LEGISLATIVE COUNCIL

Thursday 22 November 2007

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:01 and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (11:02): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15pm.

Motion carried.

CONTROLLED SUBSTANCES (POSSESSION OF PRESCRIBED EQUIPMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 November 2007. Page 1459.)

The Hon. A. BRESSINGTON (11:03): I rise to indicate my support for this bill. However, I am a little confused: we have now been waiting for almost two years for a hydroponics bill from the government that was to be bigger and better than anything we have seen before, yet on reading the bill I was concerned that it really does not go far enough. There is more to dealing with the hydroponics problem than simply banning a few pieces of equipment—although that is a start, I give it that. In my opinion there are other things that need to be taken into consideration when trying to deal with this problem, but I also recall that the Hon. Paul Holloway said, in his explanation, that this is the first of a series of bills to deal with this. I will be interested to see exactly what approach will be taken with that.

Looking at the bill, I am considering whether some amendments could be made regarding some of the equipment mentioned; however, I am happy that the government has made a move to finally deliver on at least something to do with hydroponics. I must say that I am a little disappointed in what is contained in the bill, but I will wait until, hopefully, some time next year for the other pieces of legislation that are supposed to fit with this.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (11:05): I understand that all members who wish to speak on this bill have done so, and I thank them for their indications of support.

I would like to address some questions asked by the Hon. Michelle Lensink. The first was about the time it has taken to bring the Controlled Substances (Serious Drug Offences) Amendment Act 2005 into operation. I sympathise with the honourable member's concern; it has been an unusually long and drawn out process. The Controlled Substances (Serious Drug Offences) Amendment Act was assented to on 8 December 2005. The operation of the act depends on the existence of very lengthy and detailed regulations consisting mainly of lists of drugs and chemicals. These lists run to pages and had to be compiled with the assistance of expert chemists and forensic scientists.

In addition, the legislation requires amounts to be set for each drug representing trafficable, commercial and large commercial quantities. There was a national process set up by the Ministerial Council for Drug Strategy to do that job, and this national process took about 18 months. Further consultation with SA Police took another three months, and the drafting exercise was also extremely technical. The result is that this will all come into effect on 3 December 2007—effectively, next week.

The Hon. Ms Lensink also asked whether or not pill-crushers, as used by nursing homes, would be included in the list. We have supplied an indicative list that the honourable member will note does not include pill-crushers. This list is still being finalised, and the final version will consist of what the government is advised is equipment commonly used in the manufacture or cultivation of illicit drugs. Whether pill-crushers are placed on the list will depend on that advice; however, if pill-crushers are included I very much doubt that any specified uses will be exempt. The point is that the listed equipment is not banned; it is declared to be presumed unlawful and has to be justified to a police officer and, failing that, a court. That is the policy behind the measure. It is not

intended to be a system of regulation of equipment by licensing or anything of that sort. I trust that answers those questions. I hope that it answers the first question also and addresses the issues raised by the Hon. Ann Bressington. If it does not, we can deal with it in committee. Again, I thank members for their indications of support.

Bill read a second time.

In committee.

Clause 1.

The Hon. P. HOLLOWAY: The Hon. Ann Bressington did ask a question but, unfortunately, I was having other discussions at the time. She asked about progress on the legislation in relation to hydroponics, and my advice is that, in terms of those discussions, the South Australian police are considering their position in relation to those issues. As soon as that work is finalised it will be drafted with the Attorney.

Clause passed.

Remaining clauses (2 to 5) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

LIQUOR LICENSING (CERTIFICATES OF APPROVAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 November 2007. Page 1392.)

The Hon. R.D. LAWSON (11:11): The Liberal Party supports the passage of this bill, which makes sensible amendments to the procedures for obtaining a certificate of approval for proposed premises, which certificate is granted under the Liquor Licensing Act. The current scheme was drawn, I believe, with perhaps a misunderstanding of the effect of planning and building act approvals and seems to have assumed that those approvals will be obtained at the same time, such approvals being the prerequisite for the obtaining of a certificate of approval for a proposed premises under section 59 of the Liquor Licensing Act.

The minister's explanation introducing the bill mentioned the Redlegs case in March of last year, and the observations of Judge Beazley in relation to that, as well as a Supreme Court decision affecting the interpretation. The amendments will mean that only planning approval need be obtained before obtaining a certificate of approval under section 59 for the granting of a licence, and under section 62 for the granting of a certificate of approval for the removal of a licence to proposed premises. This is a sensible amendment.

The only concern one might have about amendments of this kind is that liquor licences and other licences under that act are, to some extent, a barrier to entry of new participants in this important industry and, as such, are seen by many as a protection which existing operators have for exclusivity and an opportunity which they have, by reason of their rights of objection, to defeat or delay proposals for the grant of new licences.

One can debate endlessly about that matter. Our view is that the current act strikes a correct balance for the rights of people who hold a licence and who have made substantial investments to continue to operate free from unnecessary competition. We must bear in mind that this is a particular industry which does have the capacity to do community harm if the principles of responsible service of liquor are not maintained, and that the operators of licensed premises have the requisite commitment to honour those requirements and also to continually upgrade their premises for the benefit of the public and to maintain the levels of service that the public deserve. This measure will not interfere with any of those matters but will facilitate to some extent new entry into the market and remove unnecessary impediments. So, we will support the bill. My only question to the minister is: when is it envisaged that this bill, once passed, will be brought into operation?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (11:16): I thank members for their support of this bill, which will permit a certificate of approval to be granted upon an application satisfying the licensing authority that he or she has obtained planning consent as opposed to planning and building consent development approval. This bill will lower the cost to

the applicant to obtain a certificate, as only planning consent will be required. It will also enable more expedient processing of licence applications as it will allow applicants to resolve any objections or issues with their application for a liquor licence without added time or expense. As indicated, industry is supportive of these changes and I thank members for their support and look forward to this matter being dealt with expeditiously in committee.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.D. LAWSON: I asked the minister in the second reading debate to indicate whether there would be any delay in the implementation or bringing into operation of these amendments and she omitted to respond. Is any delay envisaged or will these provisions be brought into operation immediately?

The Hon. G.E. GAGO: I am unable at this point to give an exact indication about when we would anticipate its introduction. I am not aware that we would be looking at any delay or that there is any impediment, but unfortunately at the moment I do not have the advice to answer that question, but I certainly give a commitment to make that information available to the member as soon as I have it.

The Hon. R.D. LAWSON: I thank the minister for that information and ask that that information be made available in writing as soon as possible.

The Hon. G.E. GAGO: I give a commitment to do that.

Clause passed.

Remaining clauses (2 to 5) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

PRIVATE PARKING AREAS (PENALTIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 November 2007. Page 1395.)

The Hon. R.D. LAWSON (11:21): The opposition supports the bill to amend the Private Parking Areas Act by providing that the maximum fine for parking offences under this act be brought into line with those under the Australian road rules. The matter of private parking areas and the operation of the Private Parking Areas Act is a matter of some concern. All members would be aware of widely and frequently reported cases where what one might term 'shady operators' use the powers granted under the Private Parking Areas Act to exact penalties from persons who are insufficiently aware of the consequence of parking in private parking areas as defined.

Although the act provides that a notice is required to be placed in a private parking area indicating that it is a private parking area and the consequences for parking there improperly, those notice provisions require re-examination, because too many people are presently being fined for parking in places where the notices are not as prominently displayed as they could be. The notices might look fine when the car park is empty, but when it is full at night, etc., people can be and frequently are confused if you believe what they are saying.

We do not believe that this particular bill is the occasion on which to examine all of the provisions of the Private Parking Areas Act and to look at some of the activities usually ascribed to a well-known person about town, Mr Damian Lester, but we do believe that, at an appropriate time, those practices should be more closely examined. However, we have no objection at all—and, indeed, support—this bill, which will provide for the same penalties under the Private Parking Areas Act as will be allowed under the Australian Road Rules.

As the minister's second reading explanation outlines, the principal area of concern here relates to parking in a disabled person's parking space without the necessary permit. The minister mentioned that in 2005 the Department for Transport, Energy and Infrastructure undertook a review of the Disabled Persons Parking Permit Scheme relating to the level of compliance and enforcement provisions of the scheme.

The minister said that one of the recommendations was to increase the expiation fee for parking in a disabled person's parking space without a valid permit. In consequence of that, the expiation fee under the road traffic regulations was increased and, under that act, it is currently increased to $227. However, the fee payable under the Private Parking Areas Regulations is only $78.

It is reported in the introductory speech that a number of recommendations were made in 2005 in that review. I ask the minister to indicate whether that review was ever published or tabled in the parliament; and, secondly, what were the other recommendations (the speech indicates that this was merely one of them in relation to disabled persons' parking spaces), and were the other recommendations adopted? Does the government have any evidence of the level of noncompliance with the disabled persons' parking regime, and has that been published?

The minister also mentioned that the government has approved amending the road traffic road rules ancillary miscellaneous provisions to increase the maximum penalty for parking and stopping offences under the Australian Road Rules from $500 to $1,250. Noting that approval, when is it intended that the government will amend those regulations, and what is the justification for increasing this penalty by over 100 per cent? Is it revenue raising, or is the level of noncompliance such that a more significant maximum penalty should be provided for?

As the minister noted, the vast majority of parking and stopping offences are expiated and, given that the expiation fee will be $227, what is really the justification for increasing the maximum penalty if one does not expiate the offence to $1,250? If the minister is able to answer those questions in the response (and I know we want to get this bill through today), I would welcome that; otherwise, a response in writing would be appreciated.

The Hon. A.L. EVANS (11:28): I rise to indicate Family First's support for this bill. The bill simply lifts the penalties under the act, with a principal focus on harmonising the penalties for illegal parking in a disabled parking space between public and private areas. The difference, as it currently stands, is a maximum penalty of $200 in private areas compared with $1,250; and an expiation free of $78 compared with $227.

This bill lifts the private bans to the public levels. I was shocked to read that the last increase in penalties was in 1987. My colleague the Hon. Dennis Hood has pointed out that there is surely merit in these sort of penalties going up with CPI, rather than addressing them in a piecemeal fashion, and I agree.

I become annoyed when I see people parking in disabled spaces when, from what you observe, those people parking in those spaces are not disabled. Being disabled is hard enough as it is, let alone their having to park in a normal parking space in order to get to the shops, surgeries, or wherever else they might be going. These disabled spaces are sometimes nice and wide and in a safe place, which makes access to their vehicle easier, and I really have no sympathy for uncaring people who park in a disabled space without excuse. So, Family First supports the increasing of the penalties as indicated in this bill.

I appreciate what the minister said in the other place about whether a casual onlooker can tell whether or not someone is disabled, and I use that as a brief segue into what I believe is an important and related issue. I applaud the initiatives of supermarket car park owners to have baby parking spaces for parents—often mothers—who have to get babies or toddlers and their associated prams or strollers out of their cars. There can never be any doubt whether a baby coming out of a baby seat is a baby or not—though my younger constituents tell me that The Chaser tried to get away with it once.

Having baby parking spaces is an excellent Family First initiative that should be encouraged throughout the state. Perhaps, as we look at private parking areas, the minister will take note of my comments about baby parking spaces and, when she advises them about the increase in penalties, she could look at persuading the operators of private parking areas at the same time to follow the good lead of others regarding baby parking spaces. I might add that I do not think that we would go as far as making it illegal to park in those spaces, but perhaps it would be good just to have private car parks mark those spaces as a priority for parents with babies. With those comments, I support the bill.

The Hon. M. PARNELL (11:31): The Greens are pleased to support this bill, because we believe it is desirable that the penalties and the expiations be consistent between private parking areas and parking areas in public places that are governed by other rules. I think most of us appreciate that we need to give preferential treatment to people who have mobility issues, which

makes it more difficult for them to travel longer distances. So, most of us support having disabled car parking places that are closer to the entrances of buildings.

I will reflect briefly on the earlier contribution of the Hon. Andrew Evans, when he noted that we often look askance at someone we see parking in a disabled car parking space who does not look to be disabled. I think it is important that we focus on the permit rather than on the person, because disability takes a number of forms, and we also have to consider the important role of carers in transporting people who have disabilities.

For example, I have a very elderly and frail relative who travels with me, and the disabled permit might be in the window of my car. I might park in a disabled spot and leap, able-bodied, out of the car, yet I will be going inside to collect a frail, elderly person who really could not walk to the far-flung reaches of that car parking space. So, I think it is important that we focus on the permit and not the person. The Greens support this legislation, because we believe that the same standards should apply, regardless of which law regulates the car park in question.

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (11:33): I thank all honourable members for their support for this very sensible piece of legislation. This bill proposes to make penalties and fees for parking offences under the Private Parking Areas Act 1986 consistent with a similar offence under the Road Traffic Act 1961. In particular, this will ensure that the expiation fee for parking in a disabled person's space without a valid permit will now be $227, which will help to ensure that only those who are entitled to use a disabled person's parking space use it.

I have noted the questions asked by the Hon. Robert Lawson, and I will attempt to answer at least some of them during the committee stage. If I am not able to do so, I certainly give my commitment to ensure that a response will be provided in writing as soon as possible. I duly note the comments of the Hon. Andrew Evans around baby parking spaces. I appreciate the Hon. Mark Parnell's sobering reminder that, indeed, when it comes to disability parking issues, one needs to focus on the permit and not the person. Again, I thank members for their support for this piece of legislation.

Bill read a second time.

In committee.

Clause 1.

The Hon. G.E. GAGO: With respect to the questions asked by the Hon. Robert Lawson about the justification for the increase from $500 to $1,250, I am informed that, on the advice of parliamentary counsel, it is necessary to have a maximum penalty for any offence well above that of the expiation. With respect to the other questions, I give a commitment to provide the answers in writing as soon as we possibly can.

Remaining clauses (2 to 6) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

STATUTES AMENDMENT (YOUNG OFFENDERS) BILL

Adjourned debate on second reading.

(Continued from 15 November 2007. Page 1363)

The Hon. S.G. WADE (11:38): I rise to speak on this bill and indicate opposition support for it. One of the matters to be remembered by the council is that the objective of section 3 of the Young Offenders Act 1993 is:

> ...to secure for youths who offend against the criminal law the care, correction and guidance necessary for the development into responsible and useful members of the community and the proper realisation of their potential.

Most young people responsibly progress to adulthood without drama. Most have only a brief encounter with the justice system while others become entrenched in criminal behaviour. In this context it is relevant to consider a paper issued by the Office of Crime Statistics and Research from Skrzypiec & Wondersitz entitled 'Young People Born in 1984—Extent of Involvement with the Juvenile Justice System'. The study looked at South Australians born in 1984.

The significance of this group is that it was the first cohort to pass through the new juvenile justice system. I point out that 20,902 individuals were born in 1984 and living in Australia between 1994 and 2001 at a time when they were aged between 10 and 17 years of age. As an aside, I note that I have a niece who was born in South Australia in 1984; she is part of this cohort. Of this cohort, 3,489 (16.8 per cent) were apprehended by police at least once as a juvenile. I can advise the council that, as far as I know, my niece is not one of that 16.8 per cent.

Of the young people apprehended the majority had only one contact with the juvenile justice system and only 2 per cent of those South Australians were apprehended on more than five occasions. These statistics highlight that, in these crucial formative years, it is vital that we take the opportunity of contact with the criminal justice system to encourage young people to divert their energies to constructive activity. For such interventions to be effective they need to be sustainable and cost effective.

There is no point wasting time and money on trying to divert young people who are resolutely committed to criminal behaviour. The opportunity cost of such waste is that young people who would respond to diversionary interventions will not get it. The Cappo report noted that studies consistently find that a small subgroup are likely to continue offending into their 20s and 30s. Many jurisdictions acknowledge that the only way to protect the community from this group of offenders is to remove them and place them in detention.

On this basis, the opposition considers that the third group—the serious recidivist offenders—indeed warrant a different and fresh approach. In this context we welcome the fact that this bill makes it easier for the Director of Public Prosecutions to elect to take an offender directly to the Magistrates Court. This new provision is aimed primarily at recidivist young offenders. Accordingly, both the DPP (in deciding whether to take the matter straight to the Magistrates Court) and the magistrate (in making a determination of further hearing) must determine whether a youth poses an appreciable risk to the safety of the community.

In order to assess this they must consider five factors, which are mostly concerned with prior behaviour and recidivism. The bill also deals with aggravated offences and child witness provisions, which the opposition also supports. The opposition's main concern in relation to this bill is in fact the delay in seeing it. This bill highlights the government's lack of action on juvenile justice. In July 2005 (2½ years ago) the House of Assembly Select Committee on the Juvenile Justice System reported, yet it took an outbreak of youth crime for the government to act.

Through 2006 and 2007 South Australia has been subjected to sustained criminal activity by the so-called 'Gang of 49'. Only then has the Attorney-General acted to address issues highlighted in the select committee report. He introduced this bill in October 2007. Amongst an extensive range of community consultation highlighted by his recent report on juvenile justice, Monsignor Cappo said:

> In particular, the recent report of the select committee on the youth justice system (2005), chaired by the Hon. R.B. Such MP, provided a wealth of material, and is an important foundation for this report.
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> It was extremely useful in formulating the directions and recommendations of this report and many of its recommendations are reinforced by the recommendations below. I hope that this report and its recommendations will be seen as an indepth response to the Such report.

It is evident from the statements by Monsignor Cappo that the government has been failing to act on the select committee report. It seems that yet again the government is not willing to recognise wisdom as wisdom unless it comes from within the government. The shadow attorney-general noted that both the Cappo report and the juvenile justice select committee highlight that the key to nearly everything in relation to juvenile justice is early intervention. The government's tardiness in addressing these recommendations has been far less pro-active—hardly early intervention.

The Hon. SANDRA KANCK (11:45): I rise to speak against what is yet another mean spirited, short-sighted and ill considered piece of legislation. This is the government's legislative response to the investigation into a group of young men and boys, a number of whom are Aboriginal people, some of whom have broken the law more than once and who are subject to the police's Operation Mandrake and who are known in the media as the Gang of 49.

The Law Society opposes this bill, and I thank it for providing a copy of its recent letter to the Attorney-General about the bill. In early April it also emailed to MPs its submission made by its Children and the Law Committee to the Social Inclusion Unit's consultation on serious repeat juvenile offenders. This very effective submission effectively argues the case against this legislation even before it was drafted. It states:

Our young people are a product of the society that we as adults create. They are not outside, but rather are directly affected by the choices and decisions that our community makes. They are our children, our family, our grandchildren and they do not exist in a vacuum.

The amendments envisaged in this bill will marginalise an already highly disadvantaged group of young people, clog our courts and prisons and soak up millions of taxpayer dollars. The Law Society reminds us that this group is a very small group within our population when it further states:

They cannot and should not be 'labelled' as serious repeat offenders, but rather be recognised as people with complex needs and, in many cases, significant disadvantage.

The Law Society backs this up with an analysis of the backgrounds of some of these offenders, as follows.

An analysis of their lives reveals a childhood history of family conflict, being victims or witnesses of domestic violence, being the subject of care and protection notification proceedings, school truancy and exclusion, developmental delay, drug and alcohol use (their own and their families), and issues associated with experiencing intergenerational unemployment and poverty (e.g. lack of positive role models to encourage personal success, poor health and nutrition, low sense of self worth). Thus, to address the root causes of repeat offending, the South Australian government must fund a raft of interventions that address each and every one of the above listed factors, a list that is by no means exhaustive.

Parts 2 and 3 of the bill would introduce harsher penalties for those offenders who commit an offence in company with children by categorising these offences as aggravated and potentially classifying them as major indictable offences. These offences would apply equally to a 15 year old who commits an offence in company with his 16 year old peer as a 30 year old who offends in the company of a 14 year old. This is a cruel and stupid amendment. It is stupid because it is too rigid. There is a world of difference between the power and therefore responsibilities of a 30 year old in relation to a 14 year old and a 16 year old who is a peer of a slightly younger person.

This law would treat the Artful Dodger, the boy who led Oliver Twist into crime as a means of survival, as harshly as it would Fagan, the adult mastermind of the gang of child pickpockets. The central issue should surely be whether an adult is abusing their power over a younger person, and we already have laws to deal with this.

Section 10(1)(5) of the Criminal Law (Sentencing) Act requires the court to have regard to the circumstances of the offence which, as the Law Society points out, can include the element of encouraging another to commit an offence. Section 10(1)(j) of that same act allows the court to impose a sentence that has a deterrent effect on the defendant or other persons so, again, one has to ask why we have this bill before us.

Clause 5 of part 3 of the bill makes it a relevant factor in sentencing if an offence was committed in circumstances where it could be seen or heard by a child other than a child victim. This could result in a longer sentence, even if there was no connection between the offending behaviour and the fact that it could be seen or heard by a child. The Children and the Law Committee of the Law Society gives a very simple example that highlights the stupidity of this amendment. If a child who lives in the same street heard a window being broken in the course of an offender breaking into a neighbouring property, should the offender therefore receive a higher sentence? I think not, but under this legislation they could.

Offending that occurs in the presence of a child, for example, in circumstances of domestic violence or at facilities designated for the care or use of children, is relevant to penalty and is already covered under section 10 of the Criminal Law (Sentencing) Act; thus, the need for part 3 is redundant. Clause 5 is not needed in this bill.

Part 4 of the bill seeks to amend the Young Offenders Act by requiring community safety to be taken into consideration when dealing with young people. The report by Monsignor Cappo 'To Break the Cycle' states at page 43 that both community safety and the rehabilitation of young offenders need to be assertively pursued and that amendments to the objectives to the Young Offenders Act should only ever occur in the context of a stronger focus on rehabilitation. There is nothing in the bill to address this.

In clause 7 we see the references to repeat offenders, and the Law Society points out how easy it is to become a repeat offender:

Young people tend to hang out in groups, in public spaces, stay out at night, rebel against their parents and generally engage in risk taking behaviours. It is these behaviours that are often made the subject of bail agreements or undertakings. When young people engage in these behaviours, usually under the influence of their peers, they breach their judicial obligations and are charged with a criminal offence.

> Thus, judicial responses to what are essentially social issues (e.g. lack of youth leisure and recreational venues) and cognitive limitations (not having the maturity to make sensible decisions in the face of peer pressure) place young people at greater risk of reoffending.

Monsignor Cappo also recommends purposeful and tailored interventions for those who repeatedly offend. This accords with recommendations 25 and 5 of the 'To Break the Cycle' report, but the bill fails the Cappo test in regard to those two recommendations.

