M.A. LENSINK: Oh, you can write? That's fantastic. They make no contribution of any substance to the future of this state.

An honourable member interjecting:

The Hon. J.M.A. LENSINK: Well, I've got one, and I have a trainee. How many does he have?

The Hon. G.E. Gago: That's one more than he's got.

The Hon. J.M.A. LENSINK: He can get himself a trainee if he is so much in favour of the future of young people.

The PRESIDENT: Order! The honourable member will stop debating across the floor and continue with her speech.

The Hon. J.M.A. LENSINK: I apologise, Mr President. In this budget the increase in revenue is some $2.7 billion, largely courtesy of Canberra with the GST and property taxes and taxes on business. It is an increase of 25 or 30 per cent from when we were last in office. Quite frankly, a drover's dog could balance this budget. Members opposite should be surprised that they have had to—

An honourable member interjecting:

The Hon. J.M.A. LENSINK: The honourable member mentions this, so can I just say two words: State Bank, which is a huge convenience—

The Hon. B.V. Finnigan: One word: ETSA.

The Hon. J.M.A. LENSINK: Well, ETSA actually contributed to reducing the debt. Perhaps members opposite could take a lesson in basic arithmetic. I will show them how to set up a spreadsheet on their computer, and they can plug in the $8 billion figure so they can see what it does to a government budget.

I turn now to some portfolio areas for which I have responsibility, areas about which we should be particularly concerned. There are some things in the budget that I commend but there are others where I believe this government has missed opportunities. I also note that some concern is being expressed by the business community and also very eloquently in *The Financial Review*. I urge honourable members to have a look at the edition of Friday 22 September. It forewarns that South Australia's revenue boom has well and truly peaked and that the state faces a decade of more ordinary growth. It goes on to state that South Australia faces some significant challenges in both the short and the medium term. Clearly, there will be a large impact from the drought. We will not blame Mike Rann for that but we also will not allow him to take credit for future infrastructure projects, such as the air warfare destroyers. Fair is fair, Mr President.

I turn now to the areas for which I have responsibility on behalf of the Liberal Party. The budget has ignored the crisis in mental health. All members would no doubt have a strong awareness of the increased prevalence of mental health in our community. All too often we are personally touched by having friends, family or colleagues who suffer some form of mental illness. This is a significant area in which today's dollar will save $10 next year and into the future.

There is a reform agenda which was started under former health minister, the Hon. Dean Brown, where funding at

Glenside effectively took up some 50 per cent or more of the mental health budget. This reform process was to shift acute beds into metropolitan hospitals and also provide services more at the community end. The Liberal Party commends that—obviously it was our policy to start with—and we wish for that to continue. However, this reform is now incredibly reliant on what Monsignor Cappo will come up with in his report, which is due out at the end of this month. There is also a very dispersed leadership structure within mental health. We have a Minister for Mental Health for whom, in some ways, I almost feel sorry, because she does not have complete control of her portfolio. The Minister for Health has significant control over her portfolio, as does also Monsignor Cappo.

We saw recently that the Director of Mental Health Services in this state (Dr Jonathon Brayley, a highly credentialled and well-respected professional) is to have his role split in two, so that there will be a policy director and an operations director. So, the line of command, if you like—where does the buck stop—is even more confused than it was previously.

South Australia has very low levels of funding for non-government services, with 2 per cent for mental health funding, the lowest in Australia. Non-government organisations were very hopeful that the $25 million in one-off funds provided in a previous budget would be made recurrent, but because this has not taken place they will be unable to make any long-term provision. This means that they will have to manage their case load of clients and staffing of mental health workers incredibly carefully, because they cannot guarantee either a service to the client or continuing employment. This great uncertainty within that sector means that staff are harder to keep. Mental health community services (such as drug and alcohol services) have to compete with the public sector, and public sector wages are inevitably higher, so that means that staff are being sucked out of community services and into the government.

As we also know from this budget there have been further delays—we should not be surprised because it has happened year after year with this government—in mental health capital works in metropolitan hospitals, which are so critical to the mental health reform process that I mentioned before. In particular, I would like to mention the Boylan Ward at the Women and Children's Hospital. We hear some rhetoric from this government about the importance of young people and mental health, yet the project at the Women's and Children's Hospital will not even be pursued.

Another issue which was brought to my attention by some very concerned young people fairly recently is the Headroom Project, a website which provides community services, which is part of the health promotion section within the Department of Health. Again, the mental health minister does not have any say; that one is up to the health minister, thank you very much. Headroom is about to be cut. For the benefit of members who are not aware of it, Headroom is a locally developed website. The text is written by young South Australians for young South Australians. The Headroom group attend things such as the Big Day Out, they have stalls in the mall, they do a lot of promotion at schools, and they produce pamphlets which are distributed through youth groups and schools. It is all written in the sort of language to which other young people can relate. It is very contemporary, rather than the sort of gobbledegook that we hear in question time every time we ask any of the ministers a question. They have some sort of a briefing paper that has been served up to them and stuck in their folder for them which does not tell anybody who speaks plain English anything.

The Headroom Project is under threat. I think it has been given a reprieve until June because of poor publicity. It was to close at the end of this year, but I urge the government to reconsider that issue because it has an increasing number of hits every year. It has been operating since 1997, it is well known and it is a great resource for young people to be able to access information about mental health, bullying and other issues in the comfort of their own home where they can do so in privacy.

Another issue in relation to mental health and the budget is COAG. I just love this one. I have sat down and done my little spreadsheet. We keep hearing that the government has provided its commitment to the commonwealth offer. I will reiterate for members the very generous offer that the commonwealth made on 5 April when the Prime Minister announced $1.9 billion worth of funding for Australia for a whole range of areas, the most significant being a Medicare rebate for psychologists, so people will have greater access to psychology services, which is to be highly commended. The state governments, which get all of their money largely thanks to the good economic management of the Howard government and the GST deal that they all opposed, are unwilling to come to the party. The commonwealth has been pretty clear about what it wants, which is for the states to match the funding, and it has also identified, through quite rigorous research, the areas in which it thinks the states need to put in some more funding.

I will list just five of those for the benefit of members. They are: emergency and crisis services, hospital-based services, community-based services, corrections and supported accommodation. In regard to the latter two, corrections and supported accommodation, the state government has not issued one extra dollar whatsoever, which I think is shameful, because we know that mental health in corrections is a huge issue. We also know that there is a lack of a range of accommodation options for people with mental health difficulties in this state, and the state government has just said no, but it does have money for trams.

I will go through the list that the state government published in the National Action Plan on Mental Health, which is the joint state-commonwealth document in relation to the different jurisdictions' commitment to mental health. The state government claims that it is putting in funding of $116.1 million over four years. I have matched up all of these as to, first, whether the state's so-called funding is a state-only priority as listed in the COAG report and, secondly, whether it is new funding, as was supposed to be agreed to, and what the recurrent effect is. It is a very interesting spreadsheet, which I will provide to the commonwealth so that it has the actual facts about what this government is doing. Beyond Blue funding is a reannouncement. Every Chance for Every Child is not mental health funding. Early childhood development centres is not mental health funding. The Healthy Young Minds and CAMHS outworkers is a reannouncement. The government might get a point for its shared care with GPs, because I think that is the expansion of an existing program. Healthy Young Minds funding is again a reannouncement. Coordinated care is a reannouncement.

In regard to the COAG proposed national health call centre, there is no funding you can allocate to that and, in any case, that is a national program that is quite separate to this process. The Women's and Children's 24-hour service is a

reannouncement. The emergency department mental health liaison nurses is a reannouncement. The 10 year nurse practitioners is a reannouncement. The 20 additional nurses and allied health professionals is a reannouncement. The hospital at home expansion is a reannouncement. The additional social workers for discharge evaluation is a reannouncement. The peer support workers is a reannouncement. The youth mobile outreach is a reannouncement. The ACIS expansion is a reannouncement. Six new CAMHS workers is a reannouncement. Treatment and support for acute illness is a reannouncement. Psycho-social rehab is a reannouncement. Emergency triage liaison for country areas is a reannouncement. The northern ACIS team is a reannouncement. Peer support workers is a reannouncement. APY detox is DASSA funds (Drug & Alcohol Services). And the intensive support packages is a reannouncement.

These are all things which do not fit the criteria. I am not a big fan of rolling money into four and five year packages, because I think it is just a mechanism to make it sound larger than it is. I like 'recurrent funding'—back to the good old days of calling a spade a spade. So, when I tallied this up, it came to, in recurrent terms, a bit over $15 million per annum. This falls well short of what the requirement is and, given that we have a crisis in mental health and this government has more funding by some 25 or 30 per cent since it came to office, it is a scandal and a very poor reflection on this government.

