LEGISLATIVE COUNCIL

Tuesday 28 April 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:19 and read prayers.

SURVEY (FUNDING AND PROMOTION OF SURVEYING QUALIFICATIONS) AMENDMENT BILL

His Excellency the Governor's Deputy assented to the bill.

IRRIGATION BILL

His Excellency the Governor's Deputy assented to the bill.

RENMARK IRRIGATION TRUST BILL

His Excellency the Governor's Deputy assented to the bill.

FAIR TRADING (TELEMARKETING) AMENDMENT BILL

His Excellency the Governor's Deputy assented to the bill.

ARCHITECTURAL PRACTICE BILL

His Excellency the Governor's Deputy assented to the bill.

LAIDLAW, HON. D.H.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:23): I move:

That the Legislative Council expresses its deep regret at the recent death of the Hon. Donald Hope Laidlaw AO, former member of the Legislative Council, and places on record its appreciation of his distinguished and meritorious public service, and that, as a mark of respect to his memory, the sitting of the council be suspended until the ringing of the bells.

Earlier this month, I was saddened, as I am sure all members were, to hear of the passing of Don Laidlaw on 14 April, aged 85. I stand today to express my condolences to the family and friends of the Hon. Donald Hope Laidlaw and to recognise his distinguished and meritorious service to the state.

The Hon. Mr Laidlaw served as a Liberal member in this place between 1975 and 1982, but his service to the South Australian community extended well beyond that seven year term in parliament. Don Laidlaw provided long and distinguished service to South Australia's business community and to the state as a manager and director of some of our most well-known business enterprises.

Educated at St Peter's College and the University of Adelaide, where he attained a law degree, the Hon. Mr Laidlaw completed a Bachelor of Letters at Magdalen College at Oxford. Returning to Adelaide still as a young man, he began to study Japanese while working with the Intelligence Corps as a filing clerk at Keswick Barracks and Rymill House. He became proficient enough to serve as a Japanese interpreter at the Loveday internment camp in the Riverland. Mr Laidlaw then offered his linguistic talents to Army Intelligence at General MacArthur's headquarters in Brisbane—an offer that, to his surprise, was immediately accepted. It was a role that would assist in identifying enemy movements in the Pacific through intercepted radio transmissions and would eventually take him from Australia to the Philippines.

After the war, the Hon. Mr Laidlaw began to make his mark in local industry. In 1956, he joined Adelaide firm Perry Engineering, which later became Johns Perry Ltd and is now part of the Boral group. Later he became chairman and director of several key South Australian companies and was the president of the Metal Industries Association. It was an active role in corporate South Australia that he maintained, even after being elected to the upper house in 1975.

The Hon. Mr Laidlaw came to this place after serving as an officeholder in the Liberal Party's South Australian division, including state treasurer of the party from 1974 to 1977. As a member of this place, the Hon. Mr Laidlaw served as chairman of the Industries Development Committee. In that role he assessed the financial plight of the SAJC and was involved in the negotiations with the SANFL that led to the financing of lighting and new stands at Football Park. After 30 years, I do not know what it says about Adelaide that both of these issues of the SAJC and

the future redevelopment of AAMI Stadium remain the subject of heated political debate in South Australia.

Mr Laidlaw was one of three Liberals who crossed the floor in 1979 to support the then Labor government's decision to block Alan Bond's attempted takeover of Santos. Again, in a reflection of the changing times, it was only recently that this government agreed to a request from Santos to remove the shareholding restraint imposed three decades ago to thwart that corporate takeover.

The Hon. Mr Laidlaw announced his retirement from this place, citing his inability to balance his corporate workload with that of a government backbencher. In announcing his retirement, he said that there was no longer any room in the upper house for a part-time member with outside interests, as it had become a well remunerated job that required full-time attention—statements that I am sure hard-pressed backbenchers and crossbenchers will wryly observe.

It was in the corporate world—and, in particular, South Australian-based companies—that the Hon. Mr Laidlaw left his mark in this state. His various directorships included the boards of Quarry Industries, Adelaide Brighton Cement, Adelaide Wallaroo Fertilisers, WMC Resources, Johns & Waygood, Perry Engineering and Bennett and Fisher. I am not sure whether such a wide range of board memberships reflected the Hon. Mr Laidlaw's ability to handle such a prodigious workload or simply the limited pool of directorial talent in South Australia. I would like to imagine that it was the former rather than the latter.