This bill would also permit the DPP to lay charges directly in the Magistrates Court. Just because a child has repeatedly offended does not mean they should be denied the right to be treated as a child and should be fast-tracked into the adult system. The discretion as to whether a young offender should be tried as an adult ought to remain with the Youth Court, which has expertise in the issues of youth offending and the professional guidance of Families SA court liaison and related staff. If the DPP is permitted to lay charges directly in the Magistrates Court there ought to be a residual power vested in the court to refer the matter of the charge back to the Youth Court for sentencing or resolution by a family conference—but that would be too sensible!

On a procedural level, permitting the DPP to lay charges before the Magistrates Court where a youth is charged with a major indictable offence would further clog the already overburdened court system. It can take at least 18 months for matters to be resolved in the Supreme or District Court, whereas in the Youth Court a trial date can be secured within a couple of months of the date of the offence. For those young people not released on bail, the bill would result in their being held in detention for significantly longer periods at greater expense to taxpayers—and, I suggest, most likely in the company of adults. That will hardly result in their rehabilitation.

In contrast, programs that reduce reoffending can save a lot of money. It has been estimated that each placement of a young offender on a multi-systemic therapy program can, in the US, save about US$9,622 in criminal justice costs alone. The Law and Justice Policy and Advocacy Group of the South Australian Council of Social Services (SACOSS), in their 'Policy Framework on Criminal Justice Issues', draws attention to a project in Canberra that this government ought to investigate.

The project was called RISE, and was a reintegrative shaming experiment that began in 1955. It sought to measure the impact of restorative policing on the perception of procedural justice and on rates of recidivism subsequent to the process. The experiments demonstrated that youth who had been charged with violent offences who were assigned to a conference subsequently offended at substantially lower levels—38 fewer offences per year per 100 offenders—than the youth offenders who were assigned to court.

Part 4 section 10 of the bill, pursuant to the proposed section 17A, would have the effect of permitting the court to remand a youth defendant in custody to await trial or sentence. In no circumstances should section 112 of the Summary Procedure Act be applied to youth offenders with the effect of remanding them in adult custodial institutions. This is putting young offenders straight in with older hardcore criminals.

In summary, this bill would see young people locked up for longer periods, yet the research says that this does not deter juvenile crime; it wants to treat a 30 year-old the same as a 16 year old; it will clog up our courts and our prisons; it will mix young offenders with adult offenders; and it will not be supported by any extra resources for rehabilitation. One has to wonder why this bill is before us. This is particularly underlined, again, in the Law Society's submission earlier this year, which states:

> A snapshot of data from the Office of Crime Statistics and Research shows:
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> - in 2005 South Australia had the lowest number of juveniles apprehended in the past nine years;
> - the number of cases finalised by the Youth Court has remained steady; and
> - 87.4 per cent of family conferences were finalised successfully—that is, all undertakings were complied with.

So why do we have this bill before us? SACOSS says:

> Australia has been inextricably drawn to incarceration as the preferred method of punishment for criminality. This is despite the general lack of evidence to support its positive contribution to a safer community, rehabilitation or recidivism rates.

This bill just does not add up. The only way to understand it is as yet another use of criminal law as a public relations strategy. As I have said before, crime is Rann's *Tampa*. Just as John Howard

used the *Tampa*, so Mike Rann uses crime to create a sense of threat and then presents himself as our protector.

The Democrats' view is that the best guarantee of community safety comes from an approach that combines crime prevention, rehabilitation and law enforcement. Courts and prisons are important but they are the most expensive and least effective part of the system, and I cannot ignore the fact that we are talking about young people who deserve extra protection and consideration. I know that many of these young people are no angels, but locking the door and throwing away the key will not solve the problem. The Law Society observes, 'Law is not the vehicle to solve social issues.' This bill would not make us safer and it will further damage young people. I indicate that the Democrats cannot support it.

The Hon. M. PARNELL (11:57): I have added myself to the list because I can see that the government is keen to push this bill through today. I cannot support the bill in its current form, and I have come to that conclusion after careful consideration of a number of submissions—most importantly, the submission of the Children and Law Committee of the Law Society of SA. It has written to me, as it has to other members, expressing some very serious concerns about this legislation. The opening paragraph of the society's submission states:

> The Committee is opposed to the Bill as the imposition of longer sentences on young people and circumventing the expertise of the Youth jurisdiction will not bring about the desired effect of deterring young people from offending, nor rehabilitating those that are currently in detention or custody or under the surveillance of police.

That is the bottom line: if this legislation is not going to work it does not deserve to be supported in its current form. The Law Society points out that imposing harsher penalties will not rehabilitate the effects of a childhood riddled with trauma and the breakdown of families.

When we look at criminal justice bills such as this, and bills that increase the penalties, we always have to be mindful of the different objectives of the criminal justice system. It does include punishing wrongdoers but it also includes deterring others from committing offences, and rehabilitation. It would seem to me that the hierarchy of those objectives is reversed when it comes to very young offenders: that is, that rehabilitation should be at the top. With older people, maybe punishment has a higher priority, but rehabilitation has to be the objective when it comes to people whose entire lives are before them.

The Law Society points out that many of the things that the government seeks to achieve in this bill have already been achieved under the current provisions of the Criminal Law (Sentencing) Act 1988. For example, the current act already provides sentencing courts with the ability to impose a sentence that not only more harshly penalises adults who offend with youths, or encourage youths to offend, but also has the power to sentence in a way that deters other adults from engaging in the same behaviour. If that is one of the objectives—to deal with the situation of older people offending with young people or encouraging young people—the Law Society points out that it is already dealt with.

Another particularly worrying aspect of the bill is that it does remove the discretion of the Youth Court in relation to whether a young offender should be treated as a child or as an adult. The Young Offenders Act, in its current form, recognises the fact that children and young people need special protection, they need special measures and they need understanding. We point out that that is not just a provision of South Australian state law; it is also included in the Convention on the Rights of the Child. That is a convention that I have raised in this place before when we have had reports that that international convention is breached routinely in South Australia in places like the Magill Training Centre. In fact, in the last session, I introduced a bill to try to improve the status of these international treaties when it comes to their application by state bureaucrats.

The issue of threatening, if you like, young people with being treated as adults as a form of deterrent is not borne out by any of the evidence that I have seen. In fact, research that I have been pointed to by the Law Society shows that the threat of adult criminal sanctions has no effect on the levels of serious juvenile crime, and that juveniles who receive harsher penalties when tried as adults tend to re-offend sooner after their release and more often than those dealt with by the juvenile system. That is a point that has been made already by the Hon. Sandra Kanck.

In conclusion, I note that, in another place, Mr Kris Hanna (member for Mitchell) made the observation at the conclusion of his speech on this bill that he was confident that his opposition to the bill would be used against him and that he would be labelled as 'soft on crime'—I guess that is what he was getting at. At the end of the day, that is a charge that may well be levelled at those of us in this place who seek to stand up for the best interests of our children when they are engaged in the criminal justice system.

The overall objective should be that we need to care for our young people whether they be offenders or the victims of offenders. Locking people up without the additional resources to ensure their rehabilitation will not achieve the objectives stated by the government, and that is why the Greens cannot support this bill in its current form.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (12:05): I thank honourable members for their contribution to this debate. I should respond to some of the comments that have been made, particularly by the Hon. Sandra Kanck and the Hon. Mark Parnell.

First, in relation to the need for early intervention that was outlined by the Hon. Sandra Kanck, I think probably all of us would agree with her that, of course, we need early intervention for young people who drift into crime. The better the levels of early intervention that we have, the better it will be for the individuals and society. However, the whole point of this bill is to deal with a small group of young people who have become serious repeat criminal offenders, and they are risking the lives of South Australians. In many cases, some of these young individuals have the highest number of convictions behind them, in some cases going into hundreds. As Minister for Police I know that some of them have hundreds of convictions for offences, even by the time that they are in their early to middle teens.

Often, their favourite form of criminality is to steal motor vehicles and drive around, trying to bait the police to become involved in a high-speed chase. They put lives at risk and people have died, including some of the people in these stolen cars. Tragically, there are a number of cases of this. I do not disagree with the fact that locking up these people does not change their behaviour because, in some cases, they are out there doing it within minutes or hours of being let out. The point is that, for the protection of the public, if someone has committed hundreds of crimes and stolen dozens of cars (perhaps wrecking them to the tune of millions of dollars in damage) and they are still in their teens, is it not time, for the protection of the public, that something is done with such individuals?

Whereas Monsignor Cappo in his report made many recommendations in relation to improvements that need to be made in a number of ways with early intervention and other changes to address the causes of crime, he also came to the conclusion that a large share of youth offending is attributable to a small group of serious repeat offenders. For whatever reason—and the government accepts Monsignor Cappo's findings—while a background of abuse or neglect may play a part, some of these young people fail to respond to the cautionary and diversionary measures that characterise the youth justice system. Some of these youths have been through the system dozens of times and they present a serious risk to public safety. That is where we have no option but to ensure that, for the safety of the public, those people are locked up.

They comprise a relatively small number of people in a population of 1.5 million. Yes, we should do more in terms of early intervention to keep out of custody these children potentially in that group; we should do what we can. That is certainly the cheaper option, as the Hons Mark Parnell and Sandra Kanck have said, if we are successful in a diversionary sense. But, what if it fails? What if it does not work and we have these serious repeat offenders? Sadly, we have no option but to protect the public by ensuring that these provisions are implemented. If the children concerned have, for whatever reason, decided that they are locked into this path of criminality, for the good of society we cannot just keep letting them out on bail time and again to repeat these crimes and present such a high risk to public safety. For that reason the government makes no apology for this measure.

We are just dealing with the tip of the iceberg of criminal justice. For the great majority of young people, even those who come into contact with the youth justice system, the measures envisaged here are not necessary. For most the diversionary schemes, cautions, family conferences, and the like, work; but for those concerning whom those measures do not work and there is a huge risk to public safety we need, for the protection of the public, to lock up these people. That is why the government has put forward these measures, and I commend the bill to members.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. SANDRA KANCK: I have some questions about what is effectively the guts of the bill. In terms of what Monsignor Cappo recommended, because it appears (maybe you cannot see it in a bill such as this—and I made the accusation in my second reading speech that it is the case) that this is simply a legal response to the problem, and the resourcing necessary to deal with these young people before it gets to this stage is not there. I refer to the paper released in April from the Law Society and want to quote some of the things that it says are lacking:

> It is currently difficult for members of the legal profession to source services and programs for clients to undertake while matters progress through the Youth Court. The committee is aware that CAMHS and IDSC have extremely long waiting lists and that services offered by non-government organisations are often limited in scope due to the stringency of funding guidelines. We suggest greater resources be provided to government departments, such as Families SA (Wraparound, Remand Incorporated, Metropolitan Aboriginal Youth and Family Services, Special Programs for Youth, Youth Adventure Recreation Services, Panyappi and non-government agencies such as Kumangka Aboriginal Youth Service, Service to Youth Council and OARS) that have a proven track record of proving evidence-based therapeutic interventions for young people at risk, young offenders and young adult offenders.
>
> Resources must permit such departments and organisations to support young people during times of high need and crisis, as well as during the times when things are going well for families. Due to the current limitations on funding, committee members find it difficult to refer families to services to access supports when there is no current crisis to be fixed, but a general need for additional supports for the family unit to prevent further or future background.

I would like some feedback from the minister (he may have to provide it in a letter subsequent to this committee stage) regarding what sort of resources are being given to both these government and non-government organisations that might be able to intervene to stop the situation being aggravated to the point provided for in these parts contained in clause 3 and onwards.

The Hon. P. HOLLOWAY: We do not have that information here because it is not directly relevant to the bill, which really deals with the legal aspects or changes to legislation suggested by Monsignor Cappo and others in the 'To Break the Cycle' report.

The Youth Justice Cabinet Committee has set up a task force, and John White, a former deputy police commissioner, has been involved in looking at the implementation of other aspects of the Cappo report. However, there are also other initiatives, of course, in relation to youth justice, and I will have to correspond with the honourable member in relation to the specifics of those initiatives. As I have said, they are not really relevant to this bill but, obviously, they are relevant to dealing with the problem of youth offending more generally.

Clause passed.

Clause 4.

The Hon. SANDRA KANCK: Clause 4 deals with this issue of the older person influencing a child. If you have a 19 year old—therefore, an adult—in the company of a 17 year old, it is unlikely to be an adult influencing a child: it is two people in a peer group. In fact, the chances are that one will be egging the other one on. How is the court, under this provision, able to make that distinction?

The Hon. P. HOLLOWAY: All this amendment does is ensure that the offending is treated as an aggravated offence in the circumstances set out in the provision. However, the actual penalties that are applied are obviously up to the judiciary to implement. All this clause does is describe the aggravated circumstances, and it is then up to a judge to determine the penalty.

Clause passed.

Remaining clauses (5 to 11) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

SENIOR SECONDARY ASSESSMENT BOARD OF SOUTH AUSTRALIA (REVIEW) AMENDMENT BILL

In committee.

Clause 1.

The Hon. R.I. LUCAS: I wish to take the opportunity to respond to one or two issues raised by the minister in her reply to the second reading, on behalf of the government, and to pursue one or two general issues. At the outset, I note that in her contribution the minister claimed

that under parliamentary privilege I had impugned the professional reputation of Professor Alan Reid, one of Australia's most distinguished educators. She then went on with a long defence of Professor Reid, and then said that I should make an unreserved apology for unfairly impugning one of the nation's most eminent educators.

I just remind members of exactly what I said during the second reading because, as is often the case with members of the government, they are very thin-skinned about these things and claim impugned integrity, defamation, smearing and a variety of other things without its being accurate. What I said during the second reading was that I had concerns about the appointment of Professor Reid as the chair of the committee. I then pointed out that Professor Reid, together with the Teachers Union, had trenchantly opposed the introduction of basic skills tests in South Australia. I said that Professor Reid was someone who, over his career, had been opposed to simple things, such as basic skills testing, and that if he was opposed to that sort of basic skills testing measurement I was very concerned about what his attitude might be to things such as examinations and testing in years 11 and 12.

The minister in her reply never really addressed that issue; she never really denied the accuracy of that claim, because she could not. I will not waste the time of the committee, but there are literally hundreds of references and transcripts of Professor Reid's statements at that time—and I might say (not that I easily take offence) that some of the things Professor Reid said about me as minister in the Liberal government and the views I represent were much more vigorous and robust than what I have just read out from the *Hansard* debate. The minister said:

> The honourable member's claims about Professor Reid's opposition to the basic skills test are based on crude over-generalisations. It is surely the role of an academic to subject government policy to critical scrutiny, provided the scrutiny is based on evidence. Professor Reid, like many others in the community, has been concerned about the nature and effects of standardised tests on the quality of teaching and learning. Many of these sorts of concerns have been borne out by overseas research and the use of standardised tests—

and so on. The minister went on to say:

> The claim that someone is who concerned about standardised tests lacks interest in improving standards in literacy and numeracy is patently absurd.

I agree with that statement, but nowhere did I say that Professor Reid was uninterested in improving standards in literacy and numeracy. It is the typical straw man, or straw woman, argument to construct a false premise and then say that this was an outrageous impugning of the professor's integrity.

I strongly disagree with Professor Reid's educational approach to things such as testing, and so on. However, he is entitled to his view—as, indeed, am I, and I suspect the majority of South Australians, in relation to basic skills testing. He is in a very significant minority, with the Teachers Union and some elements of the Labor Party, in their trenchant opposition to the testing of students for literacy and numeracy. I am sure that he has genuinely held views on the issue and, certainly, nothing I said—contrary to the claims of the minister—impugned his integrity. It fundamentally disagreed with his educational philosophy and approach, which is quite an unrelated matter to the issue of integrity.

So, I think the notion that in some way I have smeared the professor or attacked his integrity, as I said, is a straw woman argument. It is certainly not what I said. I remain trenchantly opposed to his views on those sorts of issues. As I said, tempted as I was to put on the record all of Professor Reid's views on testing, and some of his views and statements about the Liberal Party, the Liberal government and myself as minister, I will not do so. That may be for another day.

The other matter that I raised during the second reading debate with respect to this bill, and also the bill that we adopted last night (and I am still seeking a response from the minister), is that there is this general issue with SSABSA, obviously, and with the bill that we discussed last night (the Education (Compulsory Education Age) Amendment Bill) as to the critical notions of retention rates, which is part of the State Strategic Plan.

The government still has the goal of 90 per cent of students, by a certain date, staying in school for year 12. However, the other measure that the minister has used in another place and publicly is something short in description as the 'SACE completion rate', as I understand it. I think the minister has said that 55 per cent of year 12 students complete the SACE.

I asked a series of questions during the second reading debate, to which I have not yet received a reply. The first one was: can the minister provide a table of the SACE completion rate figures over the last five years (or however long the minister happens to have them for)? Secondly,

I sought clarification as to the precise nature of the calculation called the 'SACE completion rate', that is, the apparent retention rate as a calculation of those students who started off in a year 8 cohort some five years earlier and who five years later are still undertaking year 12—they might not complete it, but they are undertaking year 12. Is the SACE completion rate the minister uses—if it is 55 per cent—saying that, to five years ago, 55 of 100 students in year 8 actually end up completing the SACE certificate?

The Hon. CARMEL ZOLLO: I undertake to provide that response later in this process.

The Hon. R.I. LUCAS: I am happy to get that advice at some stage during the debate. The minister is correct in that some information was placed on the record that was not exactly relevant to the question I put to the minister and the government. The figures the minister is talking about, I think, are attendance figures, that is, 3 per cent had unexplained absences, or something along those lines.

The minister is currently indicating that 55 per cent of people complete SACE. I want to know how that figure is calculated. I have put one possibility. I will leave that to be answered this afternoon. In terms of the 55 per cent figure, clearly there must be figures over the past five years or so. The retention rate figures I can get from the Australian Bureau of Statistics.

I have seen those movements. I think I quoted some of them in the second reading debate, so I am relaxed about that. That is publicly available. However, the SACE completion figure is not one I am aware of being publicly available, and that is the thing the minister is talking about. I am happy to receive that information at a later stage of the committee debate. The Minister for Education has indicated, quite rightly, that this bill is critical. The government has indicated that this bill underpins the development of the Future SACE.

In response to a number of questions asked in last night's debate, the minister referred to the government's plans and commitments in relation to Future SACE. A number of the issues I want to explore during committee—and in particular clause 1—relate to how this bill underpins the Future SACE and some of the changes the government is implementing. I have some specific questions in relation to the government announcements in relation to assessment, etc.

I had asked some questions of the minister in relation to information, which I am sure SSABSA would have readily available— for example, the existing subjects that are offered at year 12 and the percentage of breakdown of the assessment modes; that is, mathematics had 50 per cent examination and 50 per cent school assessment and English studies may well have 30 per cent. That is information which, I know, is available through SSABSA.

It may well be just oversight that it was not provided in the second reading response, but I ask the minister whether or not her advisers and the government would be prepared to provide that information to me and any other members of the committee who might be interested in that issue.

The point I want to pursue here is that some of the questions I want to raise which are critical to the SSABSA and Future SACE debate relate to the various powers of the government and the board. The minister will know that I am moving on behalf of the Liberal Party amendments later on in relation to the power of the government to control the SSABSA.

The current act makes quite clear that on issues of curriculum and assessment the SSABSA is independent. This bill will suggest some changes, and we will debate those specific changes as we go through the committee stage. At the moment we have an act—a law—which provides that SSABSA is in control of curriculum and assessment. At the same time, we have the minister and government announcing that there will be new assessment procedures. Admittedly after the result of an inquiry—but ultimately we still have to work within the law of the land—the minister is announcing that the government has made decisions that there will be changes to the structure and framework of SACE, there will be changes to assessment and there will be a downgrading in some subjects in the use of examinations—all of those sorts of decisions are being announced by the government.

What I am asking the minister at the outset is: what power does the minister currently have, and will the minister highlight under the act where the minister has the power to make those decisions? Or is the government's argument that the SSABSA as it is currently constituted has passed a valid motion that in essence replicates the government's announcements? That is, the government says, 'Hey; these things will change,' and the actual decision making process is that the board has passed a motion which in essence authorises that.

I am asking this before the lunch break, because I want to know how the government is making these changes. If any government can come along and say, 'We will change the whole of the SACE', this whole notion of SSABSA as it currently exists being independent and in control of curriculum and assessment lasts only as long as the government lasts. Each government can come along and say, 'We are turning the whole of the SACE and SSABSA upside down, and this will be a requirement of years 11 and 12.'

If that is the case, so be it, but the current law provides that the minister does not have the power, yet for some months the minister has made a number of announcements about what will be implemented. So, it is a fundamental question for the minister to explain to the committee what legal basis this government is using to implement these changes at the moment.

The Hon. CARMEL ZOLLO: My advice is that they will be not be implemented until 2009 if and when the new board implements them. The proposed Future SACE is to be developed by the SACE steering committee. That includes the CE of the current board. The new board will be asked to consider and endorse the development work being undertaken.

Several questions were asked by the honourable member in relation to some statistics. I can say to him that 45 per cent of students do not currently complete their year 12 SACE; 70 per cent of young people do not currently undertake university studies; approximately 1,200 16 year olds will be supported by the new legislation who would otherwise have dropped out of school. In South Australia in 2007, 76 per cent of 16 year olds are in year 11 at school; 14 per cent of 16 year olds are in year 10; and not quite 1 per cent of 16 year olds are in Year 9. In 2007 the year 8 to 12 full-time equivalent apparent retention rate increased from 72.4 per cent in 2006 to 74.5 per cent. In 2007 the year 10 to 12 FTE apparent retention rate increased from 75.3 per cent in 2006 to 76.1 per cent.

In South Australia in 2006, 87 per cent of 16 year olds were enrolled in full-time education compared to 65 per cent of 17 year olds. This is an increase from 2005, when 86.1 per cent of 16 year olds and 64 per cent of 17 year olds were enrolled in full-time education. In 2001, 83 per cent of 16 year olds and 59.7 per cent of 17 year olds were enrolled in full-time education. In 2006, 97.1 per cent of 15 year olds were enrolled in full-time education.

In relation to SACE, I am advised that it actually puts in place a new board that will implement the changes as recommended by the SACE review (I think that was another question asked by the honourable member).

The Hon. R.I. LUCAS: First, I thank the minister for the statistics she has provided. They are interesting and informative, but I note (and I think the minister has taken it on advice) that they are not actually the questions I put. So I assume that, over the lunchbreak, the minister will still take on notice the specific questions I asked about completion rates.

The Hon. CARMEL ZOLLO: I will provide further information.

The Hon. R.I. LUCAS: Thank you. The minister's information in relation to 16 year olds was interesting, but I can tell her that when I was at school 2 per cent of my year 7 class were 16 year olds. It was one out of 53 students; one particular student was held back for, I think, five years whilst he tried to complete his progressive certificate.

The Hon. D.W. Ridgway: And now he is the president here?