Let me read for members some comments of the Mental Health Council of Australia. It is in a position that makes it a bit difficult to argue with, because it is the authority that monitors these things very closely and has a strong interest through lots of professionals and people who have been working in this field for years. Professor Ian Hickey, from the Brain and Mind Research Institute at the University of Sydney, has welcomed the Prime Minister's involvement in mental health. Indeed, I might add that the former Labor candidate for Hartley, Quentin Black (and I am sure he will not mind my saying this), is a psychologist and gave Vicki Chapman and me a bit of a briefing on the psychology practice bill this morning, and he told us their perspective. He said, 'You can tell Christopher Pyne that I will never campaign against him again because the commonwealth's package is about to revitalise psychology in Australia, and it will be such a boon for mental health.'

The Hon. P. Holloway interjecting:

The Hon. J.M.A. LENSINK: A number of people are about to leave the field, so he tells us. This is your former Labor candidate, so I am not sure whether or not you are about to disown him. Many people were so tired of the red tape that they could not see a reason why they should remain in practice. Some were about to go off into other fields—research, academia and so forth. Yes, he credits Christopher Pyne for this and he is very grateful. He thinks that it will be a very important initiative for primary mental health care in Australia, and I am sure we all have some bipartisan belief in that.

Professor Ian Hickey said that most state leaders have not grasped the issue. He said that mental health reform requires a degree of tough leadership. As I have said previously, it is very hard to understand what the leadership structure of mental health is in this state because it is all over the place: it is the Social Inclusion Board, two ministers and a series of directors in different silos and no-one knows quite where the buck stops. Professor Ian Hickey said:

> Mental health reform requires a degree of tough leadership. You run into vested interests: it is a long-term, not a short-term investment. Maurice Iemma in New South Wales is the only Premier I have spoken to who seriously understands the issue and is seriously looking at solutions.

Other issues in relation to mental health that I would like to see brought forward include reform through a redrafting of the Mental Health Act.

The Bidmeade report was originally presented to the government in April last year. The government promised to have a draft bill out by the middle of the year. We are now in November and we still have not seen a draft, but then I guess we have been busy, if I can say that with my tongue very firmly in my cheek, dealing with those hundreds of bills that the Premier has promised us. I have also mentioned the delays in capital mental health projects and the lack of funding for non-government organisations. I would also like to put in a bid for country mental health services because, as we know, our rural cousins must deal with the tyranny of distance, and the rural suicide rate is higher than in metropolitan South Australia.

In relation to substance abuse, my understanding is that the non-government sector had hoped for a 10 per cent increase in funding. They tell me that the levels at which they are funded makes it hard for them to match comparable government jobs, and so they expect that they will continue to lose staff to government and that that will put pressure on their viability.

Another concerning development with the way in which this government operates is to in-source services. I believe that the non-government sector provides fantastic value for money. I have been meeting with a number of providers and I would have to commend them for their enthusiasm and commitment—not that government providers are not committed. However, I believe that non-government organisations are much more nimble. They are much less likely to fall victim to decision paralysis, which is often a feature of internal government processes, and so they are much more responsive to their client groups. For instance, when they receive a client referral which is a bit different from the usual client group, rather than saying, 'I am sorry, we cannot provide a service because we do not deal with that particular issue', they will find a way to help.

It is my understanding that this is happening in a whole range of community service areas. This is not only happening in the area of substance abuse and drug counselling but also the mental health services and services that are provided through the gamblers rehabilitation fund. That is a particular policy that we vigorously oppose.

I turn to the corrections issue. Yes, we are very pleased about the new prison rebuild, and I am grateful to the minister for organising for me and the member for Hammond, Adrian Pederick, to have a recent briefing at Mobilong and view the large paddock upon which the new prisons will be built. A number of people who work in that particular sector are also very pleased that it is finally coming to fruition. They are watching with interest and hoping to participate and to provide guidance on the new services, because it is a very large project and it will result in significant changes to the way things are currently done.

The timetable for the prison rebuild is not to become operational until 2011-12. It is obviously well past the election date and there will be plenty of time for blow-outs but, as long as the current transport minister is not in charge of it, that particular threat might be slightly minimised—but

I suspect only slightly. Indeed, I note in the budget papers that there is no allocation in this budget for that project. It is not a difficult thing to make such an announcement without putting much of a commitment in the current budget.

There are some smaller projects within DCS' capital works which have been delayed—a bit like the mental health projects. There are delays in capital works for two years for a number of things. I do hope that that is not a reflection of the manner in which this government will be able to manage such a complex project. We are very anxious to ensure that the attendant services—the police station, the courts and so forth—which will be required by such a new infrastructure project for Murray Bridge will be provided. It will mean a radically different way of doing things for other service providers, defence lawyers and so forth.

I request the minister to ensure that in the consultation process the Law Society is included, rather than its being vilified (as it so often is by this government), and that the local member (Mr Adrian Pederick) is a member of one of those consultative committees. From what he told me last week, I think that he takes a significant amount of the anxiety from the local community in terms of needing to answer questions. I am sure the process would go forth more smoothly if he is well apprised and able to communicate information to people who contact him.

One of my ongoing concerns is the issue of the high level of remandees. I commend the staff of corrections, because they are very committed, and I was particularly impressed with the managers at Mobilong. I think they have the right mix of attitude in terms of their role and I am sure they do a very good job. Even Mobilong, which in relative terms is a newer facility, has double-up cells. The issue with running at such a capacity is that it makes it much harder for correctional staff and the system to manage prisoners through the process of serving their sentence, which (the annual reports regularly tell us) is all geared towards their parole—unless of course you are Bevan Spencer von Einem and you never see parole and suffer a tough sentence in the meantime.

I will get to the issue of overcrowding. We have seen examples of officers within corrections feeling under considerable pressure to the point where they have had to lock down. That is understandable on their part, but it is also massively disruptive to managing the prison environment. The prisoners can become more disruptive and they are not likely to be as cooperative in terms of doing their programs and work. I think that will be an ongoing pressure until the new prisons are operational. Indeed, with the remand centre in its present condition, next to the women's prison it is the worst facility. The situation is that there are three people to a cell. I was surprised that in the government's announcement there was no mention of how the remand centre and the remandees will be managed, because it does put so much pressure onto the corrections system.

The other matter, which was highlighted recently and which was mentioned today in a question asked by the Hon. Nick Xenophon, is that the courts in the meantime will be making certain pragmatic decisions, based on the present infrastructure. The case of Andrea Day is a case in point. The courts were unable to impose a custodial sentence because there just was not the capacity within the existing system to manage her appropriately and they were concerned about her health. My understanding is that, if she were to be sentenced as a male, she could be managed appropriately at Yatala but, because she is a woman and the women's prison is so diabolical and the health centre so completely inadequate—to the point where there are services that the staff would like to provide but there is no space—that is a blow for justice and a blow to the government's law and order mantra. I think that fairly outlines my shadow portfolios and indicates that I would know what to do if I were the minister; and I would relish the opportunity. I commend the bill to the house. Obviously, it has shortcomings but not all governments are as perfect as Liberal governments, so we will have to bear that.

The Hon. CARMEL ZOLLO (Minister for Emergency Services): This is a little unusual but, by way of ensuring that the committee stage is expedited, I will put on the record responses to a series of questions asked by the Hon. John Dawkins yesterday in relation to the Metropolitan Fire Service. I think it is probably the best way in which to deal with this matter. He asked some 16 questions. The first question stated that since early 2005 the fire service has relied on the forced secondment of station officers as it does not get enough officers volunteering to join the training department. The response is that SAP6 (appointment and secondment procedure) was first released in 1984. Members of the training department are either seconded or appointed, and the only reference to volunteers is in relation to short notice secondments in the current SAP6 where specialist skills are required for training.

The second question was: do station officers spend time shifting desks and mending fences as they do not have a lot of the skills needed to teach? All MFS station officers are required to perform training roles as part of their normal operation station duties. All MFS officers receive appropriate preparation for training roles through nationally recognised training and assessment units of competencies. Officers seconded to the training department receive an additional four units of training in Certificate IV Assessment and Workplace Training and relevant computer training.