The Hon. Mr Laidlaw was awarded an Order of Australia in 1989 for his services to industry, the community and state parliament. In 1996, his corporate endeavours were again acknowledged when he was named by the Australian Institute of Company Directors as the inaugural South Australian director of the year. Of course, most of us here know the Hon. Mr Laidlaw more recently as the father of the Hon. Diana Laidlaw, who also served in this place and as a minister for arts and transport in the previous Liberal government. It was in that guise that I had the opportunity to meet him, as he had retired from many of his directorships by the mid 1990s to concentrate on his wine interests in the Barossa, long before I became a minister in this government.

On behalf of members on this side of the council, I wish to extend my condolences to Don's wife Peg, his daughters Diana, Susan and Sonia and to all his family and friends.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:28): I rise to speak to and second the condolence motion for the Hon. Don Laidlaw. Don entered parliament during a very turbulent time. Throughout his seven years he participated in a lot of key decisions in this place, some of which the minister has already outlined—and I indicate that a number of members from the opposition will also be speaking this afternoon.

A little on his life. Don attended St Peter's College and Adelaide University and completed a Bachelor of Laws. At the Magdalen College in Oxford he became a Bachelor of Letters. Prior to being involved with a number of South Australian engineering, cement, quarrying and fertiliser companies, Don Laidlaw served in the Central Bureau Intelligence Corps. He was, as the minister said earlier, situated in the Loveday camp in the Riverland district when, in 1943, he received the message to transfer to Brisbane to be involved in the interception of Japanese communications in the Pacific. At the time he left South Australia I think that he really had only a vague idea that he would be there for the next 2½ years.

He described his job as the final checker as 'soul destroying', because he spent so much of his time correcting his colleagues' translations and interpretations of partly decoded messages. The job was likened to being a company auditor, and Don Laidlaw announced that he would never wish to do that job again. From the early 1960s, Don was to serve at the executive level of a number of South Australian companies. Under his directorship, the engineering company Johns and Waygood Perry bought a 49 per cent interest in a Singapore steel foundry company. Soon after in 1979 he was made chairman of Quarry Industries. At the same time, he was juggling several board memberships, including chairman of Adelaide Brighton Cement. Suffice to say that in 1975, when he entered the parliament as a Liberal member of the Legislative Council, Don Laidlaw had absorbed an impressive knowledge of industrial relations matters.

He had been deputy chairman of the State Industrial Development Council from 1970, and he had an excellent understanding of the industries which South Australia needed in order to prosper. In his first Address in Reply speech, he addressed two wishes for his career: to maintain a high standard of debate; and never to lose his sense of humour. He endeavoured to focus on what

he knew best—industrial development and industrial relations. Don entered parliament at a time of corporate raiders. He was to participate in a number of key decisions; and, as the minister indicated, of course one was the Santos decision.

Of course, Don Laidlaw voted with the government to block Alan Bond's attempt to take over the company. Soon after, one Liberal colleague who voted alongside Don was allegedly pressured into retirement and another was dumped as a shadow minister and subsequently lost his next preselection. However, Don remained in his position, and, whether or not he was pressured to retire, his status and experience within the parliament and his value to the Liberal Party were all the more evident.

Don was a vital link between industry and the Liberal Party (and the parliament), and he was the one member that the Labor Party would readily engage on industrial relations matters. Don Laidlaw also advocated the cause of buying locally, an issue which I have pressed significantly through my post as the shadow minister for small business—even today in consultation with stakeholders we need to focus on buying locally. Throughout his years in parliament, Don shared an office with the father of the Hon. John Dawkins, the Hon. Boyd Dawkins, from whom he learnt a lot and he appreciated the leadership and guidance that came from Boyd Dawkins.

It came as quite a surprise when Don retired from parliament. He wanted to dedicate himself to his business interests. Of course, he became the founding chairman of the Playford Memorial Trust, on which he served from 1983 to 1995; and, following a successful public appeal, he was instrumental in the establishment of the Playford Scholarship in Horticulture in 1987. In the mid 1980s Don started a family-owned vineyard with his wife Peg and his daughter, Diana Laidlaw, whom, of course, we all know and love as a former member of this place. Pancake Estate is situated in the hills above the Barossa Valley, between Lyndoch and Williamstown, in South Australia.

In 1995 when he retired as the chairman of Adelaide Brighton Cement and as a director of WMC Resources, Don initiated the Pancake partnership and progressed a plan to plant the Pancake vineyard utilising all the experience he had gained over his 36 years of involvement in vineyard management. He was recognised in national awards for service to both business and the parliament. A three-hectare site on the University of Adelaide's Waite Campus has been dedicated to him as the 'Laidlaw Planting'—it recognises his contribution to horticulture.