The Hon. R.I. LUCAS: No; he is not the president here. The figures the minister gave about the percentage of students in various year levels were interesting—and I thank her for that additional information—but, as I said, they are not the specific statistics I sought.

I want to clarify the key question I put to the minister. As I understand it, the minister accepts that under the current law neither the minister nor the government has the legal authority to implement these changes and is saying that we will not have this particular Future SACE that has been talked about unless, some time next year, the new board actually passes a lawful motion which approves it.

The Hon. CARMEL ZOLLO: That is correct.

The Hon. R.I. LUCAS: That is important because, as the minister rightly pointed out (and I think she quoted common law), persons elected to boards are not there to represent the views of the bodies they represent. So, in theory, all those government educators appointed by the minister to the new board are not there to represent the views of the government school sector or the minister (and I said, in theory); therefore, it is entirely possible that the new board will vote down

the Future SACE. Based on what the minister has just said, there is the legal authority that the new board, if elected, can vote it down. It is more likely that the new board would say, 'We are happy with 90 per cent of this, but we are not happy with certain other aspects of it,' and could implement its own version of the Future SACE. The minister has just clarified what was my understanding, as a non-lawyer, of the legislation and what has occurred.

I must say that that information will be news to many in the education sector, because there have been many announcements and statements made by the minister and the government about the implementation of Future SACE. There were recommendations, the minister issued various statements and briefings, slide show presentation summaries (which I have seen) were made indicating that this is what will be implemented and that these were the decisions the government agreed with from the SACE review (there are a small number it did not agree to). To all intents and purposes, everyone has been led to believe that the government has made decisions and that this is what will be implemented; that, as from 2009, this is what the shape and structure of Future SACE will be.

I think it is important, now that we have clarified the legal position, that those within secondary schools in all the sectors—because it is not just the government sector but the Catholic sector and the independent schools sector as well—realise that there is no legal authority for the minister to do that. That has been confirmed by the government in this committee debate. It will only be some time into next year, if and when the new SSABSA makes a decision, that it will be implemented in that particular way.

Therefore, those of us who have a view (and I suspect that at this stage it is possibly a minority view because of the lack of public debate) or concerns about assessments and their importance in terms of a balance between external assessment and, in particular, examinations in some subjects, will and should take up the opportunity to lobby future SSABSA members—because it will be their decision, and their decision alone, in relation to the issue.

As I said, that is in theory. I accept that it will probably be a brave government school nominee on the board who takes a position different to his or her minister. That person might end up like the police officers in Russell Hinze's police force, who were posted to the furthest police stations in outer Queensland (wherever that equivalent is in South Australia). That may well occur in the department. Nevertheless, I think that is important because, as I said, this bill is underpinning the future SACE and, in my view, when it is properly discussed it will be controversial with some groups and sections of the community.

What the minister has said so far is correct, in that there has been little opposition to what has been the juggernaut in respect of the introduction of the Future SACE. Other than the Independent Schools Association having the temerity to raise its head above the parapet and challenge some of the provisions in the bill about the board's composition and the independence of the board, the minister is right to say that there has been precious little opposition to the Future SACE juggernaut that we have seen.

Leading on from that concession from the minister in relation to legal authority, can I confirm therefore that the recommendations, which I understand the government is supporting, are in relation to the assessment of year 12 subjects? As I outlined in the second reading debate, for those subjects that do have a combination of a school assessment and examination, in the past there has been a moderating process, if I can put it that way. I gave the example that, based on school assessment, if a particular teacher at a school marked all of his or her students at the A level and then those students participated in an examination and they all reflected a C level in terms of performance, there is a facility available within the current SACE which allows SSABSA to say, 'Hello, there is something going on here. That teacher is unfairly advantaging his or her students, compared to the rest of the state, by giving all of his or her students As when their performance, in reality, does not deserve an A classification.' The current system allows a balancing and a judgment, or a moderation between the two.

The SACE review, which I understand has been supported by the government, says that that is unfair. This is where the flavouring of Professor Reid comes through when one reads the document, which says that it is unfair to unfairly give weight to the importance of public examinations. His recommendation (or their recommendation, to be fair) was that you should not bring those two together and moderate them in any way; they should be kept apart and aggregated. Given her previous advice, can the minister confirm that that particular decision will also be a decision for the future SSABSA and not a decision for this minister and this government?

The Hon. CARMEL ZOLLO: The honourable member is surprised at the lack of opposition, but in reality there is no opposition there because we have consulted widely with all stakeholders. Legislation has been developed in a consultative forum with all stakeholders and the education experts, and obviously the requirements for the Future SACE will be determined by the board as appropriate. As mentioned, we have consulted widely with teachers and educators and have been through the most rigorous processes.

The Catholic and independent sectors are on the steering committee. The minister has authority to fund research and development work, which will then be provided to the new board for consideration and adoption. It would be unlikely for an expert board to go against the work developed by the education community under the auspices of the steering committee, which includes government and the non-government sector. We are debating the future of the board; this is not about the SACE sector.

The Hon. R.I. LUCAS: As the minister in her reply and the Minister for Education in another place said, these changes underpin the Future SACE and certainly the ministerial control being sought gives power in relation to some elements of curriculum issues and potentially in other areas as well, which we will explore in later clauses. The two issues are inextricably bound together. I believe the minister stated that she felt it unlikely that a future SSABSA would disagree, and that is probably right, but nevertheless it is charged with the independent responsibility to make decisions and, theory, is not there, as the minister conceded, to represent the views of its sectors or ministers.

The minister has not addressed the specific question I put, namely: in relation to the example of moderating school assessments through the use of public exams, is that a decision of the future SSABSA? Will the minister confirm that the future SSABSA, and not the minister, has to take that decision?

The Hon. CARMEL ZOLLO: That is correct: it is a decision of the future SSABSA. Under the bill it can commission development work. It is not intended that the board itself will undertake development work but will commission any future development work. The Future SACE process mirrors what will happen under the new legislation.

The Hon. R.I. LUCAS: The minister publicly indicated that the government disagreed with a small number of the recommendations in regard to Future SACE. One of the recommendations was in relation to the certification that was to be provided, that is, whether or not the tertiary ranking or score would be provided on the certificate that was sent by SSABSA to year 12 students. Can the minister outline what is the government's position on this issue?

The Hon. CARMEL ZOLLO: My advice is that that is for the board to determine.

The Hon. R.I. LUCAS: Let me clarify this: the recommendation originally was that the TER was not to be put on the certificate. The minister has indicated that she disagrees with that, and what she is confirming is that, essentially, that is still up in the air. It may or may not be on the certificate, because that is a decision for the future SSABSA.

The Hon. CARMEL ZOLLO: That is my advice and understanding.

The Hon. R.I. LUCAS: Similarly, the minister indicated a disagreement to a recommendation about the role of SATAC, another body that is potentially involved in certification issues. Can the minister outline what is the government's policy position on this and, again, is this an issue the future SSABSA has ultimately to determine, or is it a decision the government and the minister take?

The Hon. CARMEL ZOLLO: I will have to take that question on notice.

Progress reported; committee to sit again.

[Sitting suspended from 12:57 to 14:17]

KANGAROO CULLING

The Hon. M. PARNELL: Presented a petition signed by 150 residents of South Australia, concerning the culling of kangaroos in the Central Mount Lofty Ranges. The petitioners pray that this honourable house will call on the government (in relation to the Central Mount Lofty Ranges) to:

- Improve the assessment process for destruction permits for kangaroos so that the applicant's claims of numbers of kangaroos are verified by sightings and/or a survey of neighbours and claims of alleged damage being caused are verified;
- Revoke existing permits in Mylor and Longwood until kangaroo numbers and commercial consequences of claimed damage are verified;
- Refuse permits to applicants if the claimed economic losses or the claimed numbers of kangaroos cannot be verified; and
- Refuse yellow tag requests which allow kangaroo carcasses to be taken off the property.

VOLUNTARY EUTHANASIA

The Hon. J.S.L. DAWKINS: Presented a petition signed by 1,128 residents of South Australia, concerning voluntary euthanasia. The petitioners pray that this honourable house will support the Voluntary Euthanasia Bill 2006 to enable law reform in South Australia to give citizens the right to choose voluntary euthanasia for themselves. Such legislation, if enacted, would contain stringent safeguards against misuse of the provisions of the act.

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the written answer to question on notice No. 110 be distributed and printed in *Hansard*.

COMMUNITY CORRECTIONS

110 The Hon. J.M.A. LENSINK (26 September 2007).

1. Does Community Corrections have brokerage funds for counselling services?
2. What level of funding is available?
3. (a) Which providers have received funding; and
   (b) How much has each received?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs): I am advised:

The Department for Correctional Services does not presently use brokerage funding for the provision of counselling services through Community Corrections. It may however, consider this possibility in the future.

PUBLISHING COMMITTEE

The Hon. J.M. GAZZOLA (14:20): I bring up the first report of the committee and move:

That the report be adopted.

Motion carried.

PAPERS

The following papers were laid on the table:

By the President—

Ombudsman's Report, 2006-07
Corporation Reports, 2006-07—
City of Mount Gambier
District Councils—
Tatiara
Tumby Bay

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

Reports, 2006-07—

Department of Justice
Land Management Corporation
Legal Services Commission of South Australia
State Electoral Office—South Australia

The Law Society of South Australia—Claims against the Legal Practitioners Guarantee Fund
TransAdelaide
Venture Capital Board

By the Minister for Urban Development and Planning (Hon. P. Holloway)—

The Administration of the Development Act 1993—Report, 2006-07
Ordered—That the Report be printed

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

Aboriginal Lands Trust—Report, 2004-05
Aboriginal Lands Trust—Report, 2005-06
Reports, 2006-07—
Construction Industry Training Board
HomeStart Finance
Independent Gambling Authority
Office for the Ageing
Playford Centre
South Australian Aboriginal Housing Authority
South Australian Community Housing Authority
South Australian Housing Trust

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

Coronial Inquiry into the death in custody of John Trenorden—Report on actions taken—November 2007

By the Minister for Environment and Conservation (Hon. G.E. Gago)—

The State of Public and Environmental Health for South Australia—Report, 2005-06 erratum
Gene Technology Activities—Report 2006
Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research—Report, June 2007
Reports, 2006-07—
Adelaide Festival Centre
Barossa Health
Bordertown Memorial Hospital Inc.
Carrick Hill Trust
Ceduna District Health Services Inc.
Ceduna Koonibba Aboriginal Health Service Inc.
Coober Pedy Hospital and Health Services Inc.
Department of Health
Gawler Health Service
Hawker Memorial Hospital Inc.
Kangaroo Island Health Service Inc.
Kingston Soldiers' Memorial Hospital Inc.
Leigh Creek Health Services Inc.
Lower Eyre Health Services Inc.
Lower North Health
Loxton Hospital Complex Incorporated
Mallee Health Service Inc.
Meningie and Districts Memorial hospital and Health Services Inc.
Mid-West Health Inc.
Millicent and District Hospital and Health Services Inc.
Mount Barker and District Health Services Inc.
Mount Gambier and Districts Health Service Inc.
Murray Bridge Soldiers' Memorial Hospital Inc.
Naracoorte Health Service Inc.
Northern Adelaide Hills Health Service Inc.
Northern Yorke Peninsula Health Service Inc.
Penola War Memorial Hospital Inc.

Pika Wiya Health Service Inc.
Port Augusta Hospital and Regional Health Services Inc.
Port Broughton District Hospital and Health Services Inc.
Port Lincoln Health Services Inc.
Port Pirie Regional Health Service Inc.
Public and Environmental Health Council
Renmark Paringa District Hospital Inc.
Riverland Regional Health Service Inc.
Save the River Murray Fund
SA Water
South Australian Abortion Reporting Committee
South Australian Psychological Board
Ordered—That the Report be printed
South Australian-Victorian Border Groundwaters Agreement Review Committee
South Australian Youth Arts Board—Carclew Youth Arts
South Coast District Hospital Inc.
South Eastern Water Conservation and Drainage Board
Southern Flinders Health Inc.
Strathalbyn and District Health Service
Tailem Bend District Hospital
The Mannum District Hospital Inc.
The Whyalla Hospital and Health Services Inc.
Water Well Drilling Committee
Yorke Peninsula Health Service Inc.
Inquiry into the Medical Board of South Australia—Response to the Statutory Authorities Review Committee Report

STATUTORY OFFICERS COMMITTEE

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:21): I lay on the table the report of the committee for 2006-07.

Report received and ordered to be published.

NATURAL RESOURCES COMMITTEE: UPPER SOUTH-EAST DRY LAND SALINITY AND FLOOD MANAGEMENT ACT

The Hon. R.P. WORTLEY (14:26): I lay upon the table the 2006-07 Report of the Natural Resources Committee on Upper South-East Dry Land Salinity and Flood Management Act 2002.

SAVE THE RIVER MURRAY FUND

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:27): I lay on the table a copy of a ministerial statement relating to the Save the River Murray Fund Annual Report made earlier today in another place by my colleague the Minister for the River Murray.

QUESTION TIME

METROPOLITAN FIRE SERVICE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:28): I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the Metropolitan Fire Service.

Leave granted.

The Hon. D.W. RIDGWAY: This morning, serving members of the Metropolitan Fire Service, in full uniform, were seen handing out leaflets supporting the ALP's industrial relations policy. The staff members were in an official fire service vehicle, complete with snorkel. A passerby, who has since contacted the opposition, was told by one of the fire service officers that an agreement was reached by the Rann government, SA Unions and the ACTU for fire officers to volunteer an hour of their time to do this. Does the minister endorse the use of official government emergency services uniforms as an endorsement for a political party during election campaigns, and will supporters of other political parties and candidates be extended the same endorsement?

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:29): I thank the honourable member for his question. I am reminded by my colleagues on this side that at least we do not sneak around in the dark dropping offensive information into people's letterboxes and looking like complete fools. I am not aware of the complete details. I have been advised this morning that some firies were in the mall. I am not aware of the specific details in relation to the allegations made against any staff of the MFS today apparently handing out political material about the Howard government's regressive and unfair workplace practices. I will raise the matter with the chief officer of the Metropolitan Fire Service for investigation. It would not be appropriate for me to come to any conclusions about any allegations until they have been formally put to the chief officer and an investigation undertaken.

I should also place on notice (I think I have had reason to do this before) that operational firefighters do not get a formal break while on duty and are not able to go off call. They can only attend activities with their appliances and equipment, and appliances remain under the control of the designated officer-in-charge at all times. There is also a certain level of autonomy with regards to appliance movement within their own zones. As I said, I will raise this matter with the chief officer of the Metropolitan Fire Service.

METROPOLITAN FIRE SERVICE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:31): I have a supplementary question. If the agreement I mentioned is in place, will the minister ensure that all supporters of other parties and candidates are extended the same endorsement?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:31): As I said, I am not aware of any specific details and I will ask the chief officer to investigate.

MENTAL HEALTH BEDS

The Hon. S.G. WADE (14:32): I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question relating to the proposed forensic mental health facility.

Leave granted.

The Hon. S.G. WADE: On Tuesday, the minister stated in this place:

> The new forensic mental health facility will be able to be expanded easily; it will be designed in a way that will allow it to expand to meet our needs.

In fact, the opposition has been advised that, as the site of the forensic mental health facility is on the extreme eastern boundary of the Mobilong campus and is isolated from the rest of the site by a gas pipeline on the western boundary, the facility has limited scope for expansion. The government has amended the PPP documentation to allow for the capacity of the new men's and women's prisons to be increased by 50 per cent on what was originally planned. My questions are:

1. Given that the minister has informed the council that the facility will be able to be expanded, why does the amended PPP documentation not specify that need for the capacity to expand, as it does with the other elements of the site?

2. Can the minister assure the council that the forensic mental health facility will have the capacity to expand by at least 50 per cent, as is proposed for the prison accommodation, so that there is no further diminution of the ratio of prisoners to forensic mental health beds?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:34): I thank the honourable member for his questions. It is truly sad that members opposite cannot come up with original questions, that they have to keep rehashing the same old questions day in and day out. It is a farce that they cannot come up with an original question.

As I stated yesterday, there are currently 30 forensic mental health beds at James Nash House, and it is proposed that we build 40 at the new development at Mobilong. The 10 beds at Glenside will be relocated there as well. As I also mentioned yesterday, the new Glenside site—the

new, reformed, rebuilt site at Glenside—will also have 40 new beds installed for people who need secure care. They are additional beds for people requiring acute mental health care.

So it can be seen that this is just one plank of our overall reform agenda for our mental health system (for which Stepping Up is a blueprint), and it is a commitment at least up to this date. We have put our money where our mouth is with a commitment of $107.9 million, and you would think the opposition would congratulate us on this proposal to upgrade our forensic mental health facilities, which are currently out of date and outmoded. They are based around a prison model of care. It is outdated and outmoded. We have a plan to rebuild a state-of-the-art new facility at the Mobilong site. One would think that members opposite would be congratulating us but, no; they sat on their hands for eight years and allowed our mental health system to simply degrade and deteriorate and, really, they have nothing better to do.

The design details for that site have not been completed. They are still being developed. The advice that I have to date is that the forensic mental health facility will have a capacity for future expansion. The design details have not been completed. There is a long way to go as yet and, as more information becomes available, it can be assessed. That is the matter I have to hand. The details are not even signed off on yet but the advice is that there will be room for expansion when and if needed. We should be congratulated for doing such a wonderful job with our new facilities.

VICTORIA PARK REDEVELOPMENT

The Hon. T.J. STEPHENS (14:36): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Minister for Recreation, Sport and Racing, a question about Victoria Park.

Leave granted.

The Hon. T.J. STEPHENS: On Adelaide radio recently the Premier was quoted as saying,

> We're sort of committed—

I repeat, 'sort of committed'—

> to the Victoria Park redevelopment but we can't do it without the partnership of the corporation of the city council and I have to say it's sort of a five ring circus down there...ultimately they risk—I think the city council risk losing racing from Victoria Park.

The government recently indicated that it is still keen to negotiate with the Adelaide City Council but we have not been updated as to how this is progressing. Meanwhile, it has been reported that the South Australian Jockey Club is delighted with the strong result from the sale of Cheltenham Racecourse in the sum of $85 million. The South Australian Jockey Club is still very keen and committed to investing in the redevelopment of Victoria Park. Its chairman, John Naffine, yesterday stated that the Jockey Club would not walk away from its commitment. My question is: will the racing minister and the Leader of the Government in this place confirm their 100 per cent commitment to the Victoria Park redevelopment, or is their support for the project galloping away?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:37): I think the racing industry will get past the post in terms of getting better facilities. First, in relation to Cheltenham, I am very pleased at the good result that the SAJC achieved and, of course, this government and, in particular, the officers in my department put in a lot of work to ensure that the development plan amendment for the Cheltenham Racecourse was very smoothly and efficiently handled and that, of course, has enabled the outcome the SAJC had yesterday.

In relation to Victoria Park, as the Premier has said, we will be having discussions with the Adelaide City Council. I indicated that last week in answer to a question asked about this matter. The city council has just been elected and is a newly formed council. The council has indicated that, whilst it did take the decision to oppose the lease, it is prepared to have discussions on the future of Victoria Park.

The government will take it up on that offer, and one would hope that, as a result of negotiations, an outcome can be reached whereby racing (and also motor car racing) will continue at Victoria Park, as I am sure it will, with improved facilities. That is the situation at the moment. The government will have discussions with the council and we certainly look forward to the city council at least being cooperative in seeking a solution to ensure that racing continues at Victoria Park, as it has done for the last century or more.

INFRASTRUCTURE INVESTMENT

The Hon. I.K. HUNTER (14:40): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about infrastructure investment.

Leave granted.

The Hon. I.K. HUNTER: South Australia's Strategic Plan has set a target for production and processing of mineral resources of $4 billion by 2014. Will the minister provide the chamber with an update on the work being undertaken by the state government to identify priority areas for investment in South Australia's infrastructure to help meet this objective?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:41): I can confirm that South Australia's Strategic Plan sets a target for production and processing of mineral resources of $4 billion by 2014. However, proper planning will be a key to meeting and possibly exceeding that goal. To this end the Rann Labor government recently established a high level task force to ensure that South Australia capitalises on a resource sector that is moving rapidly from exploration to extraction.

The new Resource and Energy Sectors Infrastructure Council (RESIC) has been established to plan and develop viable, fit for purpose infrastructure that can support mining operations in South Australia, comprising a focus group of senior resource sector executives and public servants. This group will identify the issues and plan the way forward in what is an absolutely crucial sector for South Australia.

The task force is to be chaired by Paul Dowd of Adelaide Resources and is expected to meet quarterly. RESIC will also provide a monthly update in the form of a document that will be available to the public. Except for the chairman, the members of RESIC will give freely of their time to this important task, and I thank them for their generosity in that regard.

The eight industry representatives of this high-powered task force will comprise Tino Guglielmo of Stuart Petroleum Limited, Graeme Hunt of BHP Billiton, Reg Nelson of Beach Petroleum, John Roberts and Jason Kuchel of the South Australian Chamber of Mines and Energy, Hans Umlauff of Iluka Resources, Jim White of OneSteel and Mick Wilkes of Oxiana. They will be assisted by state government representatives from the Department of Transport, Energy and Infrastructure, the Department of Trade and Economic Development and Primary Industries and Resources SA, as well as Bruce Carter of the Olympic Dam task force.

The stature of the task force membership is a recognition, both by this government and the industry, that the provision of infrastructure for the mining sector needs to be planned and implemented strategically if South Australians are to enjoy the maximum benefits. South Australia has been punching above its weight in infrastructure and economic development for some time now. Private new capital investment has reached an all-time high and the outlook for business investment in South Australia remains strong.

An Australian Bureau of Statistics survey found businesses expect new capital expenditure during 2007-08 to be 11 per cent higher in South Australia than expectations for 2006-07, a year earlier. More than 20 mining projects, accounting for at least $20 billion in capital spending over the next decade, are either underway or in the pipeline in South Australia.

The latest example of this investment is the decision by Australian Stock Exchange listed Iluka Resources to lodge a mining lease proposal for its heavy mineral sands project in the Eucla Basin north-west of Ceduna. The detailed mining lease proposal for the Jacinth-Ambrosia heavy mineral sands project falls within the Yellabinna and Nullarbor regional reserves. This proposed project will deliver significant economic and social benefits to South Australia, contributing about 3 to 5 per cent of the South Australian Strategic Plan target for increased mineral production investment.

Iluka Resources in the Jacinth-Ambrosia heavy mineral sands project will contribute about $470 million to the state's economy and generate 110 permanent jobs during operation of the mine. Up to 250 jobs are expected to be created during the construction phase of the project, with a large percentage of these positions to be filled locally, which includes opportunities for indigenous workers. Elsewhere, investment spending in infrastructure in South Australia is also growing at a rapid pace.