The primary role of training officers as subject experts is to develop training products. In this role, they are supported by specialist non-uniform educational personnel and administrative staff. Depending on their existing skills and knowledge, some new training officers may take longer and require additional support to complete the required training. One of the specific portfolios in the MFS training department which is filled by a training officer is that of Building Facilities/Maintenance. This portfolio includes coordination of the essential repairs and maintenance needed on-site. This role is similar, although on a larger scale, to that of the responsibilities required of a station officer at an operational outstation.

Other responsibilities in the portfolio include being involved in and contributing to other training department projects such as are required—for example, the SO promotional process and the development of training screeds. As a team-based environment, staff members may be asked to help out on an 'as needs' basis, which may include the moving of desks and preparing rooms prior to sessions being delivered. The third question placed on notice was:

> Can the minister confirm station officers in the training department earn how much depending on level?

Station officers in the training department are in day working positions. For 2006-07, they will earn between $70 902 (level 1 station officer) with 3 per cent day working allowance and $78 260 (level 2 station officer) at 5.5 per cent day working allowance. These amounts are set in the enterprise agreement,

including the day work allowance, which is a progressive rate that increases with length of service in day work positions. The fourth question asked was:

Have senior firefighters been invited to apply for positions, rather than just station officers in the training department?

Senior firefighters have not been invited to fill positions, as they do not meet the requirements of the PID as per the enterprise agreement. There has been no registration of interest from a senior firefighter within the last 18 months. The next question was:

What measures has MFS management taken to avoid the need to rely on forced secondments in future?

The MFS is addressing the broader issue of training department staffing through the marketing of training department services, offering flexible working arrangements and providing additional personal development opportunities to departmental staff. The next question was:

Do numbers get drawn out of a barrel?

The MFS management do not draw numbers out of a barrel. The MFS management has developed a revised secondment policy that it believes will overcome the previous difficulties. The process involves the establishment of a rotational list. A draft appointment and secondment policy has been developed and has been discussed with the UFU. It is expected that final agreement on a new policy will be achieved soon. The station officer position information document (PID) clearly states that station officers must be prepared to perform in any station officer position within the MFS as directed by the Chief Officer. The next question was:

Is SAP6 being followed?

SAP6 is being followed. There is no evidence to suggest that SAP6 is unsafe. SAP6 effectiveness has been reviewed, and a revised procedure to improve fair and equitable management of the secondment opportunities is under final negotiation with the UFU for adoption. The next question asked was:

Are training officers identified under SAP6 classified as volunteering for the position, even if they did not volunteer?

No; there is only one reference to volunteer in SAP6. It applies to short-term notice secondments where specialist skills are required for training. The next question was:

Does MFS offer 24 months' service for 12 months' work to attract people to training?

No additional service has been accrued. A waiver of the required 24 months' secondment to the training department (as per SAP6) was reduced to 12 months on two occasions following negotiations with the UFU. The next question was:

Given long disputes between MFS and UFU of behalf of station officers seconded to Angle Park re travel, what measures have been taken to avoid a similar situation in the future?

The issue of travelling has been resolved in consultation with the UFU, and a travel allowance was implemented in April 2006. The next question was:

What is the purpose of the MFS/UFU strategic forum? Who chairs and who are the other members?

Pursuant to the SAMFS (Federal) Enterprise Agreement 2005, the MFS is required to consult with the UFU pursuant to clause 10, Consultative Process, and clause 11, Continuous Improvement. The MFS has initiated this forum in order to fulfil these obligations. The strategic forum is jointly chaired by the Chief Officer and the President of the UFU. The forum consists of four senior representatives from the MFS, four senior representatives from the UFU and one senior strategic planning officer. The next question was:

Indicate the purpose of the MFS/UFU strategic forum. SAFECOM, which includes the Chief Officer of the MFS as a SAFECOM board member, sets the strategic direction of the emergency services sector as a whole. It is appropriate that the strategic direction of the sector is discussed in a consultative forum, such as the MFS/UFU strategic forum.

The next question was:

MFS executive positions and staffing levels.
Staffing levels of MFS Executive—DCO, ACO, Commanders Comparison to 2005—14 November 2006.

In accordance with the SA Fire and Emergency Services Act 2005, the executive positions were included in the workforce plan that was submitted and endorsed by the SAFECOM board. The current executive positions of the MFS are the Chief Officer, the Deputy Chief Officer and the Assistant Chief Officer. They are supported by eight commanders (Metropolitan Operations North, Metropolitan Operations South, Training, Community Safety, Communication and Information Systems, Emergency Management (USAR), Regional Operations, and Infrastructure and Logistics). These positions were in place in 2005-06, and this structure was first introduced in November 2004.

The appointment of district officers to provide operational support to the Deputy Chief Officer and Assistant Chief Officer is the result of an upgrade of one existing position and a reallocation of an existing position. These positions conduct operational research and assist in the development and upgrade of operational procedures. They are also required to provide assistance at major emergency incidents to the Chief Officer, Deputy Chief Officer and Assistant Chief Officer. The next question was:

Number of personnel DO, Station Officers, etc. (breakdown of whole workforce).

The number of personnel employed by the MFS currently and in 2005-06 by the specified ranks is as follows: current (November 2006): district officers, 28; station officers, 191; senior firefighters/firefighters, 489; communications staff, 29; and retained staff, 239. In 2005-06, they were as follows: district officers, 22; station officers, 214; senior firefighters/firefighters, 487; communications staff, 29; and retained staff, 239. The next question was:

Clarify the position of regional manager. Are positions filled by station officers?

There are four regional manager positions. The role is described in the PID, which states that the regional manager is accountable to the Commander Regional Operations for the maintenance of physical and human resources in a state of readiness to respond to emergencies within their region. Regional managers perform a range of roles that include: operational command and control, community safety, planning, community liaison, staff training, media relations, recruitment and risk assessment. All future regional manager candidates will be drawn from the pool of MFS district officers. The two regional managers ranked as district officers have successfully contested the examination (promotional) process. The remaining two regional managers are filled by station officers; when vacated these positions will be filled by district officers who have successfully contested promotion to the rank. The Hon. John Dawkins asked:

Where are regional officers currently situated, and how does this relate to the previous financial year?

The MFS has divided its regional operations into four regions, each with a regional manager. The South-East region covers Murray Bridge, Victor Harbor and Mount Gambier; the regional manager is located at Mount Gambier. The

Riverland region covers Renmark, Berri, Loxton and Burra; the regional manager is located at Renmark. The West Coast region covers Port Lincoln, Whyalla, Port Augusta and Peterborough; the regional manager is located at Whyalla. The Mid North region covers the remaining six stations at Kadina, Moonta, Wallaroo, Kapunda, Tanunda and Port Pirie; the regional manager is based in Adelaide. There has been no change from the previous financial year to these positions. The Hon. John Dawkins asked:

. . . confirm that the UFU was advised that all back pay will be paid by 20 September 2006.

The answer is: yes; the UFU was advised that all back pay would be paid by 20 September 2006. Yes; all back pay from the pay rise on 1 July 2005 has been completed. The Hon. John Dawkins asked:

. . . confirm two new staff have been employed by MFS management to deal with the backlog of travelling claims.

The answer is: no; MFS management has not employed further staff to handle these claims. This function is the responsibility of the SAFECOM Human Resources Department. SAFECOM has put two additional staff into the payroll team to reduce the backlog of travel allowance claims.

It is a bit unusual for a minister to get up and respond to questions now, rather than do it within the committee stage, but I thought I should do that before the Hon. Paul Holloway did his summing up. I have, in the past, offered the Hon. John Dawkins a briefing by the fire chief; clearly, he does know somebody who is feeding him what he believes to be his version of events. I hope that the responses I have placed on record provide some clarification.

The Hon. P. HOLLOWAY (Minister for Police): I thank members for their contribution to the Appropriation Bill. I have some responses from the Treasurer to the majority of the questions that were asked, particularly those by the Leader of the Opposition. The remaining questions will be answered as soon as possible, and responses will be provided as soon as they become available. We are also waiting on responses to the questions asked of the Minister for Education and Children's Services, and I hope that they will be available either late tomorrow or the next sitting day.

I refer to the series of questions asked by the Hon. Mr Lucas. I think it is important that I put those responses on the record. During the second reading debate, opposition members asked a number of questions and indicated that they would be happy to receive a response during the committee stage of the bill. I will answer each question raised by the opposition in turn. The Leader of the Opposition asked:

So, if the government's position is that it ($7 million of energy savings) has been factored in but between the mid-year budget review and the September budget, can it explain why it is not referred to in Budget Paper 3 where all other decisions between the mid-year budget review and the September budget have been outlined?