I remember meeting Don on a number of occasions. He was a member of my preselection college when I was preselected to enter this place. Certainly, he did have an exhaustive list of questions on which he pressured me, and I am not convinced that I answered very many of them suitably enough for him to vote for me. However, enough of the other members of the preselection college, thankfully, did. I offer my condolences and those of the party to his family and, in particular, to his grandchildren who are at school with my children. I see them quite often. He can be mightily proud of his grandchildren because they are wonderful members of our school community.

The Hon. J.M.A. LENSINK (14:35): I also rise to make a contribution to this condolence motion. Two things stand out clearly about Don Laidlaw—he was his own man and he was devoted to his family. Much has been said about his involvement in industry. The depth and breadth of what he was involved in is almost mind-boggling, and he was highly decorated for his involvement in industry, being awarded an Order of Australia in 1989. A number of the industries in which he played a key role are some of the great names of South Australia that we all know well—Perry Engineering, Johns Perry Ltd, Boral, Adelaide Brighton Cement, Western Mining and Bennett & Fisher—and he was a director of the Australian Stock Exchange.

I note in some of the material provided by the parliamentary library from the public record that it is stated that he was respected by unions and he also managed to be president of the Liberal Party. His daughter Diana stated at his funeral that he was a great believer in private enterprise, which he distinguished from free enterprise in that he strongly believed that there should be checks and balances on the use of capital.

He had a low profile, which is interesting in itself given his depth of experience and interests. Obviously, he left this place because those other interests, he felt, meant that he could not make a full contribution. I note from the record that he was an active letter writer and continued to contribute long after he had left this place.

I join with others in offering my condolences to his wife Peg, daughters Diana, Susan and Sonia, and also the rest of his family.

The Hon. S.G. WADE (14:37): I rise to speak in support of the condolence motion for the Hon. Don Laidlaw. Mr Laidlaw left this parliament over 20 years ago. He was a quiet man but was held in huge regard within the Liberal Party family. Don was the only child of Tobe and Linley Laidlaw and, after attending St Peters College and completing a year of law, World War II intervened and he joined the fledgling Australian Intelligence Corps, learning Japanese and honing his language skills through friendships with Japanese internees at Loveday Internment Camp in the Riverland. For the next 2½ years he was a code breaker, decoding Japanese radio signals.

After the war, Mr Laidlaw resumed his law degree, where he met his wife, Vivienne Perry, a fellow law student. After graduating, Vivienne and Don headed for Magdalen College in Oxford. He attended there with another future South Australian parliamentarian in Jim Forbes who, in turn, went on to be minister for the army and minister for the navy in the Menzies government. The strong intellectual life of Oxford was profoundly influential on Don Laidlaw. He was by nature an intelligent, thoughtful and wise man, and Oxford helped him develop his strong analytical skills. He had a strong academic rigour and knew what he needed to know to determine and argue an issue.

After returning to Australia, Don worked as a sharebroker for Ian Potter in Melbourne, and in 1956 he returned to Adelaide and joined Perry Engineering. He was charged with the responsibility of reforming the business. Five years after joining the company, he was appointed managing director and then chairman as well. Under his leadership, Perry's prospered, employing at its peak 1,200 South Australians—South Australians born in 42 different countries—and, consistent with his daughter Diana Laidlaw's advocacy for women, Perry's under Don Laidlaw was a leading employer of women. Don retired as an executive in 1973 but remained on the board until 1988. That is 22 years in all.

Also, Mr Laidlaw served as president of the Metal Industries Association, chairman of Quarry Industries and Adelaide Brighton Cement, and director of Adelaide and Wallaroo Fertilisers and Bennett & Fisher. As my colleague the Hon. Michelle Lensink mentioned, Mr Laidlaw was a champion of private enterprise but he was not an advocate of the law of the jungle. He was active in promoting sound corporate governance and, in this context, he served in the mid 1980s as a director of the Australian Stock Exchange and later as a part-time commissioner of the National Companies and Securities Commission. In 1996, he was named the inaugural South Australian Director of the Year by the Australian Institute of Company Directors.

In terms of his parliamentary service, the Hon. Mr Laidlaw was elected as a member of the council in 1975 and served with distinction until 1982. Consistent with his business background, he took a particular interest in industrial development and industrial relations.