Transport infrastructure projects already underway include the $564 million Northern Expressway to link Edinburgh in Adelaide's northern suburbs with Techport Australia—an area poised to become the nation's premier naval and defence industry hub. The Rann government's transport infrastructure program also includes a $118 million upgrade of the South Road/Anzac Highway intersection and the $178 million stages 2 and 3 of the Port River Expressway project. The Port of Adelaide is also undergoing a massive infrastructure program to reinforce Outer Harbor as a modern competitive export/import hub for South Australia.

The ongoing mining and resources boom creates opportunities and challenges for this state to provide new energy, transport and water infrastructure that will benefit not only the mining industry but, where possible, also surrounding regions. These projects include BHP Billiton's expansion of Olympic Dam, Oxiana's Prominent Hill development, Australian Zircon's Mindarie mineral sands mine, Uranium One's Honeymoon uranium mine, and Terramin Australia's Angas zinc project. With such an array of mining projects, it is only timely that the South Australian government has established such a high profile infrastructure task force to help identify areas of priority for the resources industry.

RESIC will operate through the Office of Major Projects and Infrastructure within the Department for Transport, Energy and Infrastructure and report to the Minister for Transport, Energy and Infrastructure. The task force will monitor resource sector growth, time lines, quantities processed and logistic chains; prepare information and make recommendations across government; and review, coordinate and centralise existing infrastructure plans from across government.

The creation of RESIC was recommended by the South Australian Chamber of Mines and Energy and supported by the parliamentary Natural Resources Committee, PIRSA, DTEI and the Department for Trade and Economic Development.

This demonstrates yet again that the Rann Labor government has listened and responded to the industry, and the government is pleased to be able to work proactively with the South Australian Chamber of Mines and Energy and industry on this key imitative. This is a way of harnessing some of the extensive expertise among those within the South Australian public sector and from a highly successful private sector.

The task force will, I am certain, provide some innovative planning ideas for and practical solutions to the future infrastructure needs of the resource sector. By working together, we can ensure best practice, while also capitalising on what is a wonderful opportunity to usher in a new era of prosperity for all South Australians.

MURRAY RIVER

The Hon. M. PARNELL (14:47): I seek leave to make a brief explanation before asking the Minister for Police, representing the Premier, a question about federal Labor's election policy commitments on the River Murray.

Leave granted.

The Hon. M. PARNELL: Six months ago, Labor's water spokesman, Albert Albanese, stated in federal parliament:

> Water programs are needed now, not in three years, and action is needed now to deal with the problem of over-allocated water licences.

In South Australia, the Rann government's election manifesto for the 2006 state election stated:

> We brokered an agreement with the Murray-Darling Basin states and the commonwealth to spend $500 million on River Murray water initiatives and to return environmental flows by 2008.

Premier Rann backed that up with statements this year about the urgency of the dire situation facing the River Murray, including a statement he made in May, when he said:

> As the downstream state, it is in South Australia's interest to ensure that this deal goes ahead as quickly as possible.

Just last week, the Premier said:

> It is deeply disappointing that the Howard government is yet to spend one cent of the $10 billion it has allocated for River Murray projects.

On Tuesday, Labor released its federal election policy platform on the River Murray. Members would be surprised to hear that, instead of urgent action now, Labor committed itself to increase Murray River spending on buying back irrigation entitlements, modernising infrastructure and

improving water saving by only 4 per cent in the next term of government. Even worse, Labor's commitment to return 1,500 billion litres by 2017 is weaker than the commitment it took to the 2004 election.

In 2004, Labor formally committed to return 1,500 gigalitres to environmental flows by 2014. It now seems that Labor wants to delay that return by an additional three years to 2017, despite the river's health declining dramatically at that time, making the need for increased environmental flows more, not less, urgent.

According to the Australian Conservation Foundation, the River Murray is in a crisis which requires any future federal government to immediately roll out half of the $3 billion already committed by the commonwealth government over the next three years. Experts such as Associate Professor David Paton, Head of Ecology at the University of Adelaide, have expressed their views on this matter. Indeed, referring to the Coorong, which is South Australia's Kakadu, Professor Paton states:

> Time has run out—we need commitments for action, not more promises. One or two more years without environmental flows will make full recovery of the Coorong costly, if not impossible. Birds like the fairy tern will become extinct because of a lack of water.

The PRESIDENT: Order! I remind the member that we are not dealing with a matter of interest; it is question time.

The Hon. M. PARNELL: Thank you, sir. I have one more sentence of explanation and then I will ask my question. The quote continues:

> Already its numbers have dropped by 80 per cent in the Coorong, and they have failed to breed for the last four to five years.

My questions of the minister are:

1. In light of the Rann government's strong public statements about the importance of restoring the health of the River Murray, is he comfortable that the election policy that federal Labor is taking to the election on Saturday is weaker than the one that it put to the Australian people in 2004?

2. Does the Rann government support the federal Labour commitment to fund only 15 per cent of the commonwealth's $10 billion River Murray plan in the first three years of a Rudd government, leaving the vast bulk—85 per cent—until after 2011?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:51): What should concern all South Australians in relation to the River Murray is that, even though the current Prime Minister promised $10 billion to purchase water, not a single cent of that money has been spent in almost 12 months. It is a bit like the intervention in the Northern Territory, where not a single person has been arrested. Police were sent to the Northern Territory because of all the alleged problems of sexual abuse in that state, and there has not been a single arrest in six months and, similarly, not a single cent of the promised $10 billion has been spent over the year—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Is the member suggesting that there are no reasonable projects on which some of that $10 billion could not have been spent in the past 12 months, at a time when we have experienced the worst drought in 100 years? They are the reasons why I believe that there will be a change of government in this country on Saturday. Certainly, it is needed—and it is vitally needed for South Australia—so we can get a government that will start to address these matters. What is the good of promising multi billions of dollars if you do not spend it?

Of course, this is the hallmark of the Howard government. It keeps throwing money around but, after the election (if it wins), when we read the fine print we will discover that, although it promised billions, it was, in fact, subject to a whole lot of conditions that it did not tell people about before the election, and very little of the money, if any, will be spent. Nothing could illustrate that better than the $10 billion promise to fix the River Murray system, of which not a cent has been spent.

In addition, the Hon. Mark Parnell would be well aware that, after the Prime Minister made that announcement, the other states that do not have the River Murray on their border (Tasmania and Western Australia) complained that some of that money got sidetracked into those areas as

well—at least, the money did not, but the promises got sidetracked. Of course, the money, as we know, has not come at all.

What this country desperately needs is a government that will start tackling the issues, and I am sure that that is what will happen after a Rudd government is elected on Saturday. As for the particular promises, if at the 2004 election the Labor Party promised a 10-year plan, not surprisingly, it would end in 2014. However, as it is now three years later—2007—it is not surprising that a 10-year program would end in 2017.

ADELAIDE HILLS MOTORCYCLING ROAD SAFETY STRATEGY

The Hon. J.S.L. DAWKINS (14:53): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about the Adelaide Hills Motorcycling Road Safety Strategy.

Leave granted.

The Hon. J.S.L. DAWKINS: The Adelaide Hills Motorcycling Road Safety Strategy was released in May 2004 by the Adelaide Hills Community Safety Group. The strategy was prepared in response to the state government's Motorcycling Road Safety Strategy 2005-10, but state government funding was discounted shortly after the release and the group was disbanded. Given strong ongoing local government support for the road safety group, as well as the significant number of injuries and deaths resulting from motorcycle accidents in the region, what resources will the minister provide to reactivate the group and to enable the recommendations of the strategy to be addressed and implemented?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:55): The honourable member is correct: we do have a Motorcycling Road Safety Strategy 2005-10. We have a state strategy. Clearly, the 2004 Adelaide Hills Motorcycle Road Safety Strategy was before my time as minister. I suspect that it would have been picked up within the State Motorcycle Road Safety Strategy because, clearly, it would be beneficial to act as one within a state.

Nonetheless, I do take the point that, in the Adelaide Hills in particular, motorcycling can be dangerous. I would be surprised if a representative from that area, or perhaps a particular group, does not work within a task force on our Road Safety Advisory Council which, of course, makes recommendations to me through Sir Eric Neal. I will undertake to get some further advice from the department and bring back a response for the honourable member.

ADELAIDE HILLS MOTORCYCLING ROAD SAFETY STRATEGY

The Hon. J.S.L. DAWKINS (14:55): As a supplementary question, if the points out of the Adelaide Hills Motorcycling Road Safety Strategy have been picked up in the statewide strategy, will the minister report back on whether any of those have been implemented?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:56): Yes; I can undertake to do that. As I say, I am certain they would have all been picked up within that strategy.

MUSLIM REFERENCE GROUP

The Hon. R.P. WORTLEY (14:56): Will the Minister assisting the Minister for Multicultural Affairs tell the council what the government is doing to improve public understanding and awareness of Islam and Muslim communities in South Australia; will the recent events in the federal seat of Lindsay—where the husband of the Liberal candidate and a member of the New South Wales Liberal State Council were caught distributing pamphlets in the middle of the night for the sole purpose of inciting racial hatred—make this task more difficult; and does the minister believe that, after years of using racial hatred and wedge politics within the Australian community, maybe the federal government has gone a little too far?

The Hon. J.S.L. DAWKINS: I rise on a point of order, Mr President. I do not believe it is in order to ask any minister to give their opinion to this chamber, and I ask that you rule the question out of order.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wortley asked a question of the minister and the minister can answer the question.

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:57): Thank you for your protection, Mr President. Before responding to the question about the Muslim Reference Group in South Australia, I will say: what an absolute disgrace. Fancy using people's ethnicity and religion (because essentially that is what it was) to cause distress to those people just for the sake of really what appears to be political desperation. What a crass, racist stunt!

In relation to the Muslim Reference Group in South Australia, I thank the honourable member for his question. As I have previously mentioned in the council, the South Australian government's Muslim Reference Group was announced and first convened in late 2005. The group was formed to work out short, medium and long-term strategies for improving community relations and promoting interface dialogue relevant to Muslim communities in South Australia. The reference group highlighted the important role that the media plays in terms of communicating with the public and in fostering a balanced public awareness of Muslim communities in South Australia.

The group also recognises the need to develop a proactive working relationship with the media. It particularly expressed the need to develop 'media savvy'. To help develop a good working relationship with the media, members agreed to participate in media training. Media training was organised by Multicultural SA and occurred in the first half of 2006. Peter Manning (Adjunct Professor in Journalism, University of Technology, Sydney) delivered the training program.

Professor Manning is a recognised expert in both journalism and the relationship between the media and Muslim communities throughout Australia. Feedback from the previous training indicated that the media training had proved useful and also provided for skills that effectively dealt with the mainstream media. During a visit to the Gilles Plains Mosque, Dr Waleed Alkhazrajyn and other community members spent considerable time discussing the issue of the media.

In particular, they also mentioned that they would appreciate some more training. In response, Multicultural SA has recently organised further media training for members of the Muslim community in South Australia. The training provided members of the Muslim community with skills to manage media interviews and media relationships and detailed advice about how the media operates. The training also aimed to instil confidence in the participants and enable them to be more pro-active when dealing with the media.

A representative cross-section of the Muslim community was approached. Members of the community who were regarded as spokespeople or potential spokespeople for their communities participated in that training. Nine members of the Muslim community received the training, including people who were willing to be spokespeople for their communities.

The training was held on Sunday 28 October this year and was again provided by Professor Manning. Feedback from participants regarding the content and delivery of the media training has been overwhelmingly positive. It is hoped that this initiative will foster positive and mutually beneficial relationships between the Muslim community and the media. I am certain that we would all agree that education through the media is an important step in breaking down stereotypes, misconceptions and fear of the unknown. I am sure council members will agree that this action plan will make South Australia a better place for members of the Muslim community and for all South Australians.

JUDICIAL SENTENCING

The Hon. D.G.E. HOOD (15:01): I seek leave to make a brief explanation before asking a question of the Minister for Police, representing the Attorney-General.

Leave granted.

The Hon. D.G.E. HOOD: I was at the District Court this morning for the sentencing of Chris Niehus, a paedophile who was charged with unlawful sexual intercourse with a minor. The victim, who is willing to be named, although I will not name her, is now an adult but was 14 years of age at the time of the offending.

She met Mr Niehus on the internet. He lured her to meet him in person and then sexually abused her over a year. He convinced her that she had caused the offending to happen and that it was her fault. They then began a relationship which was sexually, mentally and physically abusive.

The sexual abuse was then persistent, occurring some two to three times a week over the period of at least one year.

Police began investigating Mr Niehus on unrelated child pornography matters, and the sexual abuse then ended. Nevertheless, Mr Niehus began stalking her and calling her several times a day, breaching restraining orders and bail conditions on numerous occasions.

In addition to unlawful sexual intercourse with a minor on several occasions, some of the more recent incidents included:

- continually sending naked images of himself via email to the 14 year old victim;
- calling her up to 30 times a day;
- emailing her several hundred emails in the period of a few days, some stating what colour cars she was parked between;
- damaging both the victim's old and current cars by kicking in the doors and keying them on several occasions;
- chasing her and her boyfriend on several occasions;
- turning up at her boyfriend's place of work, despite restraining orders to the contrary; and
- making a number of complaints about her and her boyfriend to their workplaces, schools and other organisations they had dealings with.

This morning District Court Judge Marie Shaw sentenced the deviant Chris Niehus, whose name is no longer suppressed, to a three year head sentence and one year non-parole period and then wholly suspended the sentence. His only immediate penalty is a requirement to complete 150 hours of community service.

There is a prevailing concern that defence lawyers make soft judges and that Judge Marie Shaw is Adelaide's softest judge. There was public outcry over her November 2006 sentence of home invader Alan Knott which saw her say she was 'entitled to be merciful' because in her view Knott had rehabilitated himself. In November 1998 Knott had tied up and beaten an elderly couple with a hammer for seven hours in their own home, leading to massive outcry via the late campaigner, Ivy Skowronski. She gave the marauder a very light gaol term indeed. The Court of Criminal Appeal agreed and actually quadrupled the sentence she imposed.

She is reported in *The Advertiser* this week as canvassing the need for shorter prison sentences. Further, freedom of information data received by Family First shows that Judge Shaw did not sentence any persons charged with rape or unlawful sexual intercourse to prison last year, despite hearing 12 cases charged with those offences. I remarked about these deplorable sentencing statistics during debate on the victims of crime bill, but I did not name the judge. I now name that judge as Judge Marie Shaw. My questions to the minister are:

1. Given the government's claim of being tough on law and order, when will the minister call for a joint sitting of parliament to remove Judge Marie Shaw, South Australia's softest judge, from office?

2. If the government will not do this, what possible reason can there be to allow Judge Shaw to continue to hear cases and hand down grossly inadequate sentences to hardened criminals?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:05): Just before I came into question time today I saw details of this particular sentence on the internet media reports, and I can understand why anyone looking at that might have concerns that, on the facts given in the reports, the sentence was lenient. I believe the Attorney-General has made a statement in relation to this case; obviously, as the case was handed down just this morning, he would need to examine the sentencing decision of the judge before it would be appropriate for him to take any action in relation to that particular decision—if, indeed, he felt that was warranted.

Our judicial system has the capacity through the appeals system, and there are mechanisms by which the Director of Public Prosecutions has the capacity, to appeal sentences which are believed to be too lenient. I am sure that the Attorney will examine the sentencing decision and the details of the case and will refer it to the Director of Public Prosecutions if that is considered appropriate.

In relation to particular judges, that is a matter for this parliament. There will be judges who will make a range of decisions, and I do not think it prudent to draw conclusions based on one decision in one particular case. As I said, at this stage the government has not had an opportunity to look at the reasons given for the sentence, but I am sure it will do that and will take whatever action on the matter is deemed appropriate.

The PRESIDENT: I remind honourable members of standing order 193, and indicate that without a substantive motion they should be very careful when reflecting on judges of the courts.

JUDICIAL SENTENCING

The Hon. R.D. LAWSON (15:06): I have a supplementary question. Given the standing order referred to by the President, and the fact that the government was expecting this question, why did the minister not, on behalf of the government, defend the South Australian judiciary?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:07): Why did the honourable member not raise a point of order for his judicial colleague?

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: I did not know that question was coming at all, and I reject that suggestion.

The Hon. R.D. Lawson: You appointed the judge and now you want to undermine her.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: On a point of order, Mr President, I ask that the Hon. Robert Lawson withdraw that false allegation.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lawson will withdraw his last remark.

The Hon. R.D. LAWSON: On what grounds, Mr President?

The PRESIDENT: On the grounds of accusing the minister of knowing the question was coming and saying he was reflecting upon a government appointee in court.

The Hon. P. HOLLOWAY: He said that I was seeking to undermine the judge.

The PRESIDENT: The Hon. Mr Lawson should withdraw his last remark.

The Hon. R.D. LAWSON: The substance of the remark was that the government failed to defend a member of the judiciary. There is nothing unparliamentary about that.

The PRESIDENT: I quite clearly heard you indicate that the minister was undermining a government-appointed judge.

The Hon. R.D. LAWSON: Failing to defend the judiciary; that was the substance.

The PRESIDENT: I think you should withdraw that, because the minister was not doing that. The minister also made it quite clear that he did not know what the question was about.

Members interjecting:

The PRESIDENT: The minister is not a mind reader; he did not know what the Hon. Mr Hood—

Members interjecting:

The PRESIDENT: Order! He was quite within his rights to answer the question, which he has done. It is probably—

Members interjecting:

The PRESIDENT: Order! I should probably have ruled the question out of order myself when the Hon. Mr Hood completed his question; that would have been the correct way. That is why—

Members interjecting:

The PRESIDENT: Order! We do not want to waste all of question time talking about this. That is why I reminded honourable members to be careful, and then the Hon. Mr Lawson went ahead with his supplementary. Has the minister completed the answer?

The Hon. P. HOLLOWAY: Was there a question?

The PRESIDENT: No.

Members interjecting:

The PRESIDENT: The Hon. Mr Lawson asked a supplementary, I understand, or put it as a supplementary—

The Hon. R.D. Lawson: I did put a supplementary, which the minister failed to answer.

The Hon. P. HOLLOWAY: What the Hon. Robert Lawson did was to make an accusation, a very false accusation that somehow or other I was undermining the judge. What I said in my answer was that the government would examine this particular case, as we always do. It is then up to the Attorney to examine the case. I was aware that the Attorney-General had commented on this case. I was aware of this particular case but I had no idea about what question the Hon. Dennis Hood would ask in relation to this matter. The standing orders apply in this council. It is not my role to uphold them any more than it is any other member in this chamber.

Members interjecting:

The Hon. P. HOLLOWAY: The Hon. Robert Lawson did not ask—

The Hon. R.I. LUCAS: I rise on a point of order, Mr President. Just to defend your position, Mr President, I invite—

The PRESIDENT: I am quite capable of doing that myself.

The Hon. R.I. LUCAS: —you to ask the Leader of the Government to withdraw the reflection on your performance as President in relation to the handling of the standing orders.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It is an outrageous reflection on your position by the Leader of the Government.

Members interjecting:

The PRESIDENT: Order! The minister was not reflecting on the President, and it has already been stated that perhaps the question should not have been allowed under standing order 193. However, we have progressed to this stage. Has the minister finished his response to the supplementary?

The Hon. P. HOLLOWAY: Yes.

Members interjecting:

The PRESIDENT: Order!

POLICE RESOURCES

The Hon. R.I. LUCAS (15:13): I seek leave to make an explanation before asking the Minister for Police a question about allegations of inappropriate use of police resources.

Leave granted.

The Hon. R.I. LUCAS: Earlier this year a whistleblower from within the police force contacted me and made some serious allegations about the improper use of police resources for personal purposes. Recently, I was contacted by another person who has provided some further information that supported the nature of the allegations that were being made against police officers.

The nature of the allegations are as follows: in November last year a patrol of mounted police attended the wedding of one of the members of the mounted police force. Two members of the mounted police force spent many hours on a particular Saturday prior to the November wedding preparing a horse to attend that wedding, and then returned to the patrol base and performed no other duties.

Further allegations indicate that, in approximately late 2005, two police officers attended Callington for the same purpose although, in that instance, the understanding was that they performed a short patrol to offset the expense of travelling such a distance for a private function. Whilst the officers were in attendance, I am informed that the bride rode one of the police horses and had photos taken which were proudly displayed for some period at the Thebarton police barracks. The whistleblower concluded his concerns by saying, 'My experience within'—

Members interjecting:

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I am disturbed that the Hon. Mr Finnegan knows so much about hooch. I will leave that for him to explain on another occasion to Don Farrell or to Michael Atkinson.

Members interjecting:

The PRESIDENT: Order! The honourable member will get on with the question.

The Hon. R.I. LUCAS: The whistleblower concluded his concerns by stating:

My experience within the police department has jaded me, so I do not believe that this matter will be addressed by police management if brought to their attention. I write to you in the hope that this matter will be looked into and perhaps if the mounted has so many members available to it that it could provide those members to support patrol bases where they are so desperately needed rather than attending private functions of its own members.

My questions to the Minister for Police are as follows:

1. What guidelines apply to police officers in terms of using scarce police resources, such as mounted horses, for private purposes such as weddings?

2. Has the minister been made aware of allegations along these lines, and if he has not, will he undertake to ask the Police Commissioner to investigate urgently these allegations, and to provide a written response to me after he has received a reply from the Police Commissioner?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:21): I think I heard the Hon. Rob Lucas say that some of these events happened back in late 2005. Obviously, this matter is of such pressing urgency and this misuse of police resources is so acute that some two years later he has decided to raise it. I am happy to get the information from the Police Commissioner about what guidelines apply to the use of police resources. I can certainly bring that back, but I think that the honourable member would need to provide just a little more information than something that happened in Callington two years ago, if he really expects us to get some meaningful information.

If this is the worst allegation that the honourable member can come up with in relation to the use of police resources—that somebody had a picture of somebody riding a police horse—obviously our police force is a lot better placed than those of other states. Obviously, police resources need to be used for the principal purpose.

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

The Hon. P. HOLLOWAY: Was I aware back in 2005 of this incident at Callington? No, I was not. I will see what information, if any, the Police Commissioner has and bring back a response.

POLICE RESOURCES

The Hon. R.I. LUCAS (15:18): I have a supplementary question. Will the minister, in his discussion with the Police Commissioner, investigate whether or not it is true that there is a list within the mounted police of police officers wanting mounted police patrols to attend personal weddings in the future?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:19): I will seek that information from the Police Commissioner. Let me take this opportunity—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —to congratulate all officers of the police force, particularly those in the mounted division, because I know, having visited, how much additional time they put into the care of those horses, and just how important they are. I know that police officers are involved in a number of voluntary community activities in their own time, and I am sure that that is true of the mounted division, as it is of other police divisions. If that is what members of the opposition think, if these are the sorts of issues that they will raise with the—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I am sure that the South Australian Police Association will be really impressed by the sort of support that they get from the opposition for putting their jobs on the line in this state. I will make sure that the association is well aware of it. If we are talking about responsibility, what about the shadow minister for police, the Leader of the Opposition, exerting leadership on these issues and defending the police of this state against these sorts of allegations?