Savings of approximately $7.4 million were factored into the 2006-07 budgets of agencies after the mid-year budget review. These savings are clearly identified for each portfolio under the heading 'Memorandum items—measures prior to the 2006-07 budget', under the description, 'Electricity—revised contract arrangements', in tables 2.6 to 2.18 of Budget Paper 3. The Leader of the Opposition asked:

The next question relates to the cost of consultancies for shared services. Again, this was touched on in the estimates committee, but we specifically seek the total cost of consultancies entered into by DAIS, or indeed any other agency, including Treasury, in relation to the notion of the shared services concept; the names of the individual consultants; the expenditure on each of the individual consultants and the total aggregate expenditure; and whether or not, in each of those cases, the consultancy had been let after an open request for tender.

The advice I have is that the DAIS files are being retrieved from the archives—they are still in the process of doing that. We will provide that information when it is available. The Leader of the Opposition asked:

Will the Treasurer indicate why Mr Smith was required to conduct the expenditure review and why the Treasurer believed that the Under Treasurer Mr Wright and current Treasury staff were not capable of conducting that expenditure review of the shape and structure that Mr Smith was asked to conduct? Also, what was the total cost of the Greg Smith consultancy?

Greg Smith had been involved in similar reviews elsewhere and it was considered beneficial to utilise his expertise for this exercise. Greg Smith was supported by a secretariat from Treasury and Finance to drive a comprehensive review of priorities. The cost of the Greg Smith consultancy was $54 005. The Leader of the Opposition asked:

The next question relates to the decision taken by the government to reverse a previous position of the former Liberal government. Under the former Liberal government there was a small shared services concept between the Department of Treasury and Finance (of which I was the minister) and the Department of the Premier and Cabinet. That is, for reasons similar to the notion of a shared services concept, this government is talking about Treasury providing payroll and other related services to Premier and Cabinet, so Premier and Cabinet did not have to provide those particular services. One of the first decisions taken in 2002 was to reserve that decision of the former Liberal government. When asked about it in the estimates committee, the Treasurer said he knew nothing about it. We seek an explanation as to who made the decision and the reasons for it. Was it Mr McCann, CEO of the Department of the Premier and Cabinet? Is the Treasurer indicating it was not approved either by him or the Premier? I find it hard to believe that Mr McCann could make such a decision without any approval from the Treasurer or the Premier to reverse a shared services concept—albeit a small concept—between two significant departments in the public sector.

The arrangements between the Department of Treasury and Finance and the Department of the Premier and Cabinet were for a common corporate service rather than a fully developed shared services model. The arrangements were put in place in 1994. The decision referred to was made during the former Liberal government; it was not one of the first decisions taken by the Labor government, as stated by the Hon. Rob Lucas.

From 2 July 2001 the Department of the Premier and Cabinet processed its own financial transactions and operated a separate general ledger. The Department of the Premier and Cabinet's HR services were carried out in-house from 1 January 2002. Departmental records confirm that the treasurer at the time, the Hon. Rob Lucas, was aware of the changes; DTF records do not indicate whether the Premier was informed.

The Department of Treasury and Finance continues to successfully provide support services to the Department of the Premier and Cabinet for records management, procurement and IT. The department also currently provides various corporate support functions to ESCOSA, the Independent Gambling Authority and the Motor Accident Commission. This includes financial services to some of these entities. Funds SA is currently negotiating to commence purchasing IT support arrangements from the Department of Treasury and Finance as the model is proven and efficient. The Leader of the Opposition asked:

We seek clarification from the minister as to whether the $13 million is the estimate of the annual payment to the private sector for $134 million worth of public-private partnered schools.

The $13 million provision is an estimate of what the private sector would charge for pupil accommodation and infrastructure services, including maintenance, utilities, and waste management, etc. For the time being it is only a provision, as the final PPP contract will determine the full range of pupil accommodation and other service—for example, ICT—costs following a competitive tender of the project. The Leader of the Opposition asked:

We seek clarification as to whether the $134 million public-private partnership proposal is the estimate of the cost of building the six schools and that the additional expenditure, which takes it up to $216 million, is expenditure on other schools which might enter into other rationalisations or closure arrangements.

The $134 million is the Department of Education and Children's Services (DECS) best estimate of the cost of the schools. The private sector's estimate will be determined through the PPP procurement process. The Leader of the Opposition then asked:

As we have seen in education, documented lines refer to payments, savings, costs, etc., but there is not the same level of detail in relation to the detention facilities. I seek from the government its current estimates in relation to the implementation costs and its estimates of land sale values, as has occurred in education.

In respect of the men's and women's prisons, pre-release centre and youth detention centre, funding for project team and consulting costs was provided in the 2006-07 budget. Total funding amounts to $1.651 million in 2006-07, $2.503 million in 2007-08, $1.622 million in 2008-09 and $2.371 million in 2009-10.

The Department for Correctional Services (DCS) and the Department for Families and Communities (DFC) have been provided project team costs for the tender phase of the project, and the remaining estimated costs are held in central contingencies. Funding for project team costs for DFC are set out in page 2.29 of the Budget Statement and amount to $0.146 million in 2006-07 and $0.158 million in 2007-08. Funding for project team costs for DCS are set out on page 2.15 of the Budget Statement and amount to $0.555 million in 2006-07 and $0.269 million in 2007-08.

As noted on page 5 of the Budget Overview, the new prisons and pre-release centre development will enable the Northfield site on Grand Junction Road to be vacated. This site comprises 61 hectares, and it will be transferred to the Land Management Corporation, which will produce a redevelopment master plan based on residential use. The site will not be vacated in its entirety until beyond the forward estimates. The leader then asked:

If it can estimate its payments to the private sector of being up to $13 million a year for $134 million worth of schools, what are its estimated annual payments to the private sector for correctional services facilities in excess of $500 million? It will be a nonsense for the government to claim that it cannot reveal that, because it has revealed that in the budget documents in the education PPP. As a concept, philosophy and principle there is no difference in relation to a PPP for schools or detention facilities. We are seeking from the appropriate ministers detail in relation to the proposed detention facilities in excess of $500 million.

There is a considerable difference between the services that can be provided by the private sector in a prison compared to a school. Furthermore the furniture, fixtures and equipment and facilities management requirements for prisons and schools are not directly comparable.

The government's position is that the public sector will provide core custodial services, but the range of services that may be provided by the private sector has not been finally decided. The cost of the PPP in terms of accommodation, infrastructure and services has to be offset against the current operational costs of Yatala and the women's prison as well as the current juvenile detention facilities and the pre-release centre. The estimated payments to the PPP operator net of current costs will be provided when these payments fall within the forward estimates period. The Leader of the Opposition then asked:

We seek clarity from the Treasurer as to upon what basis he believes the detention facility, in particular, will be non-balance sheet impacting and will not add to the state's net debt figure.

The accounting treatment of the PPPs is yet to be determined. Whether the PPP is on or off balance sheet depends upon the allocation of risk between the public and private sectors. For the time being, the expectation is that the private sector would bear sufficient risk in regard to the construction and operation of the facilities to result in the PPP being classified off balance sheet as an operating expense. However, the principal objective is that the state achieves value for money in entering into the PPP arrangement, not the eventual accounting treatment. The Leader of the Opposition then asked:

As we know, the state's net debt is blowing out in terms of the general government sector from some $200 million to $700 million or so. If the $500 million has to be added to it it will go out to $1.2 billion, so it is obviously a significant issue in terms of the reported net debt figures for the state. Aligned to that the state has just been through a PPP, albeit a small one, in relation to prisons and court facilities [I presume he means police stations and court facilities].

I seek from the Treasurer how that has been accounted for in relation to the state's budget figures. Was that non-balance sheet impacting, to use the Treasurer's phrase? Is that how it is being accounted for in these budget documents? Was there a discussion with the Auditor-General in relation to the accounting treatment of the PPP for police stations and courthouses? If there was, what was the advice from the Auditor-General in relation to the appropriate accounting treatment for that particular PPP, which was conducted with the firm Plenary Justice?

For accounting purposes, the regional South Australia police stations and Courts Administration Authority courts public/private partnership project has been assessed as an operating lease consistent with the requirements of Australian Accounting Standard AASB117 leases (refer to page 817 of the report of the Auditor-General for the year ended 30 June 2006). The leader then asked:

I seek a commitment from the Treasurer that, when that decision is taken by the end of the calendar year, he will, either through correspondence or through the next opportunity in the parliament, make the particular number publicly available in terms of the cap. Can the Treasurer also confirm that not only will there be a cap for the public sector as a whole, but is it still his intention to have a cap for each individual agency as he indicated previously?