It was in the parliament that his attributes shone. He was regarded as unimpeachable. He was a man of high integrity who inspired trust. He was trustworthy and discreet and was discerning in offering his trust to others. First and foremost he was a South Australian, deeply committed to the best outcomes of the state. He was a man who was able to look at the big picture for the development of South Australia.

As a Liberal he was a team player but was not rigidly bound by the party. It has already been recognised that Mr Laidlaw supported the Labor government in restricting voting rights in two local companies—the SA Gas Company and Santos—to protect them from predatory interstate purchasers. As a Liberal he served as president and treasurer of the party and as the first chair of the Playford Trust. The Hon. Mr Laidlaw did not fear change in his business and political life. He understood that change was inevitable, even necessary. He saw that the critical issue was how to manage change for the best interests of South Australia and for jobs for South Australians.

In 1989 his service was recognised by his being made an Officer in the General Division of the Order of Australia for his services to secondary industry, the South Australian parliament and to the community. That was not to say that his career was over. In 1989 and in latter years he continued to serve on a number of boards. He established Pancake Estates with his daughter Diana, traced his family history and wrote about his war years.

Up until when Don died at 86 years of age, he remained active and involved. In the past two months, over lunch with Don and others, I saw that he remained his usual active self, acutely interested in current affairs and politics. I understand that even in the past three weeks, when in intensive care in the RAH, the doctors and nurses noted that never before had anyone asked for the *Financial Review* to be delivered daily. On behalf of the Liberal Party and myself, I extend my condolences to the friends and family of Don Laidlaw, particularly his daughter, the Hon. Diana Laidlaw, and his son-in-law, the Hon. Dr Michael Armitage.

The Hon. J.S.L. DAWKINS (14:43): I support the motion. As has been mentioned, the connection between the Laidlaw and Dawkins families goes back to 1975 when the Hon. Mr Laidlaw came into this place and shared an office on the lower ground floor with my father for seven years. I think he quickly came to understand that my father was not the quietest of people in this place (something of which I also have been accused) but they formed a good bond and both learned quite a bit from each other's varied experiences in life. In later years the Hon. Diana Laidlaw did not share an office with me but sat to my left for some 18 months or so before she retired from this place.

As the Leader of the Opposition mentioned, following the Hon. Mr Laidlaw's service as president of the Liberal Party for two years, he had an automatic position on the State Council of the Liberal Party and on the preselection colleges for those who wish to serve in this place. I well remember, on my first preselection college, visiting the Hon. Mr Laidlaw at his residence, and he certainly knew of the relationship between Boyd and myself. Although my father had not long since passed away, Don put me through my paces but also gave me wise advice. He took that role very seriously. He was a loyal servant of South Australia and it was a pleasure to know him. I offer my sincere sympathy, and that of my family, to my former colleague Diana and, of course, to the Hon. Michael Armitage and other members of the extended Laidlaw family.

The Hon. R.I. LUCAS (14:45): I rise to also speak in support of the motion. I particularly wanted to speak this afternoon as ill-health last Tuesday prevented me from paying my respects to the Laidlaw family at the funeral.

I first met Don Laidlaw some time in the mid-seventies, I think, probably when he was serving in his position as treasurer of the South Australian division of the Liberal Party. We certainly came from vastly different backgrounds (which I am sure is apparent from the speeches already given), so my relationship with Don Laidlaw over the years was one of a political acquaintance and friend as opposed to being a close personal friend. However, in the 30 or so years that I have known Don Laidlaw, I can say that he was held in high regard in all circles in which he mixed—whether business or community, or the parliamentary and political circle with which I am most familiar.

I know, from my time in the Liberal Party when he had a much more prominent role—whether it was as treasurer or as a member of the Legislative Council, or as president and soon after almost the senior spokesperson on our state council—that Don Laidlaw was one of those rare, softly-spoken people. That was certainly the case in all my experiences with him; I guess only his family can attest to whether or not he raised his voice on other occasions. However, in all my dealings with Don Laidlaw he was a very quiet and softly-spoken person, one of those rare people in political circles to whom, when he spoke, most people actually listened. They took note of his comments and, whether or not they ultimately agreed, they respected the man, his integrity and his contribution to the degree that they would listen to his argument and then make their own judgment.

The other point I would like to make—and it is testimony to how times have changed—is that I suspect we will not again see someone of the background of Don Laidlaw serve in this chamber or in the House of Assembly. When you think of his background—and other members have highlighted the significant boards and companies upon which he served as either director or chair, and the significant positions, in terms of regulatory agencies and authorities, that he attained soon after he left the Legislative Council—I suspect that, for a variety of reasons, none of which I will go into today, we are unlikely ever again to see someone with that sort of background coming into the parliament.