Members interjecting:

The PRESIDENT: Order! I wonder what the young people from school think of the behaviour today in this chamber. I am sure it is better for them to go to the circus.

MARINE PARKS

The Hon. B.V. FINNIGAN (15:21): Regrettably for the Hon. Rob Lucas I do not have a question about animals, as he is a regular Dr Doolittle this week. I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about marine parks.

Leave granted.

The Hon. B.V. FINNIGAN: The planned marine parks this government has committed to create need to strike a balance in respect of acceptable use, including commercial and recreational fishing and conservation. Most importantly, any decisions must be based on the very best available information.

Members interjecting:

The Hon. B.V. FINNIGAN: Well, take a point of order.

The Hon. S.G. WADE: On a point of order, sir, Mr Finnigan is engaging in comment.

The PRESIDENT: Under what standing order?

The Hon. S.G. WADE: Mr President, you have so ruled countless times.

The PRESIDENT: There is no point of order.

The Hon. B.V. FINNIGAN: Will the minister inform the council of moves to provide better scientific information on the creation of these parks?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:22): It is a good time to be asking about this, on the day—

Members interjecting:

The Hon. G.E. GAGO: I cannot hear myself think, Mr President. Thank you for your protection. It is a good time to ask about this, given that it is the day after the Legislative Council passed the Marine Parks Bill. Yesterday I announced the launch of a new 7.5 metre research vessel that will not only be a huge asset in the determination of our planned marine parks but one that will have a long-term role to play in the preservation of our marine environments. It is a former charter vessel that has been purchased and modified to enable DEH scientists to undertake scientific field assessments in the state's waters, including sonar mapping of the seafloor (the bouncing of sound waves off the seafloor).

Carrying teams of up to six people, the boat is fitted with instruments that use sonar waves to scan the seafloor, providing the crew on board with an extremely detailed map and outline of the terrain below. This will allow scientists to undertake surveying and mapping expeditions. There is also the capacity to use remote video cameras to record footage of the ocean floor as a means of validating the satellite and—

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

The PRESIDENT: Order! Now that the Hon. Mr Dawkins has finished interjecting, the minister can continue.

The Hon. G.E. GAGO: —aerial imagery and acoustic information. Further, the boat is also a launch for divers to undertake detailed close up and personal inspections of the seafloor. As I said earlier, this boat is also a means of recognising one of the state's most passionate maritime environmentalists. I am pleased to announce that the boat will be named the *TK Arnott* after a former DEH senior maritime archaeologist, Terry Arnott, who died unexpectedly this year. He was a very—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: I am glad they think it is amusing that we are naming this vessel in honour of this incredibly valued member of our DEH team, who died tragically early in the year. He made an incredible contribution to maritime work, particularly to maritime heritage, and I find it fascinating that opposition members find it so amusing that, as a legacy to him, his family and his work—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Having benefited so much from the legacy of his work, we have named this scientific maritime research vessel after him. I have no doubt that today is an extremely important day in South Australia's history. We are seeing the tools delivered that will open our eyes to wonders that for so long have been hidden, or at least much of it has been. This week we have also moved to get on with the job of providing surety to the commercial fishing and aquaculture industries in connection with this matter.

We held the first meeting of the Displaced Effort Working Group on Tuesday. This should ensure that all commercial fishers and aquaculture operators understand the process the government intends to implement to minimise the level of displaced effort and the arrangements that will be made in the event that they are affected. As we have put on record previously, that would obviously be as a last resort. We are clearly looking to accommodate the interests of current users.

The purpose of the legislation is obviously to conserve our precious and important marine environment. However, each of the marine park areas will be zoned so that the range of uses will be accommodated in the best possible way. In particular, our emphasis will be on those uses that occur in a sustainable way. Clearly, we are looking at displaced effort only as a last resort.

The groups represented on the Displaced Effort Working Group include the South Australian Fishing Industry Council; the South Australian Seafood Industry Federation; the Seafood Council of South Australia; the Abalone Industry Association of South Australia; the Spencer Gulf and West Coast Prawn Fishermen's Association; the South Australian Marine Scale Sardine Industry Association; the South Australian Aquaculture Council; the Department for Environment and Heritage; and the Department for Primary Industries and Resources, South Australia (Fisheries and Aquaculture). Because we are often accused of not consulting thoroughly, I felt it was important to put on the record the level, degree and extent of the consultation that has been undertaken.

ELECTRICITY (FEED-IN SCHEME—RESIDENTIAL SOLAR SYSTEMS) AMENDMENT BILL

Consideration in committee of the House of Assembly's message.

The Hon. P. HOLLOWAY: I move:

That the council do not insist on its amendments.

When this bill was before the council, the Hon. Mark Parnell moved several amendments, which have two basic themes. The first was to include small business in the feed-in electricity scheme and the second was to extend from five years to 20 years the operation of this scheme. As I argued at the time, there would be significant administrative difficulties if the scheme were to be extended to small business, as defined in the amendments of the Hon. Mark Parnell. I pointed out that, when it came to the support for photovoltaic cells that are provided by the commonwealth government, they are not provided to small business; they are provided to residential households only.

The purpose of the scheme is to encourage individuals to use photovoltaic cells, or solar cells, to generate electricity. I argue that, if we were to bring small business into it, that would increase the cross subsidy that would be required from ordinary residential users, who, in some cases, would be low income households. More importantly, the government particularly opposes the amendment in relation to extending this scheme from five years to 20 years. If one is going to have a scheme, why put that time frame on it?

The government has pointed out that it believes that, in the next five years, we will have a carbon emissions trading scheme: in other words, that the benefits or merits of this scheme may well be obsolete in five years. If we were to accept the amendments originally moved by this council, those people entering this scheme would have the legitimate expectation that they would receive this subsidy for the next 20 years, regardless of whether, following the review of the scheme in five years, it was concluded that there was a much better way of dealing with the promotion of alternative energy forms within this country. That is why the government cannot accept this amendment, even though, of course, five to 20 years hence it may well be a different government that has to put up with it.

The important thing is that we believe that five years is a reasonable time for this scheme to be trialled. Whether it should be continued after that date is something that should be assessed at the time on the information that is then available. If we were to accept this amendment for 20 years, we would effectively be locking in this scheme for 20 years. Those people who invest now would have every right to complain if it were to be removed at some stage in the future, because there was a better way in which to encourage alternative energy. That is why the government cannot accept this decision. It will be unfortunate if these amendments are insisted on, because that will mean that the country's first feed-in scheme will not occur because, as I said, the government cannot accept those amendments.

The Hon. M. PARNELL: I oppose the motion. I believe that we should insist on our amendments. I would like to address the issues that the minister has raised, which were raised in another place by the Hon. Patrick Conlon. I will also address the matters that he raised. I think we need to remind ourselves that South Australia is leading the way on this issue, and the other states are watching us to see what we do and whether we get this feed-in tariff right.

We will set the benchmark for the rest of the nation. So, this is not about the Greens or anyone else trying to stop the government getting the first feed-in tariff in this state and getting one that is good. We need to go back to the very first principles of this legislation. What is the legislation supposed to achieve? What it is trying to achieve is to increase the uptake of domestic solar panels—small-scale solar panels—that people can put on their roof for the sole purpose of reducing greenhouse gas emissions. That is what this bill is all about.

It will succeed if we manage to encourage more people to put solar panels on their roofs. It will fail if we do not encourage them, and that is what we must always bear in mind. Let us not make this some sort of a government versus opposition issue, or a Greens versus people issue: it is really the Legislative Council having done its job properly as a house of review and taken a reasonable piece of legislation but with flaws and fixed it up. We have made it achieve the purpose for which it was intended.

I now turn to some of the points which the minister has raised and which the Hon. Mr Conlon raised in another place. He said that they have consulted with industry. The Hon. Mr Conlon said:

> Members should make no mistake, this was the subject of extensive consultation over a year with industry and lots of interested groups.

I challenge the government to release to us the responses that it got from industry which told it that this bill was what was wanted; that this bill was perfect, because the submissions that came to me from industry said, 'Five years is not long enough. We need 20 years to get investment certainty.' I think—

The Hon. P. Holloway: They would say that, wouldn't they. Would you expect them to say anything else?

The Hon. M. PARNELL: Obviously, the solar industry has an interest in selling solar panels, but this bill has an interest in getting solar panels on roofs. People will not get them in their Christmas stockings, minister: people will have to buy them. You must work with the solar industry. Sure, it wants to sell panels but it needs to be able to go to its customers and say, 'You have

legislated support that will assist you in the decision to do the right thing by the environment and put these panels on your roof.'

Show me the submissions from all relevant industry members that say, 'Five years is what we need', because the submissions I have say that it is not good enough. The Hon. Mr Conlon in another place is saying that they would keep faith with industry by sticking with the five years when there is no-one to my knowledge from industry who wants a five-year scheme, and I think that is just ludicrous. You will earn more brownie points with industry if you extend the scheme to 20 years as proposed in the Legislative Council amendments. It does beg the question: what is the point of having consulted with industry if you are not going to listen to a word that it says to you?

I have shared with members in this place the submissions from the Business Council on Sustainable Energy, which said, 'We need for investment certainty to have a longer time period than five years.' That organisation will not feel that you have broken faith with it. It will be delighted if you say, 'We've listened to you in consultation and we're going to extend this scheme to 20 years.'

It was also suggested in another place that the Greens had not consulted with industry about it. That is absolutely wrong. I have spent an awful lot of time on the telephone and on emails with all manner of people from industry. I have been talking to the Clean Energy Council (that is the new name for the Business Council on Sustainable Energy). I have been talking with people from BP Solar (the largest manufacturer of solar panels in Australia), the Solar Shop, EcoSouth, the Alternative Energy Association and a range of other retailers and non-government conservation groups, and I was surprised at how consistent they were in their replies to me.

Far from the government's claim that it is keeping faith with industry, the impression that I got is that if the government was to go and support the Legislative Council amendment in relation to 20 years, that is absolutely what they want. It has also been said that the amendments that this Legislative Council endorsed will somehow destroy the bill—kill this bill and make it unworkable. I think that is rubbish.

We have improved the bill. If the government wants to make threats to say, 'If these amendments of the Legislative Council are insisted upon, we will pull the bill', then be it on the government's head. The member for Mitchell in another place said:

> If the bill is withdrawn that will rest squarely on the minister's shoulders and on Mike Rann's shoulders.

I can tell members that, if the bill is withdrawn as a result of our insisting on these amendments, these industry groups with which the government claims to be wanting to keep faith will come down on the government like a tonne of bricks and they will know why this legislation failed. They will not be blaming the Liberals; they will not be blaming the Greens: they will blame the government for not accepting some sensible, relatively minor amendments that improve this legislation.

The government said that it had no option but to oppose. That rather begs the question: why did the government bother consulting with anyone if it was not open to hearing anything that people in industry or the Legislative Council had to say? I think this motion does treat this council with contempt. We debated these amendments at some length. Not everything I put forward was accepted—many things that I think would have further improved this bill were rejected—but the two issues that we agreed on in this place were to extend the scheme to 20 years and extend the availability of the incentives in this bill to small business customers.

The minister in another place also said that 20 years was not an appropriate period of review. I remind honourable members that the government has committed to reviewing this bill. It said it was the halfway mark in its five year scheme at 2½ years, but it is not in the legislation. The government can review the legislation whenever it wants, and it will need to review it sooner rather than later.

The one thing where I do agree with the minister is that, even if we set a 20 or five-year time limit, this area is a moveable feast. We will have carbon trading, and all manner of things will come in and the landscape will change, but what will not change is the decision making processes of the mums and dads, and they will be overwhelmingly be the people who take advantage. Maybe a couple of small business people might want to as well.

They will walk into the retail outlets where solar panels are sold and say, 'I'm here because I want to do my bit for the greenhouse effect. I know that if I put some solar panels on my roof I can generate some electricity, feed it back into the grid and that will be good for the greenhouse effect

and it will also be good for peak demand—those hot summer days when the airconditioners are running.'

The reason people do that now is out of their commitment to the environment. What this bill does is give them a small incentive, in that it guarantees a higher tariff at 44¢ than they have to pay to buy their electricity in. As we said last time, it is likely to reduce the payback period from 20 years to maybe 18 or 19 years. It is a fairly small incentive that might get a few more people into those shops to take up the option of solar panels.

What the solar retailers say to me is that, even though people are not there to make money—they are there to do the right thing for the environment—they ask, What's the payback period? If I put these panels on my roof, what's the payback period?' The solar retailers tell me they need to be able to tell their customers that they will be paid more money for the electricity they sell and that there is legislation in place that will ensure that is the case for at least 20 years.

What we have to remember is that these solar panels last that long. In fact, BP Solar, which manufactures most of the solar panels in Australia, guarantees its panels for a period of 25 years, so people are making a long term investment. So, when people go into the shops they need to know that as a parliament we are behind them. We are saying, 'You're doing the right thing; you're not going to make money out of these panels. You're not going to make a profit; it's not going to be a business for you: we're just giving you a bit of extra incentive to help you do the right thing by the environment, and we will lock it in that we will help you for 20 years.'

Over time, the rates, the tariff and maybe the calculation method will change, but we need to say that, as of 2007, we are standing behind the customers and we will give them this extra support that they need. I do not accept that 20 years for the duration of this bill undermines the intent of it. What it does is add that extra. As the solar sellers said to me, this 20 years is the most important thing for them.

It is the one thing that will help them to encourage people who are already part way there. The fact that they have walked into one of those shops shows that they are already part committed and, to help close the deal and help them put those panels on their roof, they need to know that it is going to be a 20-year period.

I will refer briefly to the other issue of small business, which should be able to take advantage of this scheme. The government makes the point that small business does not have the benefit of the commonwealth government's capital rebates—in other words, it is only householders who are able to get that cash rebate on the installation of their panels. That is an important incentive for householders. Small business people do not get that incentive, so what can we offer them? Absolutely nothing except this extra feed-in tariff—the availability of this tariff to them.

That means that a small business person who wants to put panels on the roof of their shop or workshop or factory, or whatever it might be, will have to be even more committed to the environment than a householder. A householder gets an incentive from the commonwealth and they now get the benefit of this extra feed-in tariff as well. The small business has to be really committed because they have not yet got the commonwealth benefit; they only have the feed-in tariff—if we insist on our amendments.

It begs the question: if we, in South Australia, want to be the lead state, why on earth are we hiding behind the coat-tails of the commonwealth and saying, 'If the commonwealth doesn't see fit to give capital subsidies to small business then why should we, as a state, give a beneficial feed-in tariff to small business?' I cannot understand why, with this government's ability to show leadership, it is hiding behind the coat-tails of the federal government.

After having had that final instalment of the fourth report of the International Panel on Climate Change last weekend, we now know that it is even far more urgent than it was when we first debated the issue to make sure that we do everything we can to encourage people to do the right thing by the climate. As I said yesterday when I was talking about that IPCC report, the time for baby steps is over.

I think we can also be mature about this debate and can make sure that it is not a party political thing. The Greens' role in this is that we are, I would like to think, a critical friend of government; we support the legislation and want it to succeed, but the government does not have a monopoly on wisdom. The Greens prefer to go out and talk to people in the real world who are actually manufacturing and installing these panels to find out what incentives people need to make that decision to invest.

I urge all members of the Legislative Council to note that by insisting on these amendments we are making some relatively minor changes to what was already a good idea—that is, to give preferential tariff treatment to people who have taken that public interest step and put solar panels on their roof. I do not think we should be swayed by the arguments raised, most of which I have covered.

Another issue that people may have some nervousness about is the administrative burden; people are saying that extending it to small business will be too hard. It is not too hard. All it requires is a small business person to go and buy some panels and sign a form which says, 'I am a small business person, I have fewer than 20 employees, and I want to apply for the 44¢ tariff.' That is sent in to the electricity company and the small business person gets the beneficial tariff.

The government will say that its intention was to spread the cost of this scheme over the same people who can benefit from it, and because we do not have a separate category called 'small business consumer' for the purpose of billing, this system cannot work. I say that is rubbish: we can make this work. I suggested that it be spread over the cost of all electricity consumers, with some discounts and rebates for low-income people. It is not too hard for the government to come up with a scheme, through regulations, that makes sure that we spread the cost of this.

It is a small number of small business people who are likely to take up this offer; I would imagine it is in the tens rather than the hundreds or thousands. In fact, if you were minded to put up solar panels your first option would be to put them on your house because you can get the commonwealth capital subsidy.

As I said when I moved these amendments, it is only if a person cannot put it on their house because they live in a block of flats, or in circumstances where there are trees and they cannot do it, so let us give them the option to put it on their business if they are a small business proprietor. I think these amendments are incredibly sensible. I urge the government not to oppose the amendments or not to pull the bill. That would be an absolutely ridiculous outcome for what are sensible amendments that will, in fact, put South Australia in a leadership role in relation to the debate on climate change.

The Hon. C.V. SCHAEFER: The Liberal Party will continue to oppose the government's approach on this matter. We supported the Hon. Mark Parnell's position when it was debated previously and we will continue to do so.

It has been interesting to see the government's shift in attitude. When the Hon. Mark Parnell moved his amendments originally, there was enormous consternation about how one could possibly work out what was a small business and what was not a small business—it would be absolutely impossible—and yet, by the time these amendments reached the lower house, the Hon. Mr Conlon said that that was secondary to the concern about extending the scheme for 20 years.

It seems perfectly logical to me to extend a program to 20 years if necessary. My understanding is that the pay-back period for installing these panels is between 15 and 20 years. The same people who contacted Mr Parnell contacted me to say that they need this 20-year period. If they have a five-year period, what do they say to their customers when they come in: 'We can assure you of a 44 per cent rebate for five years.' The customer says, 'Hang on, I need 15 years.' They reply, 'Sorry, we don't know what the government is going to do after five years.'

When I spoke the first time I said that it was the view of the Liberal Party that this was nothing more than a publicity stunt by the Premier. This sounds like a long bow but, to me, it is very reminiscent of when the Premier announced, with great gusto, that he was going to fix our problem gambling situation by buying back a large number of machines. That would reduce the number of machines and all would be well. By the time he had finished with it, all he had done was place the machines in the hands of very large operators, and nothing much changed at all.

It seems to me that this is a similar announcement: 'We are going to be the first state in Australia to introduce a feed-back scheme.' What it really means is that it was going to offer it to such a small number of people and run it over such a small amount of time that it was actually going to make no difference at all, but the government would be able to wave a flag and say, 'We were the first in Australia to introduce this.' This is yet another pea and thimble trick. It will be churlish in the extreme (and prove my point) if the Hon. Mr Conlon does, in fact, withdraw the bill. We will continue to support the Hon. Mark Parnell's amendments.

The Hon. SANDRA KANCK: I indicate that the Democrats will also be sticking by the amendments. I do not regard the amendments that got up in this chamber to be in any way onerous or draconian. A number of amendments were moved that were unsuccessful. What we

have are the remaining few that were successful. They are not going to bankrupt anyone. Again, in the light of climate change and this government's stated commitment to reducing the impacts of climate change, this is one way of doing it by encouraging people to invest in this technology. The longer that we can provide these tariffs the more likely people will be to invest in the technology. If we are serious about climate change, then members of this chamber should stick by these amendments.

The Hon. P. HOLLOWAY: I will briefly address some of the points that were raised. What the government proposed in the original bill is that, in terms of people who feed electricity back into the grid from their solar panels, whereas they pay 17¢ a kilowatt hour (or thereabouts) for electricity delivered to their door, other electricity consumers, who might be some of the poorest people in our community for all we know, will cross-subsidise them to the tune of 44¢ a kilowatt hour for the electricity that they put back into their grid.

The bigger the take-up you have, the greater the cross-subsidy that is necessary from other consumers. If one increases the period over which this operates from five years to 20 years, if it does have the effect of increasing take-up beyond what is anticipated, it means that ordinary customers, in some cases the poorest consumers in our community, will have to pay more to cross-subsidise the scheme.

The government has put this bill forward as a result of all the information available to it and, of course, we will review it in 2½ years to ensure that we get the right take-up. There are two ways in which you can increase the take-up: one is by increasing the rate that you pay—in our case, we propose 44¢ per kilowatt hour—and the other incentive is, of course, the time. The five-year period and the 44¢ is very carefully pitched at what we believe (it is a guess based on the information that we have in relation to the previous take-up of solar panels) will achieve the goal of 10 megawatt hours of solar generation from the current three.

If one is to increase the attractiveness, then certainly we might get to a different target, but the point is that other customers will have to cross-subsidise the users of this scheme. This has been carefully pitched. The 44¢ parameter and the five-year period put by the government are very carefully pitched to achieve the goals that we have set. If these are increased, the government, as I said, cannot support the scheme, because it may have significant consequences for other users, which I am sure the Greens and the Liberals will be the first to run away from in terms of taking responsibility for it. However, this government does take responsibility. We will have to take responsibility for the outcome of the scheme, and that is why we will insist on rejecting these amendments.

Finally, the Hon. Mark Parnell spoke about the industry. Of course, he was talking about the solar panel industry. It is scarcely surprising, of course, that it would want a longer scheme, because the industry will make more money out of it. It is a quite simple case of self-interest. Of course it would want the longest period possible. I am sure the industry would prefer 25, 50, or 100 years or, in fact, indefinitely. Of course they would do that. The period and rate that we took are pitched to achieve the government's objective of getting 10 megawatts of solar panel generation in five years.

Again, I remind the committee that we had undertaken to review that. In 2½ years the rates can be adjusted if necessary to encourage that particular take-up. A future government always has the capacity in five years' time to adjust the parameters of the scheme. As even the Hon. Mark Parnell has suggested, within five years the scheme is likely to have vastly different rates, etc., in any case.

So let's be honest to those people who are buying these panels. We are offering them a very attractive rate—44¢ per kilowatt hour for electricity fed back into the grid compared with the 17¢ they pay for taking it out of the grid, cross-subsidised by other electricity consumers, and they will get that for five years. That is the deal. Of course, they also get the advantage of the commonwealth's $8,000 capital grant. If it is necessary to increase that in the future, obviously so be it. There will be all sorts of changes with carbon trading schemes, and so on, that are likely to be introduced within the next five years which will totally change the parameters. For those reasons, the government believes the five-year operation of the scheme is eminently sensible.