It is the intention of the Treasurer that the full-time equivalent cap on public sector staff numbers will be made public once it has been established. I also advise that there will be FTE caps for individual agencies. The Leader of the Opposition then asked:

Has either the Commissioner or the Treasury produced a reconciliation of the two figures as at 30 June 2005? If so, can they provide an explanation as to the discrepancy of 2 878 full-time equivalent Public Service positions supposedly existing as at 30 June 2005? When Treasury includes in the budget papers the number of full-time equivalent positions as at 30 June 2006—or any year, for that matter—can Treasury indicate whether it is an actual full-time equivalent head count number—and I am not talking about part-time positions—or an approved head count number for departments and agencies?

The difference of 2 878 is due to one estimate being made before the time of measurement and the other representing the actual at that time. It also reflects different data collection and reporting methodologies between Treasury and Finance and

the figures reported by the Commissioner for Public Employment. The Department of Treasury and Finance has been working with agencies and the Office of Public Employment to standardise workforce collection and reporting methodologies. The leader then asked:

I am seeking clarification as to whether the Treasury numbers included in the budget papers are funded positions, or perhaps approved positions is a better way of putting it, as opposed to warm bodies, full-time equivalents actually working on 30 June of a particular year.

Generally speaking, the data reflects FTEs rather than a head count. Actual data is the number of FTEs employed, with some exceptions for externally funded employees. Data for the estimated result for budget year and beyond reflects the number of FTEs that could be employed with the available funding. Then the Leader of the Opposition asked:

First, can I clarify that the $30 million of ICT savings has nothing to do with a shared services concept and is related to the ICT tendering processes entered into by the government some three years ago to replace the then existing EDS contract? If the shared services contract does not go ahead, will either the claim of $30 million of savings (and I express some scepticism about the level of that) or some lower level of savings accrue irrespective of whether or not the shared services concept goes ahead? I seek clarification from the Treasurer that that is indeed the case, that the ICT savings really were decisions taken some time prior to Mr Smith and really have nothing to do with the work that Mr Smith might have done.

The ICT savings are related to the ICT tendering process. Any savings from this process would occur whether or not the shared services concept proceeds. The leader then asked:

Can I confirm, Treasurer, that the government has not reached that stage in relation to the South Road/Port Road/Grange Road project and that the government has not entered into final stage negotiations with a particular tenderer? If that is the case, can the Treasurer or the Minister for Transport indicate why the government is not in a position to be able to indicate in the current estimates the extent of any budget blow-out in relation to that project?

The status of the South Road upgrade program has not changed since the time of the state budget. If the status of this program has changed by the time of the release of the mid-year budget review, the government will release updated estimated program cost information at that time. The leader then asked:

Will the Treasurer outline how he believes that increase in expenditure ought to be interpreted? Is it accurate, for example, to interpret that as meaning that there was $148 million of additional expenditure going into employee entitlements, some $80 million or so more than had been budgeted? Will the Treasurer explain why for this current year the employee entitlement provision is only $19.9 million? In particular, can we clarify whether the Treasurer's answers given in the estimates committees suggest that he is able to move money from the contingency provisions for supplies and services ($102 million) into the employee entitlements contingency? If that is the case, does it make any sense at all to break up the contingency provisions into three sub-categories, rather than putting it all together? If that is what the Treasurer is suggesting, is that indeed consistent with the Treasurer's Instructions and other guidelines, and are there any concerns from the Auditor-General, given what the Treasurer seems to be flagging they are intending to do?

I also specifically seek clarification from the government about what other specific budget lines are in the administered items for Treasury or, indeed, any other budget line controlled by the Treasurer, that provide either specified contingency or headroom for the government in terms of meeting unexpected costs. Are these three lines the extent of any contingency that the Treasurer has, obviously bearing in mind, as we have seen in past years, if an extra $600 million in revenue came through the door obviously that is a different contingency? If the budget is adhered to, are these the only specific lines and contingencies available to the Treasurer and to the government under the current structure of the budget documents?

The increase in cash payments for employee entitlements in 2005-06 from the budgeted figure of $69.4 million to the revised estimate of $148.5 million reflects supplementation paid to agencies for enterprise agreement struck during the year. A number of significant groups reached agreements, including the arbitrated outcome for the wages parity group, teachers, salaried medical officers and metropolitan firefighters.

The increase above budget is due to an amount transferred from the supplies and services contingency, and additional amounts approved by cabinet for enterprise bargaining after the 2005-06 budget. The 2006-07 contingency provisions employee entitlements of $19.9 million is lower than the 2005-06 budget amount due to a reduction in the number of workforce groups that are expected to negotiate new enterprise agreements in 2006-07, and because part of the provision remains in the supplies and services contingency.

In relation to the transfers from supplies and services to employee entitlements, the Auditor-General's office has been informed of the details of these transfers and I am advised that he has raised no concerns. It is appropriate to maintain separate categorisation of the contingencies so that the expenses of government are correctly allocated by expenditure type. The lines you have identified include the government's provisions. I am comfortable with the current level of disclosure in the budget papers and I do not intend to provide any further breakdown of the contingency provisions. The Leader of the Opposition then asked:

In the estimates committee a specific question was put to the Treasurer in relation to estimated increases in staffing in the public non-financial corporation sector, and the financial corporation sector up until 2010. Can the government provide those estimates of increases to numbers if, indeed, the government has them?

The answer I am provided with is that staffing estimates in the PNFC and PFC sectors, up until 2010, are not maintained by Treasury and Finance. The budget includes estimates up to June 2007. The Leader of the Opposition then asked:

The Treasurer was asked a question in relation to a claim by the Public Service Association in a press release dated 27 September 2006, where the PSA said that it met with the Chief Executive of the Department of the Premier and Cabinet and stated that in a meeting with Mr McCann, the CEO of the Department of the Premier and Cabinet, it was said that there was a requirement that all positions at ASO level 6 and above, as well as other equivalent positions, be advertised externally or suspended from that date. I seek clarification as to whether or not that is, indeed, the case; that the requirement for those positions to be advertised externally has been suspended from that particular date by the Chief Executive of the Department of the Premier and Cabinet. If that is the case, can the CEO of the Department of the Premier and Cabinet indicate the reason for that edict from Mr McCann?

The next answer I am provided with is that Commissioner's Standards support the effective implementation of workforce policies and the personnel management standards of the Public Sector Management Act of 1995 (the PSM Act), and the protection of key conditions of employment. The standards include relevant delegations, directions and determinations of the Commissioner for Public Employment under the PSM Act. Commissioner's Standard 2 states:

All vacancies over 12 months must be advertised in the notice of vacancies and, in the case of such vacancies at the ASO6 level or equivalent, and higher levels, including executive vacancies, must also be advertised in the external press.

The above provision arose out of the 2004 Speakman-Payze Review of the Office of the Commissioner for Public Employment, and was aimed at opening up vacancies in the

Public Service to ensure that the best person is appointed to a position.

Given the current significant structural changes that are taking place as a result of the 2006 budget, it was announced that a number of tenured public sector employees will be displaced from their current roles. In order to ensure that as many staff as possible are quickly placed in suitable alternative positions, the DPC's Chief Executive has written to the Commissioner for Public Employment seeking his approval to waive the compulsory requirement for external advertising and instead make it the discretion of chief executives. The waiver was requested for a period of 12 months. The Commissioner has approved a suspension until 30 September 2007.

This approach will have a positive impact on both budget and morale whilst we are going through a major change process, as well as sending a very positive message that the government is serious about careers of existing employees. The leader then asked:

Can the Treasurer or the Minister for Transport advise the reason for the discrepancy between $175 million and $202 million and, indeed, which figure is correct in relation to the Port River Expressway project?

The answer I have been provided with is that the budgeted expenditure by DTEI on stages 2 and 3 of the Port River Expressway is correctly reported in the 2006-07 capital statement as $175 million. The $202 million referred to by the Department of Transport and Regional Services (DOTARS) represents the sum of:

- the capital cost to DTEI of stages 2 and 3 of the Port River Expressway (that is, $175 million);
- the capital cost incurred by the South Australian Infrastructure Corporation for stages 2 and 3 of the Port River Expressway ($3 million); and
- the budgeted cost of the upgrade to the Le Fevre Peninsula transport corridor ($24 million).