I think that is sad, because parliament ought to reflect the community. There is a view in the community that the Liberal Party is the party of big business, but in the 30 or so years that I have been associated with parliamentary representatives I can think of very few who have actually come from a big business or corporate background to represent the South Australian Liberal Party. As I said, my point is that I do not think we will see that occur again in the future, and it is sad that that particular view, which ought not to be a dominant one but which, nevertheless, is a view that ought to have a voice in the parliament, will not be heard. It did have a voice for a brief period of seven years in Don Laidlaw, but in my view we have not seen anyone directly replace that particular view in the period since.

In conclusion, I would like to say that in all my dealings with Don Laidlaw I personally found him to be a man of very high integrity. He was a man of his word, as I think Mr Wade and others have said; if you spoke to him in confidence, he respected that confidence. He was not someone

who traded in political gossip and tittle-tattle. He was not someone who betrayed confidences; he was prepared to respect confidences and give advice if it was sought but was never overbearing in wanting to push his point of view to younger members as they came through.

As members have highlighted, his retirement in 1982 opened up a pre-selection in the Liberal Party where there were then three remaining sitting members who contested the preselection. The Hon. Diana Laidlaw was one of the new members who were elected to replace the Hon. Don Laidlaw in 1982, and she commenced her period of service, but two other members of the Liberal Party were elected at that time as the 'newbies': the Hon. Henry Peter Kestel Dunn from the West Coast, well known to the Hon. Caroline Schaefer and others and a past president of the Legislative Council, and I was the third member elected at that time in what was a very intense and hotly contested preselection.

Concluding, because as I said I was unable to be there last Tuesday, I want to convey my condolences to Peg, Di, Sue and Soe, other members of the broader family and in particular the friends and acquaintances of Don Laidlaw as well.

The Hon. C.V. SCHAEFER (14:51): I too wish to pass on my condolences to the Laidlaw family. Don Laidlaw served at the same time as my father, and I served with both his daughter and his son-in-law, Michael Armitage.

Don was a leading businessman and a leading citizen of South Australia both before and after the seven years he served in this parliament. He was much admired in business circles throughout Australia but particularly within South Australia. Indeed, he did lead the charge, if you like, to retain the ownership and management of Santos within South Australia, and he will long be remembered for that.

Don was also, as has previously been mentioned, a president and treasurer of the Liberal Party. He was a quiet man, but he exerted great influence behind the scenes. He was someone whose advice was often sought by a wide range of people within the Liberal Party, and his advice was always respected. He was not someone who was out there offering his advice, but he always had a strong point of view when approached.

He and Peg were gracious hosts, and indeed they were always respectful of everyone and respectful of the disparity of views both in here and throughout the Liberal Party. He was a particularly devoted father and was devoted to his extended family, but he appeared always to be particularly close to his daughter Diana, and probably his last business enterprise was to enter into partnership with her in their wine business, Pancake Estate.

As has been mentioned, he was a prolific letter writer, but it was also mentioned at his funeral last week that he was an even more prolific user of the telephone. Apparently he would get the paper very early in the morning and then phone the various members of the family who he believed needed to know what was in the paper. Diana mentioned that when she was a minister she knew how severe the problems were that she was going to face that day by how early her first phone call from Don was.

As he got older and even when he was in hospital he still apparently phoned his family many times each day, and they have mentioned that they have vast gaps, not only emotionally but also in the time they would normally expect to be spending on the phone. Again, I want to extend my sympathy to Diana, Sue, Soe and their families.

The PRESIDENT (14:55): I, too, pass on my respects to the Laidlaw family, in particular, the Hon. Diana Laidlaw. I never met the Hon. Don Laidlaw, but I am sure he was behind the scenes in a lot of the negotiations that we had with various companies of which he was a board member. When I was secretary of the AWU, the AWU had the majority membership at WMC, Perry Engineering and Adelaide Brighton Cement. So, the Australian Workers Union had coverage for and substantial membership of 90 per cent of the companies of which Don was a board member.

I remember one particular case involving Adelaide Brighton Cement where there were long, drawn-out negotiations. I am sure Don played a role in those negotiations, even though we never sighted him. Later in my time as secretary of the AWU I had to negotiate with Diana Laidlaw on various transport issues. One of those issues involved the privatisation of the ferry operations on the River Murray. We had long and extensive negotiations with Diana in relation to union members having first option to successfully win the tenders for the ferries. I must say that she agreed and we did win those tenders. So, when I was involved with the trade union movement, I was party to a number of negotiations where the Laidlaw family was involved.