The Hon. M. PARNELL: The minister refers to this scheme as being carefully pitched. It is not carefully pitched. The government has no idea how many people will be attracted to take up solar panels under this arrangement, but it does not want too many people to do it.

The Hon. P. Holloway interjecting:

The Hon. M. PARNELL: You talked about the bigger take-up rate as being a problem because you say it leads to a bigger cross subsidy, and you talked about poor people having to subsidise rich people putting on their solar panels. The government has no idea how many people this scheme will attract, but those of us who have spoken to people in the industry are saying that their customers are telling them that it is no incentive at all. They will not get any new people. We do not want to just benefit the people who have already made the commitment, the people who have already put the panels on their roof—they are a side benefit. It is great that they can get the tariff, but, unless this scheme encourages new people to go into a shop, buy solar panels and put them on their roof, it will fail. If no new panels go up, it is a failure. All we have done is give a bit more return to people who have already done the right thing.

In terms of the cross subsidy, it is simple to spread the cost of this scheme, even though we do not know what it will be—it is not likely to be high—across all electricity consumers, and you will find we are talking about a few cents or dollars a year. We are not talking of an extravagant cross subsidy between the rich and the poor. I put an offer on the table in other amendments to exempt pensioners and low income people. The government can still go back and fix up that situation.

Let us not kid ourselves that the government has drafted this comprehensive scheme, knowing exactly through market research how many people will take up panels and what the greenhouse effect will be. It is hit and miss. I do not want to miss; I want to hit. I have put these amendments and urge members to support them because people in the business of selling solar panels to consumers say that, without the sort of incentives we are offering here, the take up rate is unlikely to be increased.

The committee divided on the motion:

AYES (6)

Gago, G.E.	Gazzola, J.M.	Holloway, P. (teller)
Hunter, I.K.	Wortley, R.P.	Zollo, C.

NOES (13)

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

PAIRS (2)

Finnigan, B.V.	Evans, A.L.

Majority of 7 for the noes.

Motion thus negatived.

SENIOR SECONDARY ASSESSMENT BOARD OF SOUTH AUSTRALIA (REVIEW) AMENDMENT BILL

In committee.

Clause 1.

The Hon. CARMEL ZOLLO: Before we deal with the amendments, I will place on the record the responses (I think there are four) that the honourable member was seeking. In relation to SACE completion rates, I am advised that students may complete the SACE over a number of years. Many students undertake stage 2 year 12 over multiple years. The completion rate provided is generated by calculating the number of students who have completed the SACE in that year compared with the number of potential completers. A potential completer is a student with an enrolment pattern that, if completed successfully, would enable them to meet all requirements for the SACE.

For the year 2002 we need to be advised of the exact numbers, but the completion rate was 81.5 per cent; for the year 2003, the completion rate was 83.1 per cent; for the year 2004, the completion rate was 83.6 per cent; for the year, 2005 the completion rate was 88.4 per cent; and for the year 2006, the completion rate was 88.3 per cent. The next question was about the source

of the 55 per cent of students who commence secondary school and go on to achieve the SACE. The information comes from the SACE review, chapter 8, page 145.

The honourable member also asked about the existing year 12 subjects and whether we have a list of them. The subjects are listed in the SSABSA regulations 2006. My advice is that SSABSA is gathering information on how each of them is assessed; that information is available from SSABSA.

In relation to the tertiary entrance ranking (the TER score) and SACE certificates, the Hon. Rob Lucas asked about the government's position on the SACE review recommendation in respect of the tertiary entrance ranking score being listed on a student's SACE achievement certificate and who, in fact, makes this decision—the board or the government. I believe I did respond, but, to clarify my earlier response, the government has recommended that this should not be included on the SACE student achievement certificates. However, it will be up to the board to determine whether it will be included on the certificate.

The Hon. R.I. LUCAS: I asked a question about SATAC but, as I understand it, the minister has not—

The Hon. Carmel Zollo: I have some information: I will have to come back to that.

The Hon. R.I. LUCAS: Is the minister saying that, in relation to the assessment profile for each of the year 12 subjects, SSABSA is compiling that information and it will be provided at some later stage?

The Hon. CARMEL ZOLLO: That is correct.

The Hon. R.I. LUCAS: The minister provided the SACE completion rate figures, which were in the 80 per cent mark. She then provided some information in relation to the 55 per cent figure that the minister has been using. If that is not called the SACE completion rate, what is that figure? My recollection, from seeing the minister's statements, is that she has referred to that as the SACE completion rate of 55 per cent. However, if the SACE completion rates that she is talking about are those figures in the 80 per cent mark that she talked about earlier, what is the figure?

The Hon. Carmel Zollo: They are different.

The Hon. R.I. LUCAS: What does this 55 per cent figure refer to? Is it also called the SACE completion rate and, if it is not, what is it called? Can the minister clarify exactly how that figure was calculated?

The Hon. CARMEL ZOLLO: As I said, its reference in the SACE review is Part C, page 145. The 55 per cent refers to students who commence secondary school and who achieve a SACE, whereas the other percentile relates to students who start and complete SACE.

The Hon. R.I. LUCAS: Is that 55 per cent of the students who started year 8 secondary schooling some five years ago? You take a cohort of year 8 students and then you track them through and only 55 per cent then achieve a SACE five years later?

The Hon. CARMEL ZOLLO: I am advised that individual students are not being tracked. It is the total number of year 8s versus the total number of year 12s.

The Hon. S.G. WADE: I would like to clarify the SACE completion rate, because I think the minister expressed it in two different ways. I thought earlier that the minister told the committee that the SACE completion rate was the number of people who completed SACE and who, at the beginning of that year, had the potential to complete SACE that year. Then a minute ago the minister told us that it was the number of people who started and finished SACE; that is, SACE stages 1 and 2, which seems to me to be a different parameter. Could the minister clarify what the SACE completion rate is?

The Hon. CARMEL ZOLLO: I will reword the information I gave previously. In relation to the SACE completion rate, students may complete the SACE over a number of years. It can be normal for students to complete it over two years. Many students undertake stage 2 of year 12 over multiple years, however. The completion rate provided is generated by calculating the number of students who have completed the SACE in that year compared with the number of potential completers. A potential completer is a student with an enrolment pattern which, if completed successfully, would enable them to meet all requirements for the SACE.

The Hon. S.G. WADE: I think I understand that. A potential completer must be a stage 2 at the beginning of the year and have met all the requirements by the end of the year? You cannot achieve stage 2 from stage 1?

The Hon. CARMEL ZOLLO: Yes.

The Hon. R.I. LUCAS: During the lunchbreak I visited again the Future SACE and ministerial website. I will not delay the committee unduly by going through all the very many references, but can I just summarise by saying that there are dozens if not hundreds of statements from the minister about implementation of Future SACE; for example, 'This is what it will be', 'Money is being spent on pilot programs as of this year implementing the Future SACE', and 'There will be an aid to any grading system in the Future SACE.'

In all the statements on the SACE website and on the ministerial website it is absolutely clear that the minister and the government are saying, 'The decision has been taken. This is what is being implemented and this is how we are doing it.' The minister has confirmed now that in law that is not correct. The minister and the government have no authority under the current law to do that. The minister in this chamber has just confirmed that these will all be decisions some time next year for the future board, which will then make a decision as to whether or not it will implement the Future SACE along the lines that have been discussed.

I raise the question in relation to the age grading system, because that has been an issue of national and state controversy, with varying views being expressed as to whether or not that is appropriate. Can I confirm that, whilst the government is saying that the new Future SACE will include this form of reporting, the minister cannot make that commitment: that will be the decision that the future SSABSA will take some time next year?

The Hon. CARMEL ZOLLO: We will have to take the last question on notice. Again, I make the comment that the minister has funded the steering committee to provide the implementation of those on the board. The minister has asked the steering committee to oversee the work being developed by the Future SACE Office to develop the proposals that the board will consider. We need to make that quite clear. The decision to ratify actually rests with the board.

The Hon. R.I. LUCAS: I think the minister has now confirmed that two or three times in relation to issues, and that is clear. I will put a question on notice; I do not expect the minister or her adviser to be in a position to answer it today. If one looks at Treasurer's instructions and the Public Finance and Audit Act, with which I obviously had some background experience, and the Auditor-General's recent reports in relation to Treasurer's instructions, what lawful authority does the minister have to expend public funds when there has been no lawful decision taken to authorise the public expenditure?

The minister has now confirmed on any number of occasions that the minister has no power in law to implement various decisions that underpin Future SACE. That awaits the future SSABSA next year taking the decision, yet money is being expended now. Officers are employed, pilot programs are being conducted, implementation programs are going on and professional development is commencing. I had the privilege to view a video on the website of Paul Kilvert and other officers giving training instruction to officers in relation to Future SACE. So, we have a position where considerable millions of dollars are now being spent on a decision which the minister at this stage has no lawful authority to take.

When one looks at various Auditor-General's reports in recent times that relate to the stashed cash inquiry and various other Auditor-General investigations, we see that the Auditor-General has raised questions about Treasurer's instructions and the lawful authority to expend money. I do not expect the minister or her adviser to have an answer here; it is a legal question and may well require the involvement of the Auditor-General on this issue. Whilst I am sure the Auditor-General will not want to go through the complete SSABSA debate, perhaps I or someone else may send him the relevant sections of this debate.

I ask the minister whether she would at least give an undertaking that she will take up with appropriate legal counsel available to the government and, if need be, the Auditor-General the issues I have raised in relation to the lawful authority to expend moneys and in relation to Treasurer's instructions, to make sure there have been and will be no breaches of Treasurer's instructions in relation to this issue.

The Hon. CARMEL ZOLLO: I point out to the honourable member that it is important for him to note that work has been undertaken in response to the SACE and in consultation with the

education community, which is seeking reform. We can undertake to get that legal advice for the honourable member.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

The Hon. CARMEL ZOLLO: I understand that the amendments proposed by the Hon. Mr Lucas numbered 1, 2, 6, 13 and 14 all relate to the employment of the chief executive staff of the SSABSA I will be moving that these amendments are considered together, as they pertain to removing the provisions in the bill that protect the chief executive officer and the staff of the board from the scope of the federal government's WorkChoices legislation.

As it stands, the bill provides for the removal of the chief executive of the Department of Education and Children's Services as the employing authority for the chief executive officer and staff of SSABSA. This was in direct response to a request by all stakeholders that the perceived conflict of interest should be removed. The bill, as it stands, is not opposed by any stakeholder in regard to this matter and sees the current chief executive officer maintained for the life of his contract.

Future chief executive officers will be appointed by the Governor on terms and conditions set by the Premier. This is consistent with other chief executive officers across the South Australian Public Service. The bill also removes the chief executive of DECS as the employing authority for SSABSA staff and replaces him with the chief executive officer of the board. Again, I stress that this provision is not opposed by any stakeholder and was widely consulted on and refined in the development of the bill.

The Hon. R.I. LUCAS: I do not intend to move my amendment at this stage, but I am prepared to canvass the issues that the minister—

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: You did speak first; you can speak whenever you are recognised. Mr Acting Chair, I am not sure exactly what the minister is suggesting; certainly, once I move my amendment, I do not propose to have all five amendments considered as one. My understanding, which I will clarify with parliamentary counsel when I get a chance, is that amendments Nos 1, 2, 13 and 14 are, in essence, consequential but that amendment No. 6 can stand alone. So, it is possible for the parliament to be consistent and oppose or support amendments Nos 1, 2, 13 and 14 but have a different view on amendment No. 6. The minister was suggesting that in some way she would move that my amendments Nos 1, 2, 6, 13 and 14 be considered en bloc; with the greatest respect, Mr Acting Chair, the amendments are in my name and I will be moving them.

The ACTING CHAIRMAN (Hon. R.P. Wortley): I ask that you move your amendment No. 1.

The Hon. R.I. LUCAS: I am not going to move it at this stage; I am commenting on the minister's pre-emptive strike in relation to what she proposed to do. I am not sure exactly what is intended but what would make more sense, when I get to the point of moving my first amendment, is that if it were successful then I would agree with the suggestion that amendments Nos 2, 13 and 14 would be treated as consequential when we come to them. There would not be any debate on them because they are part of the one package.

Similarly, if amendment No. 1 were defeated I would accept that amendments Nos 2, 13 and 14 were consequential and I would not propose to debate those separately. However, I do not agree with the proposition that it be done en bloc; I also do not agree that amendment No. 6 is part of the package and cannot be part of a stand-alone decision. I have not had a chance to speak to parliamentary counsel but that is my recollection of the discussions I had with them some time last week. On that basis I am happy to now move my amendment. I move:

Page 3, lines 24 to 29—delete subclause (3) and substitute:

(3) Section 4(1), definition of 'employing authority'—delete the definition

The first point I want to make is to remind members of this committee (and, of course, not all members were here in 2006) that we had the controversial debate on what the minister referred to as WorkChoices legislation but what was actually the Statutes Amendment (Public Sector Employment) Bill. At that stage, I remind members that, put simply, the government chose a legal

device to, in essence, nominate one person in every department as the employing authority. I said, at the time:

> Nevertheless, I re-state my position that it is my very strong view that, because of the legal device that is being used in the drafting of the employing authority, we will see unintended consequences over the coming years, and those unintended consequences will need to be handled either legislatively by this parliament or administratively by the government and departments. I accept that the government will not agree with that position and that one will never know until we get a year or two down the track. However, it is a cute legal device that is being used by the government in relation to this issue.

I then went on to highlight a significant number of issues relating to the Education Act. Later on I said:

> The legal device being used of an employing authority in some respects in the Education Act is a legal nonsense. You run into dead ends whichever way you go. It is my view that there will be unintended consequences of this legal device and construction that has been used.

That was in December 2000 and we are seeing, in this legislation, the first example of what I warned of back in December 2006—that is, unintended consequences.

The minister is highlighting, 'Whoops, when we actually passed that legislation the unintended consequence was that the chief executive of SSABSA, all of a sudden, was being employed by the chief executive officer of the Department of Education and Children's Services.' Bear in mind that, under the current law, it is an independent board and has its own staff and, through that legal device that the government put through back in 2006, all of a sudden they made the chief executive officer of the Department of Education the employing authority of the chief executive of SSABSA and the staff of SSABSA. That is the first of the unintended consequences.

I make no criticism of parliamentary counsel in relation to that because it was a government policy decision and it is well nigh impossible to think through all the unintended consequences of this legal device, or the cute legal trick that the government sought to use to make the point in relation to WorkChoices legislation; this is the first example in relation to that.

Let us come back to the essential principle of this, which is: do we believe in an independent board? There will be other amendments later on in relation to this issue. If we believe in an independent board, how do we have an independent board if the Minister for Education, with or without ideological biases or ideological bent—Labor or Liberal; I will be politically agnostic or ambivalent about this, because you can have a Liberal minister with an ideological bias or you can have a Labor minister with an ideological bias—who will be responsible for the employment of the chief executive officer of what is meant to be an independent board?

The history and tradition has been that the independent board has employed its staff. It has been treated as an independent body, an independent authority with an independent officer. What do you have in a situation where the minister says, 'Right, I want one of my mates or cronies in the position, and I will appoint someone there who does not have the full support of the independent board'? Let us be fair and say that there are drafting provisions in relation to seeking agreement between the board and the minister but, nevertheless, the minister has a veto right in and of that particular construction.

From our viewpoint this issue is part of an overall package in respect of the independent board. If you do not believe in an independent board then, fine, go along with what the government is suggesting and have the minister appoint the chief executive officer. You can have an entirely consistent position, and that is the government's position, and so be it. I disagree with it, but you can have an entirely consistent position if you are going to do that. However, if you are going to support an independent board then you need to have a position where you do not have the minister of the day appointing the chief executive officer.

The Hon. CARMEL ZOLLO: In response to the honourable member, I remind him that it is an independent board. It is not a ministerial appointment as such; it is actually an appointment of the Premier, recommending to the Governor. I also remind him that the legislation states that the minister must consult with the board before the minister makes a recommendation—so, again, it is independent. I reiterate what I said before: this bill sees the current chief executive officer maintained for the life of his contract, and future chief executive officers will be appointed by the Governor on terms and conditions set by the Premier. That is consistent with other chief executive officers across the South Australian Public Service.

The bill also removes the chief executive of DECS as the employing authority for SSABSA staff and replaces him with the chief executive officer of the board. The bill, as it stands, provides

for the removal of the chief executive of the Department of Education and Children's Services as the employing authority for the chief executive officer and staff of SSABSA. This was in direct response to a request by all stakeholders that the perceived conflict of interest should be removed. The bill, as it stands, is not opposed by any stakeholder in regard to this matter.

Again, I have to stress this position: the provision in relation to what we are anticipating is not opposed by any stakeholder and was widely consulted on and refined in the development of the bill. For the member to suggest that this is not going to be an independent board, or that there will be ministerial interference is grossly unfair.

The Hon. R.I. LUCAS: Will the minister confirm that the opposition that came from the education sector was to the notion of the chief executive of DECS being the employing authority for the chief executive of SSABSA? That was as a result of the WorkChoices legislation of two years ago. Under my series of amendments, the chief executive of DECS will not be the employing authority of the SSABSA chief executive but the board. I am not sure of the point the minister is making. I understand what was the opposition, that is, that they do not want the chief executive of one school sector, that is DECS, being the employing authority of the chief executive officer of SSABSA. I accept that and the government has gone down a path of making the minister the person responsible for the appointment of the chief executive of SSABSA.

The package of amendments that I have moved makes the board the employing authority in relation to this issue. Both the government and opposition have met this criticism, as I see it, of not having the chief executive officer of DECS as the employing authority. We have just gone down two different paths. The government prefers that it be the minister and from my political viewpoint the minister is as bad as the chief executive officer of DECS. I am saying that the independent board is the ultimate employing authority.

The Hon. CARMEL ZOLLO: I thought we had made plain that to protect the staff the government will implement the appointment of the chief executive by the Governor, and the staff are employed by the chief executive of SSABSA.

The committee divided on the amendment:

AYES (12)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Evans, A.L.	Hood, D.G.E.	Lawson, R.D.
Lensink, J.M.A.	Lucas, R.I. (teller)	Ridgway, D.W.
Schaefer, C.V.	Stephens, T.J.	Wade, S.G.

NOES (9)

Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Holloway, P.	Hunter, I.K.	Kanck, S.M.
Parnell, M.	Wortley, R.P.	Zollo, C. (teller)

Majority of 3 for the ayes.

Amendment thus carried.

Progress reported; committee to sit again.

MOTOR VEHICLES (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

Clause 6, page 4, line 15—Delete '1' and substitute '12'

Consideration in committee.

The Hon. CARMEL ZOLLO: I move:

That the House of Assembly's amendment be agreed to.

This amendment corrects a clerical error that has been in the bill unnoticed since the bill was formatted for introduction into the Legislative Council. Section 81B(11a) of the Motor Vehicles Act provides for persons to be given a notice disqualifying the person from holding or obtaining a permit or licence for 12 months if the person commits the offence of contravening a condition of a

provisional or probationary licence, or expiates such an offence, or incurs four or more demerit points in respect of offences committed while the holder of such a licence.

Currently, section 81B(11a) provides for a notice of disqualification to take effect on the day specified in the notice. Clause 6 of the bill amends that section so that the notice takes effect in accordance with new section 139BD. The change to section 81B(11a) is consequential on new section 139BD and was not intended to alter the 12-month disqualification period. The clerical error, if not corrected, would have the effect of reducing the period of disqualification from 12 months to one month.

The office of parliamentary counsel makes every effort to avoid the occurrence of such errors in the preparation of draft legislation but, from to time, such errors do occur. Fortunately, the error was discovered in time for it to be corrected during the passage of the bill, with the indulgence and cooperation of members in both chambers. I thank all members for making it possible for us to make this amendment, and I appreciate their cooperation in this matter.

The Hon. S.G. WADE: The opposition is aware that errors by parliamentary counsel are infinitely rarer than our own, and the opposition is happy to support the passage of this bill.

Motion carried.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

SENIOR SECONDARY ASSESSMENT BOARD OF SOUTH AUSTRALIA (REVIEW) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 1546.)

Clause 6.

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

Page 4, lines 2 to 5—Delete subsection (2)

This amendment is consequential.

The Hon. CARMEL ZOLLO: I have already spoken in relation to this clause. Clearly, the numbers are not with us, so we will not divide as it is consequential.

Amendment carried; clause as amended passed.

Clauses 7 to 9 passed.

Clause 10.

The Hon. R.I. LUCAS: There would appear to be two separate issues here. The substantive issue is the one that we will obviously have some debate about, and that is the issue whether or not there should be representatives of the South Australian Commission of Catholic Schools and the Association of Independent Schools on SSABSA. We have an amendment, which I will speak to in a moment, and the government has a halfway house amendment, which seeks to meet that issue.

I also have another amendment to this clause (which is the first one, I think; it just depends on how the chair will put this), in relation to lines 27 to 29, which is to substitute the words 'a practising teacher'. The clause currently states that one of the members must be a person 'who is currently engaged, or who has recently been engaged, in the provision of senior secondary education'. The amendment that my colleague in the lower house moved on behalf of the opposition was to make it clear that that person who was currently engaged or who had recently been engaged was a practising teacher. There are two separate issues and, when we come to vote on it, Mr Chairman, we will need to seek your advice on how you will put this.

First, there is the more critical issue of whether or not the Catholic sector and the independent schools sector are to have representation on the board; and, secondly, there is the subsidiary issue, which is whether the person who has had recent experience is a practising teacher or, if it is not a practising teacher it could be someone who has been a principal or an administrator or someone like that. That is, essentially, a stand-alone issue that needs to be

addressed, and we will need to seek your guidance, Mr Chairman, on how you intend to put this. Perhaps if I can seek that information at the outset; the first amendment that is listed seems to be my amendment, with respect to 'practising teacher'.

The CHAIRMAN: Because the minister's amendment starts at line 24, I will first put the question that all words in paragraph (a) down to and including 'must be' in line 27 stand as printed. If that is agreed to—

The Hon. R.I. LUCAS: What is the minister trying to do? She is trying to get rid of that, is she?

The CHAIRMAN: Yes.

The Hon. R.I. LUCAS: So, if that is defeated, that will defeat the minister's amendment? What I am seeking guidance about, for the members of the committee, is that for those of us who want to achieve my amendment—

The CHAIRMAN: The member wants those words out as well.

The Hon. R.I. LUCAS: So, we all agree to that?

The CHAIRMAN: Yes.

The Hon. R.I. LUCAS: That is easy. We can do that straight away.

The Hon. Carmel Zollo: No.

The Hon. R.I. LUCAS: I am not deleting paragraph (a); I am inserting new paragraphs.

The CHAIRMAN: The minister's amendment is from lines 24 to 29. The member's amendment is from lines 27 to 29.