The Leader of the Opposition then asked:

The evidence to the Public Works Committee on 19 October 2005 about stage 3 of the Queen Elizabeth Hospital redevelopment project indicated that the estimate for the then stage 3 was $179 million. Given that the cost of stage 2 has most recently been estimated at $120 million, giving a total of $317 million for stages 2 and 3, is that the latest estimate for stages 2 and 3, or is it correct that there has been a further blow-out in the total costs of stages 2 and 3? If that is indeed the case, does the Treasurer still stand by his comment that there have been no blow-outs on the Queen Elizabeth Hospital project? Thirdly, will the Minister for Health detail the cost of all scope, services and reconfiguration changes that have increased the cost of this project from the original estimate of $41.6 million, which was included in the Budget Paper 5 of the 2002-03 budget when the estimate for building stages 2 and 3 was $41.6 million?

The answer I have been provided with is that the information provided to the Public Works Committee outlined the details of stage 2 of the redevelopment. The total capital costs for stage 2 which is in the budget and which was put to the Public Works Committee for approval is $120 million. In its submission, the Department of Health also discussed a possible stage 3 of the hospital's redevelopment with construction planned to occur from 2011. The estimated total cost of stage 2 published in the 2003 budget was $41.6 million. However, the estimate of $41.6 million reflected the cost of the project over the published forward estimates for 2002-03 to 2005-06 only. In addition, there have been significant scope increases to the project. The Leader of the Opposition then asked:

In relation to TVSPs offered prior to 30 June this year, can the Treasurer indicate whether the cost of those TVSPs was a centrally provided-for cost from Treasury, or were the individual departments and agencies responsible for the cost of the TVSP for officers within their particular department or portfolio?

Agencies were able to seek reimbursement by Treasury and Finance for the cost of targeted voluntary separation packages. Agencies were, however, required to meet the cost of any associated payouts of unused leave. The leader then asked:

Under highlights for 2005-06 in the Department of Treasury and Finance it states, 'continued to work collaboratively with the portfolios on a range of issues identified during and since completion of the expenditure reviews of the education, health, families and communities, justice and DAIS portfolios'. Have all these reviews been conducted, and can the Treasurer provide some detail on what changes have been implemented so far?

The outcomes of the expenditure reviews have been incorporated in the budget process and reflected in the provision of better information and analysis to assist in decision-making by the ERBCC and cabinet. The leader then asked:

Again under the Department of Treasury and Finance, page 3.3, will the Treasurer provide to the committee at a later date a table outlining how the South Australian government's timetable for the removal of the IGA taxes (as agreed with the commonwealth) compares with other states?

I have a table outlining the South Australian government's timetable for the removal of the IGA taxes, together with the reform timetables for other jurisdictions (as agreed with the commonwealth government). I seek leave to incorporate this table in *Hansard*.

Leave granted.

Timetable for abolishing IGA taxes in all States and Territories

	New South Wales	Victoria	Queensland	Western Australia
2005-06			100% Lease Duty and Credit Business Duty (January 2006)	
2006-07		100% of Rental Duty (January 2007)	100% Hire Duty and Marketable Securities Duty (January 2007)	50% Mortgage Duty (July 2006) 100% Rental Duty (January 2007)
2007-08	100% Rental Duty (July 2007) 100% Lease and other Minor Duties (nei) (January 2008)		50% Mortgage Duty (January 2008)	
2008-09	100% Marketable Securities Duty (January 2009)		100% Mortgage Duty (January 2008)	100% Mortgage Duty (July 2008)

2009-10	50% Mortgage Duty (January 2010)		50% Non-Realty Conveyances (January 2010)	
2010-11	100% Mortgage Duty (January 2011)		100% Non-Realty Conveyances (January 2011)	Non-Realty Conveyances (July 2010)
2011-12				
2012-13	100% Non-Realty Conveyances (July 2012)			
	South Australia	Tasmania	ACT	NT
2005-6	(Part) Mortgage Duty (July 2005)			100% Electronic Debits Tax (included in IGA Cheque Duty) (July 2005)
2006-07	100% Other minor duties (nei) (July 2006)	50% Mortgage Duty (July 2006)	100% Non-Realty Conveyances (July 2006)	100% Marketable Securities Duty and Lease Duties (July 2006)
2007-08	33% reduction in: Rental Duty and (remaining) Mortgage Duty (July 2007)	100% Mortgage Duty (July 2007)	100% Rental Duty (July 2007)	100% Rental Duty (July 2007)
2008-09	67% reduction in: Rental Duty and (remaining) Mortgage Duty (July 2008)	100% Non-Realty Conveyances (July 2008)		
2009-10	100% Removal of Rental Duty and (remaining) Mortgages Duty 50% Non-Realty Conveyances and marketable Securities Duty (both July 2009)		100% Lease Duty (July 2009)	100% Non-Realty Conveyances (July 2009)
2010-11	100% Non-Realty Conveyances and marketable Securities Duty (July 2010)		100% Marketable Securities Duty (July 2010)	

The Hon. P. HOLLOWAY: The leader then asked:

Also under highlights for 2005-06, page 3.5, it states, 'Secretariat to the review of priorities undertaken by an independent consultant' and under Targets for 2006-07 it states, 'Assisting with implementation of the review of priorities'. Will the Treasurer indicate what the review of priorities was; who was the independent consultant; what was the cost; and what was being implemented?

The review of priorities was undertaken by Greg Smith. The cost was $54 005 and an explanation of what is being implemented is outlined in Chapter 2 of Budget Paper 3, the Budget Statement 2006-07. The leader then asked:

On page 3.6, listed as part of the Investing Payments Summary table, the works in progress indicate that in 2005-06 $8.6 million was budgeted for expenditure on the Taxation Review Management System Project. In the same table, the estimated result reveals that none of this money has been spent on this project. Will the Treasurer explain this underspend and also explain why the 2006-07 budget allocates only $1.3 million to this project and has not carried forward the $8.6 million underspend?

An amount of $1.2 million was spent on the Taxation Review Management System Project in 2005-06. These costs were expensed in accordance with international accounting standards. In line with the updated timing of the project, an amount of $7.4 million was carried over from 2005-06 to the forward years. The total expenditure budgeted in 2006-07 for the project is $2.6 million. However, only $1.3 million is expected to be capitalised in accordance with accounting standards, with the remainder to be expensed.

To minimise the potential of an unsatisfactory project outcome, appropriate time has been given for detailed consideration of available and potential solutions and identification of the best approach for selecting and implementing the right technology. This prudent approach has delayed the start of the implementation phase of the project and correspondingly lower levels of spending have been incurred to date. The RFP process is currently being undertaken in 2006-07, and consequently the majority of the expenditure for the project is expected to be incurred in 2007-08 and 2008-09. The leader then asked:

Under highlights for 2005-06, on page 3.5, it states, 'prepared discussion paper on cost effectiveness indicators'. Who prepared the discussion paper and what issues were raised in it? Is a copy of the discussion paper publicly available?

The discussion paper was prepared by the Policy Analysis Branch, Department of Treasury and Finance, and outlined the difficulties in developing cost effectiveness indicators. It is noted that the Productivity Commission has produced a wide range of useful measures of efficiency and effectiveness, but to date it has been unable to develop measures of cost effectiveness. The discussion paper is an internal document and not publicly available. The Leader then asked:

On page 3.2 the work force summary table shows that there is an increase of 50 full-time equivalent staff going into the department in 2006-07. Will the Treasurer outline what branches of Treasury the increase of 50 full-time equivalent staff is going into in 2006-07?

The total estimated work force as at 30 June 2007 of 621 FTEs is an expected increase of 50 FTEs from the estimated work force as at 30 June 2006 of 571 FTEs. This is mainly due to an increase of 10 FTEs in Revenue SA for increased state taxation revenue compliance activity; an increase of seven FTEs in the Ristech Project; an increase of nine FTEs within Super SA due to additional staff to improve services to members; an increase of four FTEs in Revenue SA for the administration of land rich assessments for stamp duty; the anticipated filling of 25 vacancies for positions that were

vacant as at 30 June 2006, mainly in Revenue SA, seven; the Finance Branch, five; the GAR branch, three; SAFA, three; and a reduction of six FTEs due to savings strategies implemented from 2006-07. The staffing impacts of the Shared Services Project are yet to be determined and, accordingly, were not reflected in the portfolio statement. The leader then asked:

On page 317, will the Treasurer outline, with respect to his department and all portfolio agencies reporting to him, what were the total costs spent on conferences in 2004-05 and 2005-06, and what is estimated for 2006-07?

I am advised that the following expenditure was incurred for conferences: 2004-05, Department of Treasury and Finance, $96 715; electorate offices, $1 949; Essential Services Commission of South Australia, $11 289; the Motor Accident Commission, $20 374; Funds SA, $21 506; and the Electricity Supply Industry Planning Council, $9 438. For 2005-06: Department of Treasury and Finance, $155 276; electorate offices, $4 509; Essential Services Commission, $18 385; Motor Accident Commission, $11 502; Funds SA, $40 950; and Electricity Supply Industry Planning Council, $6 377. Expenditure in 2006-07 is expected to be consistent with previous years. The leader then asked:

Under 'Highlights for 2005-06' on page 3.5 it states: 'finalisation of reviews of Treasurer's Instructions 17 and the guidelines for the evaluation of the public sector initiatives in response to recommendations of Economic Development Board for implementation in 2006-07'. What changes, if any, were made to the guidelines? Given the Treasurer's Instruction 17 is publicly available on the Treasury website and the guidelines which form part of this instruction not publicly available on the website, is the Treasurer prepared to make available to the opposition and the parliament a copy of those guidelines?

I have been advised the guidelines for the evaluation of the public sector initiatives have been reviewed following the recommendations made by the Economic Development Board. I am not in a position to provide a copy of the guidelines until cabinet has approved the changes. It is anticipated that cabinet will consider these guidelines over the coming months. Following approval, the guidelines will be distributed and placed on the Treasury and Finance website. The leader then asked:

In relation to the Treasury, on page 2.11 of Budget Paper 3 savings initiatives, departmental efficiencies, efficiency dividend and superannuation services efficiencies are outlined. Will the Treasurer, in relation to his own department, outline what departmental efficiencies and efficiency dividend changes will be made to achieve the savings that are outlined on that page?

I have been advised that DTF savings initiatives to be implemented in 2006-07 are: first, departmental efficiencies ($0.858 million):

- Salary savings of $0.472 million through vacancy management and reduction of staff numbers in various branches. The department traditionally has a high turnover of staff and substantial savings are expected as a result of continued difficulty in filling vacant positions as occurred in 2005-06.
- Consultancy savings of $56 000 in the Project and Government Enterprises Branch.
- Administration savings at $41 000 mainly in corporate expenditure.
- Savings of $0.141 million through reducing the information technology expense budget.
- Salary savings in SAFA of $0.150 million mainly through internal restructuring.

Secondly, the efficiency dividend ($0.118 million):

- Salary savings through vacancy management and reduction of staff numbers in various branches.

Thirdly, superannuation service—efficiencies:

- Savings will come from efficiencies within Super SA administration. These savings will be reflected in lower charges to the public sector defined benefit schemes and consequent lower contribution from the budget for these schemes. These efficiencies commence in 2007-08.

The leader then asked:

In relation to the $76 million included in Volume 1, page 4.44, other traffic infringements notices are referred to which add up to $16.7 million in terms of expiated returns. If one looks at the reply Deputy Commissioner White gave in the estimates committee, there is a line which says 'Traffic infringement notices, $16.7 million', yet he has separate figures for speed cameras (mobile), $19.7 million; speed cameras (fixed), $22.3 million; and red light cameras, $13.3 million. He then has another category called 'traffic infringement notice', $16.7 million. I would like to see some explanation as to what they are if they are not any of the three previous categories. He then has another category of 'other expiated notices', $4 million. I want to clarify: are those other expiation notices related to traffic and speed and other traffic offences, or do they include other expiation notices such as drug expiation notices, for example, for marijuana and other issues like that?

I have been advised that revenue related to 'traffic infringement notices' ($16.7 million) is from notices issued for offences against the Australian Road Rules and the Motor Vehicles Act, other than camera detected speed and red light offences. Notices issued in this category include offences such as exceeding applicable speed limit (detected by hand-held laser, mounted radar, etc.), traffic light offences (observed by a police officer), driving whilst having prescribed concentration of alcohol in blood, drug driving, failing to wear seatbelt, using a hand-held mobile phone while driving, various stopping and parking offences and driving while unlicensed.

The revenue categories that comprise 'other expiation notices' include revenue from expiation notices issued for offences in areas such as cannabis and offences against various acts and/or regulations associated with transport, health, fisheries marine safety, national parks, SA Water, animal health, Office of Consumer and Business Affairs and others. Also included in this category is revenue received from reminder notices ($30 fee issued when expiation notice is not paid within 30 days of issue) and corporate fees. Corporate fees ($300 per notice) are for expiation notices issued as a result of a camera detected offence where the offending vehicle is not registered to an individual (that is, to a company, government agency, etc.) and is expiated without a driver being nominated.

They are the answers, as I said, to the majority of the questions that were asked during the debate. I repeat that the remaining questions will be answered as soon as possible and the responses provided as they become available. I commend the bill.

Bill read a second time.

STAMP DUTIES (LAND RICH ENTITIES) AMENDMENT BILL

In committee.

Clause 1.

The Hon. R.I. LUCAS: I thank the government for the answers that were provided in response to the second reading. In the interest of expediting matters, unless there is a problem, there are one or two issues I want to raise now rather than repeat them through the various clauses. Hopeful-

ly they can be resolved and then we do not have to go through each of the clauses.

I refer to the response that was provided by the minister's advisers in relation to question 2, which is the 80 per cent/60 per cent provision. I want to clarify one of the questions that I asked based on questions which had been put to me by lawyers and accountants operating in the field. It was whether or not it would be possible to address the issue of the artificial increasing in intangible assets by providing clearer guidelines on the appropriate method of valuation for intangibles. In the response that has been provided, that particular issue is not addressed.

I am guessing that the commissioner's response is that he does not believe it is but, nevertheless, I would like to have on the record the official response on this issue. As I said, some practitioners understand the issue or the concerns and they argue whether it would be easier for the commissioner to indicate through the legislation how they are going to value intangibles, and therefore practitioners will be in the position of understanding the commissioner's approach on the issue.

The Hon. P. HOLLOWAY: The advice I have is that this is a complex and subjective field and it would be very difficult to provide clear guidelines in this case as very complex case law is involved.

The Hon. R.I. LUCAS: I would like clarified—and again I suspect I know the response—whether the general approach in other jurisdictions is similar. I take it that the commissioner is arguing that no other jurisdiction has been able to look successfully at this alternative mechanism of providing clearer guidelines on the appropriate method of valuation for intangibles.

The Hon. P. HOLLOWAY: My advice is that that is correct.

The Hon. R.I. LUCAS: I turn to the answers provided to question 4 on that list, which related to fixtures or anything fixed to land, in section 91A(3). The response that has been provided states:

> Leased plant and machinery may be caught by these provisions if separately owned from the land for the purpose of avoiding land rich duty.

Is that response indicating that leased plant and machinery in this circumstance would have been caught by the existing legislation anyway, or is it confirming this will only be the case if this bill is passed?

The Hon. P. HOLLOWAY: Under the current law leased plant and machinery may not be caught if it is leased because it could be separately owned; in other words, not by the owner of the land. However, the bill seeks to change that so that that would not be the case; in other words, so it can be caught under the legislation (as it would be) if the bill is passed.

The Hon. R.I. LUCAS: Will the minister indicate what the policy explanation is? If one is leasing plant and machinery on a property, what is the government's argument as to why the value of the leased plant and machinery ought to be part of the land valuation?

The Hon. P. HOLLOWAY: The policy position is that as long as plant and equipment is fixed to the land then it should be included in the value. The test is whether it is fixed to the land and, if so, then it should be included in the valuation.

The Hon. R.I. LUCAS: I understand that is what the minister's advice is. I am trying to understand the logic of the Commissioner arguing that. We understand why the land rich provisions are there. The second reading explanation and contributions outline that the land rich provisions are there to stop people rorting the system, in essence. What is the potential rort of the system? You have land and you have leased plant and equipment to do whatever business it is that you are doing on it. In essence, you have not paid upfront the cost of it but you are leasing it; someone else owns it and you are making a lease payment. Why does the Commissioner believe we need to have the leased value of the plant and equipment included as part of the land value to prevent rorting? What is the potential rort being prevented by including the value of leased plant and equipment?

The Hon. P. HOLLOWAY: Essentially, if you buy a company that owns land, then anything that is fixed is included in that valuation. However, if it was separately owned, that might provide a way of getting around the appropriate tax that is payable.

The Hon. R.I. LUCAS: But my question is in relation to the appropriate taxes payable. If you have leased a tractor, a forklift or a combine harvester, what is the anti-rorting argument from the Commissioner that that ought to be included in the valuation of the land?