The Hon. R.I. LUCAS: Mr Chairman, if I am reading you correctly, if the first thing is putting that lines 24 to 29 stand, would that not be a test case for the minister's amendment?

The CHAIRMAN: Yes, that is right.

The Hon. R.I. LUCAS: I am going to oppose the minister's amendment, and I guess the only issue is that, if that is successful, I am not sure whether I am still in a position to test the practising teacher one. But we can explore that in a minute.

The CHAIRMAN: Yes, you are, because what we are saying first, to test the minister's amendment, is that all words in the paragraph down to and including 'must be' in line 27 stand as printed.

The Hon. R.I. LUCAS: So, in essence, that first one will be a test case for the minister's amendment.

The CHAIRMAN: Yes.

The Hon. R.I. LUCAS: Parliamentary counsel is nodding and the staff are nodding; I am with you. Perhaps I could invite the minister to move that first.

The Hon. CARMEL ZOLLO: I move:

Page 5, lines 24 to 29—

Delete paragraph (a) and substitute:

(a) at least four of the appointed members of the board must have specific knowledge and expertise in relation to the provision of senior secondary education and, of these members—

(i) at least one must be a person who has specific knowledge and expertise in relation to the provision of senior secondary education in the Catholic schools education sector; and

(ii) at least one must be a person who has specific knowledge and expertise in relation to the provision of senior secondary education in the independent schools education sector; and

(iii) at least one must be a person who has specific knowledge and expertise in relation to the provision of senior secondary education in the public schools education sector; and

(iv) at least one must be a person who is currently engaged, or who has been recently engaged, in the provision of senior secondary education; and

Put simply, we want our representatives to have knowledge. The honourable member's amendment is seeking to make them practising teachers in that sector. We believe it is very important that these people do have knowledge, in addition to who nominates them. I reiterate that we have met the desires of the stakeholders whilst also delivering an expert SACE board to the South Australian community.

The Hon. R.I. LUCAS: Having consulted with the table staff and parliamentary counsel, the suggestion, which seems to be eminently sensible, is that this debate essentially is about the composition of the board. We will leave the issue of the practising teacher for determination after this issue has been determined. There are three propositions, I suppose: the government bill, which exists; the amendment, which the minister has now moved; and the amendment which I intend to move if we can defeat the minister's amendment in relation to the composition of the board.

I summarised this in my second reading contribution so I do not intend to go through all of it again, but I think that at least on this one issue a lobbied view has been put to all members of the committee in relation to the composition of the board. The simple argument as summarised is that SSABSA is responsible not only for senior secondary education in government schools but it is also responsible for senior secondary education in the Catholic and independent schools sectors.

Its existence as a board allowed it to operate as a representative board for many groups and associations. Certainly, we support a reduction in the size of the board, but one important decision has been that it has had representation so that the views can be directly expressed on the decision-making authority of the three sectors, that is, the government, independent and Catholic schools sectors. This is a critical issue in relation to the consideration of this bill. It is the view that the Liberal Party puts.

Originally the Association of Independent Schools in South Australia put the strong view that it is important that those sectors have representation, do have a say and do participate in the critical decisions that will be taken. Without repeating what we have been through this afternoon, this board will make all the final decisions. The government has said that this is what it believes it will do. However, the minister has now conceded that the government does not have lawful authority to do that even under the proposals. It will be a decision for the independent board.

The decisions that this board takes will influence significantly activities and operations within the Catholic and independent schools sectors, as well as in the government schools sector. As I highlighted in my second reading contribution, it is very easy for a minister, particularly if the minister has greater control over the board (as we will see in this bill), to potentially impact significantly on the independent and Catholic schools sectors without those sectors being in a position to have direct input into those decisions.

We must accept that, even if my amendment gets up on a board of 11, there will be two representatives. There will be nine representatives, probably (although not certainly), representing government school education. It is not as if we are talking about a 50:50 split here. We are just saying that there will be a voice, and they may be out-voted 9-2 on a significant number of occasions on those sorts of issues. I think that the sectors accept that, but they do want a position in relation to representation on the board.

The government tabled the amendment which the minister has moved and which moves part way towards that argument. I have received (and I suspect other members have received) an indication from the Association of Independent Schools that it strongly opposes not only the government bill but also the government amendment, because the government amendment says that the minister will still appoint someone who has specific knowledge and expertise in relation to the provision of senior secondary education in the independent schools sector.

Let us not talk about the current minister, because I am not directing criticism at the current minister; this legislation is ahead for many ministers in the future. If you have a minister with an ideological bent against independent schools, Catholic schools, or both, the minister will be able to appoint someone that he or she knows from within the Catholic schools sector and the independent schools sector. As a former minister, I can tell the committee that there are many examples of people who have had 30 years experience in the government schools system who win appointment in the Catholic schools system for a period of time.

The minister can select someone who is opposed to the general views of Catholic schools or independent schools within that sector. Particularly in the independent schools, more likely, those decisions are taken by governing councils within particular school communities. The notion is

that these two independent sectors could be represented by the government selecting the nomination. The other point to make is that a person selected by the minister from a Catholic school in Port Pirie would be appointed under the minister's amendment to the SSABSA.

However, the Catholic Education Office or the Executive of the Association of Independent Schools being aware of what is going on and having input would rely on the minister's nominee, in essence, fully disclosing all those decisions and discussions with either the Executive of the independent schools or the Catholic Education Office.

That is why the Association of Independent Schools is saying, 'Hey; we want someone who is there representing us.' Clearly, when that person puts a point of view, he or she, successful or not, is able to speak to the other members of the Independent Schools Executive or the Catholic Education Office and ensure that that sector is fully aware of the implications of decisions that have been taken by the SSABSA. The minister's model will not achieve that purpose, either.

So, for a number of reasons—that is just two of them; there are a number of other reasons—it is pretty clear that there are three models, and the government has now moved to the amended model that has been put. I am proposing that we oppose the government amendment in relation to this and then, if we successfully defeat that amendment, I will move the amendment that had already been flagged and we can move on to a separate debate about a practising teacher.

The Hon. CARMEL ZOLLO: I remind honourable members of the legislative principles in this bill. New section 5(d) provides that this legislation is premised on the principle that cooperation and collaboration between the board, the school education sectors and the minister are to be recognised as fundamental elements to achieving the best outcomes for students seeking to qualify for the SACE. I think the honourable member gave one example about a Catholic school in Port Pirie. I remind members that anybody would be appointed for their expertise on the advice of the Catholic Education Office in relation to a matter like that.

I place on record that the minister currently selects from nominees provided by the prescribed bodies. Under the bill the minister will select nominees from a list of names provided by designated entities and the wider community by a call for expressions of interest. This will ensure that the board comprises members with the best possible expertise. In short, an important difference between the current act and the bill is that the source of expertise available for nomination will be widened.

Stakeholders have been advised that designated entities will be invited to make representations in the process of assembling the new board to oversee the SACE once a call for expressions of interest has been made. Again, at least four of the appointed members of the board must have specific knowledge and expertise in relation to the provision of senior secondary education, and one of whom must currently be or have recently been engaged in the provision of secondary education. The amendment that I have just moved provides for three as well as one engaged in secondary education.

I am also reminded that clause 14(3), which inserts new section 15(3)(c), provides that the board must, in the performance of its functions, to such an extent as the board considers reasonable, take into account the views of all those whose views we need to take into account, as listed, and, in particular, the three school sectors.

As well, clause 18, which inserts new section 20(1a), provides that the report must first of all incorporate the audited accounts for the relevant year and also include a specific report on the consultation processes that the board has established or used for the purposes of this act during the relevant year, including an assessment of the extent to which those processes have assisted the board in the performance of its functions. So, clearly we have safety nets in this legislation wherever one cares to look. I urge members to consider the comments I have made and support the amendment.

The CHAIRMAN: The question is: that all words in paragraph (a), down to and including 'must be' in line 27, stand as printed.

The committee divided on the question:

AYES (11)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Evans, A.L.	Hood, D.G.E.	Lawson, R.D.
Lensink, J.M.A.	Lucas, R.I. (teller)	Ridgway, D.W.

Stephens, T.J.	Wade, S.G.	

NOES (8)

Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Holloway, P.	Hunter, I.K.	Kanck, S.M.
Parnell, M.	Zollo, C. (teller)	

PAIRS (2)

Schaefer, C.V.	Wortley, R.P.

Majority of 3 for the ayes.

Question thus carried.

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

Page 5, lines 27 to 29—

Leave out all words in these lines after 'must be' in line 27 and substitute:

a practising teacher

This amendment is on the simple issue of whether or not the words 'a practising teacher' should be included in the current bill; that is, that at least one of the persons is currently engaged (or recently has been engaged) in the provision of senior secondary education. The Liberal Party's contention was that the person ought to be a practising teacher. I do not intend to waste the committee's time by arguing the toss.

I think that it is a simple argument based on the view that these decisions are going to be complex and complicated for those who follow this SSABSA debate and that a practising teacher with immediate experience of having to cope with some of these problems in a senior secondary school environment would have invaluable input on the Senior Secondary Assessment Board. For those reasons, we suggest that it be a practising teacher. It is possible, under the current wording, for the person to be a practising teacher but it is also possible for the person to be an administrator, a principal (and I am not arguing against a principal) or a person engaged in a variety of other roles. Nevertheless, the position of the Liberal Party is that a practising teacher ought to be at least one of the members on the board.

The Hon. CARMEL ZOLLO: For those who read the debate that has occurred today, I think it is important for me to place on record again that the current proposal in the bill is that four members of the board will have current or recent experience in the provision of senior secondary education, one of whom has current or recent teaching experience. This was inserted following strong advocacy from a number of significant stakeholders, and it was intended to provide the minister with guidance to ensure that the board is clearly focused and has considerable expertise in the area of senior secondary education.

The effect of proposed amendment No. 3 of the Hon. Rob Lucas would narrow the appointment of a member who is currently or was recently engaged in the provision of senior secondary education to only a practising teacher. While it is intended that this section of the bill would see a practising or recently practising senior secondary teacher appointed, the amendment of the honourable member makes a currently practising teacher a requirement.

The proposed amendment No. 4 makes mandatory the intention of the current clause within the bill; that is, that three of the members appointed come from each of the three schooling education sectors.

The committee divided on the amendment:

AYES (7)

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

NOES (12)

Bressington, A.	Darley, J.A.	Evans, A.L.
Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.

Holloway, P. (teller)	Hood, D.G.E.	Hunter, I.K.
Kanck, S.M.	Parnell, M.	Zollo, C.

PAIRS (2)

Schaefer, C.V.	Wortley, R.P.

Majority of 5 for the noes.

Amendment thus negatived.

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

Page 5, after line 29—

Insert:

(ab) one of the appointed members of the board must be a person specifically nominated by the South Australian Commission for Catholic Schools Inc.; and

(ac) one of the appointed members of the board must be a person specifically nominated by the association of Independent Schools of South Australia; and

(ad) one of the appointed members of the board must be a person specifically nominated by the Director General of Education; and

This is consequential on the earlier debate, which was the test clause, so I do not intend to debate it.

Amendment carried.

The Hon. R.I. LUCAS: This is consequential, too, on the amendment we have just discussed and approved. I move:

Page 5, line 33—

After 'to the board' insert: (other than for the purposes of subsection (3)(ab), (ac) or (ad)

The Hon. CARMEL ZOLLO: The government will not be supporting it, but I understand it is consequential as well.

Amendment carried; clause as amended passed.

Clause 11.

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

Page 7, lines 1 to 5—Delete subsections (3) and (4) and substitute:

(3) The Chief Executive Officer will be appointed by the board on terms and conditions determined by the board.

(4) However—

(a) the board may not appoint a person under subsection (3) without the approval of the minister, and

(b) the terms and conditions of the appointment of a person under subsection (3) must be approved by the minister.

This is allied with the initial vote that we had. As I indicated earlier, it is possible to vote different ways if one wants to, but it is consistent with the principle, that is, who appoints the chief executive officer.

Under the current act the chief executive officer is the chief executive officer of the board and is appointed by the board on terms and conditions determined by the board. The act provides:

However, a person may not be employed as chief executive officer, and may not be removed from that office, unless or until the employing authority—

(a) has consulted with the board; and

(b) has obtained the approval of the minister.

The bill proposes, in clause 11, the following:

(3) The chief executive officer will be appointed by the Governor on recommendation of the minister on terms and conditions approved by the Premier.

(4) The minister must consult with the board before the minister makes a recommendation for the purposes...

So, under the bill, the minister consults with the board but if the board disagrees the minister can, obviously, still go ahead and appoint. As I said, we did have part of this debate earlier. My amendment is consistent with what I said earlier; that is, that the chief executive officer will be appointed by the board on terms and conditions determined by the board; however, the board may not appoint a person under subsection (3) without the approval of the minister.

In essence, the board will be appointing the chief executive officer, but the board will be requiring the approval of the minister. So, there will need to be agreement between the board and the minister, and then the terms and conditions of the appointment of a person under subsection (3) must also be approved by the minister.

Under the amendment that I am moving on behalf of the Liberal Party, there is still a role for the minister in this but, nevertheless, is consistent with the principle that we have already endorsed, that is, that the board is the authority that is going to appoint its chief executive officer, not the minister. I have moved the amendment and I urge support.

The Hon. CARMEL ZOLLO: I indicate that, clearly, we will not be supporting the amendment. I again remind members that the bill as it stands provides for the removal of the chief executive of the Department of Education and Children's Services as the employing authority for the chief executive officer and staff of SSABSA. This was in direct response to a request by all stakeholders that the perceived conflict of interest should be removed.

The bill as it stands is not opposed by any stakeholder in regard to this matter. The bill sees the current chief executive officer maintained for the life of his contract. Future chief executive officers will be appointed by the Governor on terms and conditions set by the Premier. This is consistent with other chief executives across the South Australian Public Service.

The bill also removes the chief executive of DECS as the employing authority for SSABSA staff and replaces him with the chief executive officer of the board. Again, I stress that these provisions are not opposed by any stakeholder, and we consulted widely in relation to this.

The Hon. D.G.E. HOOD: Family First supports the amendment. In consultation with the head of the independent schools association, we have been told that it would be a preferable outcome for it, and that is in some conflict with what the minister has said. So, for that reason we will be supporting the amendment.

The Hon. CARMEL ZOLLO: My advice is that the independent schools sector indicated to the minister that they would not be opposing this section.

The Hon. A. BRESSINGTON: I also support the amendment. It is not that the independent schools would have opposed the arrangement, but this is preferable to them, so I support it on that basis.

The Hon. CARMEL ZOLLO: We believe that the amendment exposes the chief executive to WorkChoices and we do not believe it is fair to do that to the chief executive and the staff.

The committee divided on the amendment:

AYES (11)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Evans, A.L.	Hood, D.G.E.	Lawson, R.D.
Lensink, J.M.A.	Lucas, R.I. (teller)	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	

NOES (8)

Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Holloway, P.	Hunter, I.K.	Kanck, S.M.
Parnell, M.	Zollo, C. (teller)	

PAIRS (2)

Schaefer, C.V.	Wortley, R.P.

Majority of 3 for the ayes.

Amendment thus carried; clause as amended passed.

Clauses 12 and 13 passed.

Clause 14.

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

Page 9, line 33—

Delete 'on any matter relating' and substitute:

that is directly related

This is in relation to some concerns that the independent schools sector—and I think some others—have in relation to the issue of league tables. I am putting the Liberal Party's position, and my own position in moving in this area. The Liberal Party's position—and I think also the position as publicly stated by the Minister for Education—is to support the view of many in the education community, that is, to oppose the notion of league tables and information being available to allow the comparison of schools within individual sectors and also between sectors.

The concern addressed by this amendment is to tighten it up. It currently provides:

to the extent determined by the minister or the board, to collect, record and collate information on any matter relating to the participation (or non-participation) of children of compulsory education age...

The drafted change is to restrict that on any matter relating to the words 'that is directly related'. It is an endeavour to more tightly control or, at the least restrict in part, the type of information that might be collected, recorded and collated, bearing in mind that this is information determined by the minister or the board. The concern is whether a particular minister at any time may well determine and use this provision widely to then, with other provisions in the legislation, access that information and potentially release it.

The current minister says that she does not accept the notion of league tables, but there are many other Labor ministers at the moment who strongly support the notion of league tables. It is as simple as that. It endeavours to restrict, at least in part, the type of information that the minister might be able to determine should be collected.

The Hon. CARMEL ZOLLO: The government bill (clause 14) enables SSABSA to collect information on matters pertaining to 16 year olds, participating or not, in education and training under amendments to the Education Act 1972 passed last night. The government is confident in the current wording, that is, on any matter relating to 'participation enables the supply of cohort data required under the Education Act provisions'. The Hon. Rob Lucas's proposed amendment merely changes the wording from 'any other matter relating' to 'information that is directly related'. I indicate that we will not divide on this amendment.

Amendment carried.

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

Page 9, lines 38 to 40—

Delete subparagraph (i) and substitute:

(i) to provide information to the minister, or to any entity within a school education sector approved by the minister for the purposes of this provision; and

This amendment requires that the information under the bill be provided to the minister or other authorities or organisations determined by the minister. The independent schools and others were concerned that 'other authorities or organisations determined by the minister' was too broad. This amendment seeks to restrict that to provide information to 'any entity within a school education sector approved by the minister'. Again, as in the case of the last amendment, it is not a super significant issue; it seeks to restrict the information available to those particular groups.

The Hon. CARMEL ZOLLO: The government totally disagrees. This is a very significant issue. Clause 14 in the government's bill will enable SSABSA to provide information collected on matters pertaining to 16 year olds participating (or not) in education and training to the minister or to other authorities determined by the minister. The Hon. Rob Lucas's amendment seeks to limit the number of those to whom the information can be provided, that is, only to school education sectors. The participation clauses in the compulsory education age bill relate to a number of other sectors in addition to the school sectors, including universities, TAFE and private training providers.

The amendments passed last night to the Education Act provide that a 16 year old can be undertaking an approved learning program. Those programs listed in the bill include secondary education under the Education Act, vocational education and training at TAFE, accredited training

delivered by private registered training organisations registered under the Training and Skills Development Act 2003, universities, and apprenticeships and traineeships under approved contracts of training.

The honourable member's amendment would preclude all of these providers and all their sectors from legitimately being able to access information about their sector. The type of information they would be unable to access could include the total number of 16 year olds participating in their training sector. I urge honourable members to oppose this amendment.

The Hon. R.I. LUCAS: What the minister has just said is not correct. The minister is looking at only subclause (1). I direct the minister to look at subclause (2), which provides:

> to publish the information in such other manner as the board thinks fit;

All the minister is talking about here is providing information to the minister and what the minister can do with it. However, the board retains the power to publish that information in such manner as the board thinks fit. In my judgment, there would be no reason any sensible board would not publish the information the minister has just talked about. I have heard no argument from the independent schools sector or, indeed, any other sector, in relation to that. I think the concerns in the independent schools sector are that it might not just be the participation rates: it might be leaked tables, or it might be matters relating to the participation rate. There is an argument, perhaps, that attainment or performance levels relate to participation. We have addressed that with the previous amendment.

I think the minister is addressing just subclause (1) and saying that it is only the minister who will make decisions in relation to whether or not information is available to universities, TAFE or other interested bodies. Subclause (2) remains; the opposition is not amending that. That subclause provides that the board can publish the information in such manner as the board thinks fit, which is consistent with the view that we have an independent board. There is no earthly reason the board would not publish information on the sorts of things the minister was canvassing in terms of the participation rate of 16 year olds in SACE and a variety of other things like that.

I do not intend to die in a ditch on it but, certainly, the statement from the minister in relation to this amendment is, in my view, incorrect; that is, the opposition is not, through this amendment, seeking to prevent all those other interested bodies from getting information. We are saying that the board can appropriately make that decision. It has in the past, when I was the minister, and I am sure, in the future, under the current minister, it will make appropriate decisions about the release of information, whether it be in its annual report or in the various other research documents and publications that it makes available.

The Hon. CARMEL ZOLLO: My advice is that this is not about publishing. This is about giving the information to the sector. If the honourable member were—

The Hon. R.I. Lucas: That is publishing. 'Publish' means to distribute, to make it available.

The Hon. CARMEL ZOLLO: I refer the honourable member to section 15(1)(m)(i) which provides:

> to provide the information to the minister, or other authorities or organisations determined by the minister;

The Hon. R.I. Lucas interjecting:

The Hon. CARMEL ZOLLO: If the honourable member would like me to complete my explanation. We will get some information from parliamentary counsel, but my advice is that this is not about publishing; it is about providing. The sectors want to get their information from SSABSA. It is really about information affecting that sector. It is about tracking and following each student's engagement so they can reach their full capacity, but we will confirm that legal interpretation.

The Hon. R.I. LUCAS: Having been involved on both sides of defamation actions over the years, the legal advice made available to me is that, for example, if I were to send a copy of a letter of a defamatory nature to someone else, that is interpreted broadly in terms of publishing. Publishing does not mean what we traditionally have meant, that is, produce and print a document, an annual report or whatever. Publishing means providing the information available to a group of people or a range of people. The minister's attempt to define or limit the notion of publishing, in my view, is certainly incorrect and it is certainly not consistent with the legal advice that I have had over many years in relation to defamation actions and others.

The Hon. CARMEL ZOLLO: My advice is that the minister could technically limit the publishing to a sector. However, if we are going to give it to the schools, why not give it to the other

sectors as well, in particular the private providers, because it is about their own data. It is not about the whole cohort.

The committee divided on the amendment:

AYES (10)

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

NOES (8)

Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Holloway, P.	Hunter, I.K.	Kanck, S.M.
Parnell, M.	Zollo, C. (teller)	

PAIRS (2)

Schaefer, C.V.	Wortley, R.P.

Majority of 2 for the ayes.

Amendment thus carried.

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

Page 10, line 2—Delete ', or by the minister'

This is the important amendment. I have discussed this during the second reading, so I will not repeat the argument at length. If we look at the functions of the board, the clause states, 'to perform other functions assigned to the board under this or any other act, or by the minister'. It essentially says that the minister can just assign other functions to the board without change to the legislation or without regulation or anything. So, there would be no parliamentary oversight at all.

So, we approve the functions of the board, and then we say that the minister can add any other function that he or she deems appropriate. I am sure that the Hon. Mr Parnell, who is a great democrat and legislator, could not even support the notion that a minister would be able to just willy-nilly add a function to the functions of the SSABSA board. I am holding my breath that I might be able to attract even the Hon. Mr Parnell to this important legislative principle in relation to this issue.

The Hon. CARMEL ZOLLO: I indicate that the government will not be supporting this amendment. The intention of the clause is to facilitate inclusion of functions that may not have been contemplated at the time the bill was passed, without having to return to the parliament to have the functions of the board amended. Left in its original form, the clause would not allow the minister to assign functions to the board that are outside its intended purpose. I indicate that we will not divide on this clause.

Amendment carried.

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

Page 10, after line 32—Insert:

(ca) must not, when providing information to another entity under subsection (1)(m)(i), provide information that identifies a particular school or student; and

I think the minister might be either supporting or not opposing this, and if that is the case I will not speak to it.

The Hon. CARMEL ZOLLO: I indicate that the government does not oppose this.

Amendment carried.

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

Page 10, lines 36 to 38—Delete subsection (4)

This amendment deletes subsection (4) from clause 14, and that subsection provides:

The board must provide to the minister any information or report the minister reasonably requires in connection with the minister's portfolio responsibilities for education in the state.

Again, this is allied with the earlier debate. I know this minister is saying that she will not support league tables, but this is about whether or not a minister might direct SSABSA to produce league tables, and this provision will give the minister the power to require that sort of information from the board. I might also ask a question of the minister. I know as a former minister for education for four years, whilst SSABSA was clearly an independent body, I cannot recall a set of circumstances when I sought information through the department from SSABSA that was ever refused. Admittedly, I did not ask for league tables or information along those lines, but certainly we worked collaboratively with SSABSA on research, retention rates and a variety of things like that.

Can the minister indicate what information SSABSA has refused to provide to the board? Can the minister indicate an example of where the minister has said, 'I want information' and SSABSA has said, 'No, we will not provide it'? I think if the minister wants to defend this provision she should give an example where she has requested information and the board has said, 'No, we will not provide the information.'

The Hon. CARMEL ZOLLO: The government believes this clause in this bill is reasonable. If the board adopts a decision which it believes is necessary for the education of young people but which includes placing an impost or burden on all schools, the minister could request information or a report about the matter. Essentially, this power is provided in case the minister does need it.

This clause does not say much about ministerial power over the board: it is about the Minister for Education in South Australia being able to fulfil the responsibilities of a ministerial portfolio. This is about requesting what could reasonably be required in regard to the minister's role. This bill is about collaboration, and the board, stakeholders and the minister working for the good of all students in South Australia. I also want to bring to the attention of the chamber that we will be moving to amend the FOI act to protect comparative data. That issue was mentioned by the honourable member.

The Hon. R.I. LUCAS: Is there an example where the board has refused information?

The Hon. CARMEL ZOLLO: My advice is that it is not really about refusing; it is about the right to request it as minister, with that ministerial responsibility.

The Hon. R.I. LUCAS: That is the point I am making. I will not delay the committee, but I gave my experience as minister for four years and I had no experience of SSABSA not providing information when it was required. I have asked the government whether it can give an indication when, during the past six years under a Labor government, the board has refused information, and there is no example.

I suspect the answer is that there has not been a case. If that is the case, there is no need for this provision. As I said, there is the concern that some minister in the future may well direct the board and say, 'I want you to produce league tables and provide that report and information to me as the minister.' So, if there is no ill that needs to be fixed, there is no need for this subclause and I urge members to support my amendment, which is to delete it.

The Hon. CARMEL ZOLLO: I remind members that it is not about directing, it is about the minister's reasonable responsibility.

The committee divided on the amendment:

AYES (10)

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

NOES (8)

Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Holloway, P.	Hunter, I.K.	Kanck, S.M.
Parnell, M.	Zollo, C. (teller)	

PAIRS (2)

Schaefer, C.V.	Wortley, R.P.

Majority of 2 for the ayes.

Amendment thus carried; clause as amended passed.

Clause 15 passed.

Clause 16.

The Hon. R.I. LUCAS: Essentially, this is a clear issue but it is a significant one. It is one of the key issues that was discussed during the second reading stage of the debate. Simply, this is the provision which gives very significant power for the minister to be able to direct the board. Yes, it is allied to the early discussions we had about the independence of the board, but this is a specific provision.

It provides that the minister can give the board a direction about any matter relevant to the performance or exercise of the function or power of the board. The only two provisos are that the minister cannot give a direction in relation to the content or accreditation of a subject or course, or in relation to the assessment or recording of results of a student's achievements or learning.

As the minister made clear in another place, it talks about the content, but the minister, if she wanted to have a subject on air warfare destroyers (because the government had spent a lot of money on that particular issue), could direct the Senior Secondary Assessment Board to say, 'We will have a course on air warfare destroyers.' She would not be able to indicate specifically what was taught under the provisions of the bill, but she would be able to direct the board in relation to that issue.

Other ministers, with their own biases, may say, 'We want a subject on the nuclear power industry,' and direct that there be a year 12 subject on nuclear power. Family First and other members raised issues about particular sex education courses and a variety of other things. There is no restriction in relation to the minister being able to direct that a particular course will have to be provided by SSABSA. The minister will not be able to direct, or at least under this provision, the specific content of it. They are the only restrictions. In any other area the minister is able to direct the board absolutely.

Clearly, this comes back to the key issue of whether or not it is an independent board or whether it is subject to ministerial control. We addressed this issue in my earlier amendments, when the committee supported the notion of an independent board not being subject to ministerial direction. I urge members to be consistent with that earlier expression of opinion.

The Hon. CARMEL ZOLLO: We believe the bill as it stands is necessary because such a provision is not uncommon in other acts. Section 11 of the Training and Skills Development Act provides:

> Except in relation to the formulation of advice and reports to the minister, the commission, in the performance of its function, subject to control and direction by the minister.

Section 8 of the Teachers Registration and Standards Act 2004 provides:

> (1) Subject to this section, the minister may give directions to the Teachers Registration Board when it appears to the minister to be necessary in the public interest.

Of course, ministers are accountable to the parliament and the community for their agencies' outcomes and their portfolios. The proposed limited power to direct provides a public interest and safeguard, consistent with other pieces of contemporary pieces of legislation. The proposed limited power to direct is consistent with all equivalent legislation in other states. The proposed changes were recommended by the SACE review, which recommended stronger accountability to the minister responsible for education. The SACE legislation review, Chapter 10, page 172, states:

> The panel believes there should be also a strengthening of accountability. Currently, the only formal accountability requirement prescribed in the SSABSA act is that which obliges SSABSA to submit an annual report to the parliament. Consistent with a strengthened accountability, the review panel believes that the act should include a power to enable the minister to direct the board. This proposed power would not extend to direction in relation to changes to curriculum or assessment and certification of any individual student's work.

It is always assumed that the power to direct has a negative intent. It is also possible that the power to direct could be enabling or facilitative; it is not an evil agenda which is being pursued. For example, if something has come to the minister's attention that it is in the best interest of senior secondary education across South Australia, and it needs to happen, that direction could expedite the matter. As with this type of power in other acts, it is rarely used, but it is provided as a safeguard. This is what it is about.

New section 17(A)(i) makes any direction relevant to the performance of the board's functions and powers. This is not an open-ended power. I will say it again: this is not an open-ended power. The preclusions provide safeguards against a minister directing in relation to the content or accreditation of any subject or course. So, yes, the minister might be able to say to the board, 'Develop a course on nuclear weapons'. Although, why any minister would do so when they would be subject to parliamentary and public scrutiny is questionable. But, if they did, the board would not have to accredit it. The minister could not direct anything to do with its content, and schools would not have to teach it.

Determination of curriculum is the responsibility of the Director-General of Education, the Director of Catholic Education and the heads of independent schools. It is not the responsibility of the minister of the day. However, if it were in the public interest, a minister could direct the board in relation to its functions to prepare and publish information and guidelines. For example, at the request of the schooling sectors, the minister could direct the board where to publish these if the schooling sectors were concerned they were not published widely enough. This is not an unfettered power that has nefarious intentions. It is there in the public interest should it be required, and then it would be subject to public and parliamentary scrutiny.

The committee divided on the clause:

AYES (9)

Darley, J.A.	Finnigan, B.V.	Gago, G.E.
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Kanck, S.M.	Parnell, M.	Zollo, C. (teller)

NOES (10)

Bressington, A.	Dawkins, J.S.L.	Evans, A.L.
Hood, D.G.E.	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I. (teller)	Ridgway, D.W.	Stephens, T.J.
Wade, S.G.		

PAIRS (2)

Wortley, R.P.	Schaefer, C.V.

Majority of 1 for the noes.

Clause thus negatived.

New clause 16A.

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

Page 11, after line 28—insert:

16A—Substitution of section 18

Section 18—delete the section and substitute:

18—Staff

(1) The board may, with the approval of the minister and on such conditions as it thinks fit, engage such employees as are necessary to assist it in carrying out its functions under this act.

(2) The board may, under an arrangement established by the minister administering an administrative unit, make use of the services of staff of the administrative unit.

This is consequential.

The Hon. CARMEL ZOLLO: The government does not agree but we will not divide.

New clause inserted.

Remaining clauses (17 to 20) passed.

Schedule.

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

Clause 3, lines 20 to 24—delete clause 3 and substitute:

3—Staff

(1) Subject to this clause, a person who, immediately before the commencement of this clause, was employed by the employing authority under section 18 of the Senior Secondary Assessment Board of South Australia Act 1983 (before the substitution of that section by this act) will, on that commencement, be taken to be employed by the board under that act.

(2) An employment arrangement effected by subclause (1)—

(a) will be taken to provide continuity of employment without termination of the relevant employee's service; and

(b) will not affect—

(i) existing conditions of employment or existing or accrued rights to leave; or

(ii) a process commenced for variation of those conditions or rights.

This amendment is consequential.

The Hon. CARMEL ZOLLO: This is clearly consequential, but I want to make the point that these amendments disadvantage staff who will be back within the scope of WorkChoices, and I think honourable members should realise that.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendment.

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (18:24): I move:

That this bill be now read a third time.

In doing so, I thank those who have worked incredibly hard to ensure that this legislation was brought before this place. In particular, I thank all the stakeholders and those people who responded to the many consultations. I extend my congratulations to the minister in another place and also to the staff who assisted with the legislation—namely, Caroline Warner, Joanna Leppard and Peter Shackleford—and the many other public servants who have made this possible.

Bill read a third time and passed.

CRIMINAL LAW (SENTENCING) (VICTIMS OF CRIME) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (18:26): 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.

At the last election, the Rann Labor Government made a number of promises for the enhancement of victims' rights. Some of them can be found in the Criminal Law (Sentencing) (Dangerous Offenders) Amendment Act 2007. Others are in the Victims of Crime (Commissioner for Victims' Rights) Amendment Act 2007 and the Statutes Amendment (Victims of Crime) Act 2007 recently passed by the Parliament.

Since coming to office in 2002, the Government has been focussed on tilting the balance in the criminal justice system in favour of victims, not criminals. The Government believes that victims are not bystanders to crime; so they should not be bystanders in the court process. This Bill is part of the pledge that victims who no longer have a voice will still be heard in court.

This Bill deals with further proposals, which require the amendment of the Criminal Law (Sentencing) Act 1988.

The first promise with which the Bill deals is this:

For the first time in our legal history, the Rann Government will give victims of crime advocates the legal right to make victim impact submissions at the sentencing hearing in cases that result in the death, or total permanent incapacity of the victim.

The second promise with which the Bill deals is this:

The Sentencing Act also will be amended to enable the prosecution to obtain, and present, community impact statements to court during sentencing submissions. The community impact statements will be used to inform the sentencing court about the effects on the community of the crimes before the court. For example, with regard to drug production or sale offences, evidence of medical professionals could be called to establish the harmful effects

of drugs on individuals and the long-term health consequences of drug abuse. In cases of death by dangerous driving, expert evidence could be called to establish the human and financial cost of road deaths.

The interim Commissioner for Victims' Rights has also asked for some legislative change. His recommendations are:

Amend the Criminal Law (Sentencing) Act to make it clear that victim impact statements can be given in person, via CCTV, audio or audio-visual recording etc. I have had several requests to cover the costs of victims coming to court to read or listen to their impact statements. This will provide another option, especially for vulnerable victims.

and

Section 52 of the Criminal Law (Sentencing) Act provides for restitution orders (i.e. a court order that the convicted offender return misappropriated property to the victim-owner). Unlike section 53, which provides for compensation orders that can be enforced like any other pecuniary order, an order made under section 52 appears to be unenforceable. The Premier and the Attorney-General pledged to strengthen victims' rights including their right to compensation.

The purpose of this Bill is to enact these proposals.

Election Promises

First Promise

Before the 2006-2007 election, the Government promised to amend the law on victim impact statements so that the Commissioner for Victims' Rights has the authority to make submissions at the sentencing stage (either personally or through counsel) on the impact of the crime on victims and on victims' families in cases resulting in the death or permanent total incapacity of the victims. Funding was allocated for the Commissioner to engage counsel as part of the 2006-07 budget. The Government also proposes that victims be given rights to read their victim impact statements in cases resulting in death or permanent total incapacity as a result of non-indictable summary offences. Former MLC, the Hon Nick Xenophon had also proposed that a similar provision be incorporated in the legislation. The Government said, at that time, that this provision was best placed in the context of the entire victims-oriented reform package.

Section 7 of the Criminal Law (Sentencing) Act now obliges prosecutors to furnish particulars of any injury, loss or damage suffered by a person as a result of the offence for which the defendant was convicted or, in short, any associated offence. Section 7A allows the victim of an indictable offence to read his or her statement to a court before it passes sentence, or the victim can ask the court to permit another person to read the victim's statement. This policy is to enact legislation to extend the right that is currently confined to indictable offences to summary offences where death or total permanent incapacity to the victim has resulted. For this purpose, 'total and permanent incapacity' is defined to mean: 'the victim is permanently physically or mentally incapable of independent function'. The Bill also amends the Act to assist the giving of victim impact statements by the prosecution in minor summary offences and so that a court may require company officials to be present when a victim impact statement is given in person under section 7A of the Act.

The second pledge is to allow a victim's advocate to read out the victim impact statement to the court on behalf of the victim. The right should be exercised by an officer of the court, an immediate family member or close relative, a person who, in the opinion of the Commissioner for Victim's Rights, is suitable for the role, or an employee of a group or organisation devoted to victim support, or the Commissioner for Victims' Rights (or a person acting for the Commissioner).

Second Promise

Two kinds of community impact statements are proposed. The first type is a type of collective impact statement to be called a 'neighbourhood impact statement'. A common example is a drug dealer in a street. The neighbours suffer the effects—discarded syringes, much traffic at all hours, increased levels of street and petty property crime and so on. Under the proposal, they would be allowed to give a collective impact statement on how this drug dealing offence has affected them. The second type is more a policy-justification statement—to be called a 'social impact statement'. In the drug dealing instance, evidence could be given of the harmful effects of drugs generally or this drug in particular (for example). The Bill proposes that both kinds of statements can potentially be given in a sentencing hearing for any offence. It should be possible to collate the statements of individuals into a group statement. The Bill proposes that the provision of these statements be up to the Commissioner for Victims' Rights and that the prosecution or the Commissioner be authorised to place the material before the court.

Commissioner for Victims' Rights Suggestions

First Suggestion

Section 7A(3a) of the Criminal Law (Sentencing) Act says: that if the court considers there is good reason to do so, it may exercise any of the powers that it has with regard to a vulnerable witness to assist a victim who wishes to read out a victim-impact statement to the court. This suffices to bring CCTV into play. But the Act should be amended so that it is possible for victim-impact statements to be given via audio or audio-visual recording where there are facilities available for the purpose. The defendant should be present except where the court is satisfied that a real threat has or is being made to the safety of the defendant or the defendant's representatives or family or where the presence of the defendant will otherwise cause undue disruption. In such cases, the court is authorised to take such steps as are available to it to ensure that the offender is exposed to the message of the victim-impact statement.

Second Suggestion

Section 53 of the Criminal Law (Sentencing) Act provides for orders for compensation on sentence. That sum is defined to be a pecuniary sum and therefore can be enforced in the same way as any order for a pecuniary sum—that is—effectively as a fine. Section 52 of the Act is different. It is about giving back particular property, not a sum of money. This is about returning the particular item stolen (for example). It follows that this cannot be defined as an order for a payment of a pecuniary sum and cannot be enforced in that way. The Criminal Law (Sentencing) Act deals with the matter by providing for default imprisonment. The Commissioner for Victims' Rights says that this does not work effectively. In some ways that is not surprising, since the analogous old method of collecting pecuniary sums by default imprisonment did not work well either—which is why it was replaced. The Bill will add remedies for restitution orders short of imprisonment. The Bill will give an authorised officer of the Court authority to seize and remove the property where there is default on the order, or quantify the order so that it may be enforced as a pecuniary sum. Once that is done, all the remedies of fine enforcement come into play.

This is the third Bill that forms part of a victims oriented package of reforms to carry out the Rann Government's pledge to increase victims' rights in our justice system.

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 (Sentencing) Act 1988

4—Amendment of section 6—Determination of sentence

This clause amends section 6 to make it clear that in sentencing proceedings the court must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

5—Amendment of section 7—Prosecutor to furnish particulars of victim's injury etc

This amendment makes it clear that a court dealing with an offence that is not an offence to which section 7A applies may nevertheless, if it considers it appropriate, allow particulars to be furnished in the form of a victim impact statement.

6—Amendment of section 7A—Victim impact statements

This clause amends section 7A of the principal Act in several ways. The inclusion of new subsections (3a), (3b) and (3c) enable a court to assist a person who wishes to read out a victim impact statement to the court to do so by means of a prerecorded reading of their statement, or to exercise the powers the court has in relation to vulnerable witnesses. Subsection (3b) requires that the court ensure that the defendant (or, where the defendant is a body corporate, a representative of the defendant) is present when the statement is read out to the court if the person providing the statement so requests. Under subsection (3c), the court may decline to do so for reasons set out in the provision, but in such a case the court must nevertheless endeavour to ensure the defendant hears the statement being read out via audiovisual link or audiolink or, if that is not possible, by making an audiovisual recording.

The clause also amends the section to enable an appropriate representative (a definition of which is included in new subsection (5)) to request that a statement be allowed to be read out in court and read out such a statement following a request.

The range of offences for which a victim impact statement can be provided is also extended to include certain summary offences (namely one that results in the death of a victim or a victim suffering total incapacity).

7—Insertion of sections 7B and 7C

This clause inserts new section 7B into the principal Act, providing for written community impact statements to be provided to the court. The Commissioner for Victim's Rights is responsible for compiling a statement under the section, and either the prosecution or the Commissioner may provide a sentencing court with the statement.

The statements consist of 2 types. The first is a neighbourhood impact statement, which is a statement about the effect of the offence, or of offences of the same kind, on people living or working in the location in which the offence was committed. The second type is a social impact statement, setting out the effect of the offence, or of offences of the same kind, on the community generally or on any particular sections of the community.

The clause also sets out procedural matters related to the provision, and reading in court, of such statements.

New section 7C provides for the making of rules relating to statements under sections 7A and 7B, provides for a copy of such a statement to be made available to the defendant or his or her counsel and makes it clear that the defendant is entitled to make submissions to the court in relation to the statement.

8—Insertion of Part 9 Division 2A

This clause inserts new Part 9 Division 2A into the Act. The Division provides for action by authorised officers in the situation where a restitution order under the Act is not complied with. The clause sets out the actions

that can be undertaken (including seizure of the property or payment of an equivalent amount by the defendant) and the powers an authorised officer can exercise in doing so.

Debate adjourned on motion of Hon. D.W. Ridgway.

ADJOURNMENT DEBATE

VALEDICTORIES

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (18:26): I move:

That the council at its rising adjourn until Tuesday 12 February 2008.

In doing so, I take this opportunity to wish all members the best for the Christmas and New Year period. This has been a busy session of parliament. I thank you, Mr President, for your conduct of the chamber over the past year, and I also thank all members of this place for their cooperation. In particular, I thank the Whips for the work they have done in organising an increasingly complex and difficult legislative program. I thank the table staff, Jan, Trevor, Chris and Guy, who is a new addition to the team, after we farewelled Noelene earlier in the year. I also thank the messengers Todd, Mario, Karen and the office staff, Margaret and Claire.

I record the government's thanks to parliamentary counsel. I thank the Hansard staff who have been most cooperative and patient throughout the year, the kitchen and dining room staff, the library staff, the building staff and, indeed, everyone else who works in this place.

This year has heralded the introduction of one new member, the Hon. John Darley, and we welcome him to the chamber following the resignation of the Hon. Nick Xenophon. With each year, as we come to the end of the year, we have changes in the chamber.

Finally, I thank my staff and, on behalf of all members, I thank our respective staff members for their contribution during the year in keeping us well informed and keeping this chamber working smoothly. Again, I wish all members, their staff and families a very happy and peaceful Christmas, and I look forward to everyone coming back here fit and healthy in the New Year.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (18:29): I take this opportunity to reiterate a number of the comments made by the Leader of the Government. I will start in the reverse order and welcome the Hon. Mr Darley to the chamber. You have now endured your first two days and, while you have many more to come, I am sure that you have found it quite interesting. I also thank you, Mr President, for the way you have conducted yourself this year and kept control of us and protected the opposition from the outrageous attacks that we sometimes endure from government members.

I wish all members a very happy and prosperous New Year and the Hon. John Gazzola a bountiful catch when he goes off on his annual fishing expedition. I also welcome Guy as our newest member of the table staff, our very important support team. As members know, we farewelled Noelene earlier in the year.

I would also like to take this opportunity, on behalf of the opposition, to thank the Hansard staff, the messengers and parliamentary counsel for the great work that they do; in fact, all of the staff who work here in Parliament House, whether it be in catering, security or maintenance and, of course, all of our own staff who work for our teams. We thank you all very much and wish you a very happy and enjoyable Christmas and a very prosperous new year. We look forward to seeing you all next year.

The Hon. M. PARNELL (18:31): I will not go through the list that the Leader of the Government and the Leader of the Opposition have gone through, but I would like to endorse the sentiments of well-wishers to parliamentary colleagues and to all the staff who were mentioned. I look forward to representing you all in Westminster next week at a very important Commonwealth Parliamentary Association conference on climate change. I hope to bring back ideas that I will be more than pleased to share in the chamber at an appropriate opportunity.

The PRESIDENT: (18:32) On behalf of the chamber staff, and Jan and her staff in particular, I would like to wish you all a very happy Christmas and a safe and prosperous new year. Thank you for your assistance to the staff, the members who assisted the staff throughout the year, and a special mention to the two Whips who have been very helpful to me and to members. I know that the Whips work hard in this chamber because of the number of different representations we have. Also, thanks to the members for their assistance to me, particularly those who gave me a

break from the chair from time to time. Thank you very much. I wish all the staff of Parliament House all the best, and I hope everyone has a safe and healthy break.

At 18:32 the council adjourned until Tuesday 12 February 2008 at 14:15.