The Hon. P. HOLLOWAY: My advice is that in the example given by the Leader of the Opposition they are effectively chattels, so the items he listed would not be regarded as fixtures. Plant and machinery fixed to the land would include heavy plant like a factory, for example. Again, I come back to the point that the test is 'fixed to the land', and the tractor and combine harvester would not be fixed to the land.

The Hon. R.I. LUCAS: Allied to that point, the answer provided to me indicates that electricity infrastructure on land is currently considered to be part of the land for the purposes of the land rich provisions. Perhaps I should clarify that, when I was considering electricity infrastructure, I was looking at the possibility of transmission lines traversing a property. From my viewpoint, they do not add much to the value of the particular property. Nevertheless the electricity companies have a right of way across properties. Is that the electricity infrastructure that we are referring to or is it different electricity infrastructure?

The Hon. P. HOLLOWAY: My advice is that this would be referring to the actual plant where the electricity is generated.

The Hon. R.I. Lucas: This is plant that provides electricity to that particular property? It is not plant that is used by the transmission or distribution company to distribute it across properties?

The Hon. P. HOLLOWAY: I am told that it could be if the actual electricity plant that generates the electricity is on the property. However, if it is not owned by the landowner, it would not be included.

The Hon. R.I. LUCAS: If it is not owned?

The Hon. P. HOLLOWAY: Yes.

The Hon. R.I. LUCAS: If that is the case, that would rule out a number of issues that have been raised with me. I turn to intangible assets, such as licences and goodwill. The minister's advice is that intangible assets, such as licences and goodwill, may be encompassed in the value of the land. In the example I gave of a liquor licence, the minister's advice is that the valuation of a liquor licence or a gaming licence under the existing legislation might be incorporated into the value of the land.

The Hon. P. HOLLOWAY: I am advised that it would be difficult to see how that would happen but, in any event,

the status of that is not changed by anything within this legislation.

The Hon. R.I. LUCAS: Is the minister saying that, under the current legislation, something such as a liquor licence is unlikely to be included in the valuation of the land? Is that the minister's advice?

The Hon. P. HOLLOWAY: My advice is that that is the case. However, again the case law is complex, and it would have to be considered on a case by case basis.

The Hon. R.I. LUCAS: I turn to question 5 and the answers provided. This is the issue some practitioners have raised in relation to the increasing use of discretions. As I suspect, the Commissioner has given an explanation as to why it is important to have discretions—because of the complex nature of legislation. As I read it, he seems to be indicating that we are no better or worse than anybody else. Nevertheless, part of the response is that in most cases these discretions are reviewable decisions. I ask the minister to clarify what he means by that.

I must admit that, as a non-lawyer, I assume that the reason that there was a discretion was to prevent its being reviewed by a court. The Commissioner has a discretion and, ultimately, if he does something that is outside the law that is obviously challengeable at law. However, if it is clearly within the Commissioner's discretion either to include something or not to include something, I assume that is not reviewable. Is the minister's adviser indicating that that too is reviewable and can be taken to a court and challenged and that, whilst we accept that the Commissioner has a discretion, the complainant might say, 'We think that he should have exercised the discretion in another way'?

The Hon. P. HOLLOWAY: My advice is that, under the Tax Administration Act, some decisions are non-reviewable, but they have to be specifically stated within the act. So, in a case where they are not specifically stated, they are reviewable.

The Hon. R.I. LUCAS: Is it the minister's advice that there is precedent in South Australia in the areas where the minister has a discretion and where a complainant has challenged that particular discretion in a court under the current arrangements?

The Hon. P. HOLLOWAY: My advice is that there is a number of cases where there have been challenges to that precedent.

The Hon. R.I. LUCAS: The final area I want to query is that, right at the very end of my consultations with the industry, I received a copy of a letter, which has also been copied to Revenue SA (or vice-versa), as I understand it, from Mr Paul Ingram. He represented the Law Council of Australia at Revenue SA's accountants and solicitors consulting group. He prepared a submission (dated 7 November) on behalf of the Law Council of Australia and other professional bodies regarding the abovementioned bill. It is indicated to me that 'these concerns are set out in the joint submission which was sent to Revenue SA this morning', so I assume that is 7 November. I want to clarify whether the minister's advisers have a copy of that submission from Mr Ingram.

The Hon. P. HOLLOWAY: Yes, they have.

The Hon. R.I. LUCAS: A number of those issues from Mr Ingram have been raised with the consultative body that the opposition and a number of other practitioners have consulted with and, therefore, they have covered some of the issues, but Mr Ingram cites four separate case examples of concerns that he and others have which he has appropriately labelled case 1, 2, 3 and 4 in annexure A. I want to work my way through those, because I want to get on the record the government's advice in relation to the concerns that have been raised by Mr Ingram in respect of those four case studies. In relation to case 1, will the government advise what the Commissioner's advice is on the concerns that are outlined by Mr Ingram?

The Hon. P. HOLLOWAY: My advice is that just today the officer advising me spoke to Mr John Tucker who I understand drafted those questions. I believe that he is satisfied that the bill meets the concerns he has expressed. I gather there was some confusion in relation to these cases because of the dates given. My advice is that the practitioners who raised these issues are satisfied that the bill addresses the concerns.

The Hon. R.I. LUCAS: Can I just clarify that? The minister's advisers have consulted with Mr Tucker and, as to the concerns that they have raised, they accept that they are no longer concerns? I guess that is what I am looking for. As I read this, the practitioners have said, 'We still have concerns with the way this legislation is drafted. Here are four examples.' I outlined a previous example to which the government has already responded saying, 'No, we do not think there is a concern. We would not interpret it in that way'. The practitioners have come back and said, 'These are four other cases with which we are concerned as to the way the commissioner might use this legislation.' Can I clarify that—having consulted with Mr Tucker—the assurance is that the practitioners are no longer concerned that the commissioner will be interpreting the legislation in a way which would be of concern to them.

The Hon. P. HOLLOWAY: My advice is that those concerns were fundamentally met. I have also been advised that an undertaking was given that, if any difficulties arise in these provisions as they go forward, they would be addressed either through clarification through a circular or, if necessary, legislation.

The Hon. R.I. LUCAS: I thank the minister for that. I am aware of the quality of advice the minister is receiving on this issue and I accept the fact that if the minister's adviser has given that assurance on behalf of the Commissioner and the government that that is certainly the office's intent and the Commissioner's intent. I am happy to accept that undertaking on behalf of the government. I have to say at this late hour that, if the discussions have been held today with Mr Tucker, I have obviously not had any contact with Mr Tucker today. One option would be to delay the legislation until tomorrow, but I am prepared to accept the undertaking the minister has given on advice from the officers concerned, and with goodwill. If there are concerns, as the practitioners originally thought there might have been, I accept the undertaking that with goodwill the issue might be able to be clarified and sorted out in some way; if not, we will have the opportunity in opposition to raise the issues publicly and remind the government of the undertaking that has been given. I am prepared to accept that undertaking and have no further questions.

Clause passed.

Remaining clauses (2 to 13), schedule and title passed.

Bill reported without amendment; committee's report adopted.

Bill read a third time and passed.

PUBLIC FINANCE AND AUDIT (AUDITOR-GENERAL RETIREMENT AGE) 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 detailed explanation of the bill inserted in *Hansard* without my reading it.

Leave granted.

The Auditor-General is appointed by the Governor under the Public Finance and Audit Act 1987. The office of Auditor-General is independent of politics and operates to ensure that the public finances of South Australia are used appropriately and to the best possible benefit of the State.

Clearly, the role of Auditor-General is a significant instrument of democratic accountability and transparency. The role is essential to effective governance.

This Bill raises the retirement age for the position from 65 to 70 years so that occupants of the office of Auditor-General can continue to make their valuable contribution to the people of South Australia.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title
2—Commencement
3—Amendment provisions
These clauses are formal.

Part 2—Amendment of *Public Finance and Audit Act 1987*

4—Amendment of section 27—Vacation of office of Auditor-General

The proposed amendment increases the age at which the office of the Auditor-General becomes vacant from when the Auditor-General reaches 65 years to 70 years.

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

DEVELOPMENT (DEVELOPMENT PLANS) AMENDMENT BILL

Returned from the House of Assembly without any amendment.

STATUTES AMENDMENT (PUBLIC SECTOR EMPLOYMENT) BILL

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

ADJOURNMENT

At 10.35 p.m. the council adjourned until Thursday 16 November at 2.15 p.m.