I have also been told that the Hon. Don Laidlaw, the Hon. Frank Blevins and Jimmy Dunford used to conduct a lot of negotiations behind the wall behind me. They would all smoke, and the smoke used to travel out into the chamber. So, things have changed since the days when you were allowed to smoke behind this wall.

I also understand that Don was elected to the Legislative Council at the time when the change was made from members being elected from districts to their being elected from across the whole of the state. I pass on my sympathies to the Laidlaw family, in particular, the Hon. Diana Laidlaw.

Motion carried by members standing in their places in silence.

[Sitting suspended from 14:58 to 15:20]

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the following written answers to questions be distributed and printed in *Hansard*.

PUBLIC SERVICE EMPLOYEES

318 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Police provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Industry and Trade, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

319 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Police provide a detailed breakdown, by all departments and agencies then responsible to the Premier, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

320 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Police provide a detailed breakdown, by all departments and agencies then responsible to the Deputy Premier, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

321 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Police provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Transport, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

322 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Police provide a detailed breakdown, by all departments and agencies then responsible to the Attorney-General, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

323 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Police provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Administrative Services, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

324 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the minister provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Emergency Services, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

325 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Emergency Services provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Education and Children's Services, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

326 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Emergency Services provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Families and Communities, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

327 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Emergency Services provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Aboriginal Affairs and Reconciliation, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

328 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Emergency Services provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Agriculture, Food and Fisheries, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

329 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Emergency Services provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Employment, Training and Further Education, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

330 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Environment and Conservation provide a detailed breakdown, by all departments and agencies then responsible to the minister, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

331 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Environment and Conservation provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Health, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

332 The Hon. R.I. LUCAS (9 May 2006) (First Session). Will the Minister for Environment and Conservation provide a detailed breakdown, by all departments and agencies then responsible to the Minister for the River Murray, of the number of full-time employees:

1. As at 30 June 2005; and

2. Estimated for 30 June 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole of government response:

A detailed breakdown of full time employees (FTEs) as at the last pay period in June 2005 is available in the June 2005 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

Further, the 2006-07 Portfolio Statements released on 21 September 2006 contain a Workforce Summary for each Portfolio that provides a breakdown of estimated FTEs as at 30 June 2006 and actual FTEs as at 30 June 2005.

PUBLIC SERVICE EMPLOYEES

341 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Police provide a detailed break-down, by all departments and agencies then responsible to the minister, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

342 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed break-down, by all departments and agencies then responsible to the Premier, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

343 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed break-down, by all departments and agencies then responsible to the Deputy Premier, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

344 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Transport, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

345 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed break-down, by all departments and agencies then responsible to the Attorney-General, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

346 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Administrative Services and Government Enterprises, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

347 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Emergency Services provide a detailed breakdown, by all departments and agencies then responsible to the minister, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

348 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed breakdown, by all departments and agencies then responsible to the Minister for Education and Children's Services, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

349 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed break-down, by all departments and agencies then responsible to the Minister for Families and Communities, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

350 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed break-down, by all departments and agencies then responsible to the Minister for Agriculture, Food and Fisheries of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

351 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed break-down, by all departments and agencies then responsible to the Minister for Employment, Training and Further Education, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

352 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Environment and Conservation provide a detailed break-down, by all departments and agencies then responsible to the minister, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

353 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed break-down, by all departments and agencies then responsible to the Minister for Health, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

354 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed break-down, by all departments and agencies then responsible to the Minister for the River Murray, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

355 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the minister provide a detailed break-down, by all departments and agencies then responsible to the Minister for State/Local Government Relations, of the number of full-time employees:

1. As at 30 June 2006; and

2. Estimated for 30 June 2007?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE). The actual number of full-time employees (FTEs) as at the last pay period in June 2007 is available in the June 2007 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

416 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for Police:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

417 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Premier:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

418 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Deputy Premier:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the

June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

419 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for Transport:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

420 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Attorney-General:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

421 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for Administrative Services and Government Enterprises:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

422 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for Emergency Services:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the

June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

423 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for Education and Children's Services:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

424 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for Families and Communities:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

425 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for Agriculture, Food and Fisheries:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

426 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for Employment, Training and Further Education:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the

June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

427 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for Environment and Conservation:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

428 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for Health:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

429 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for the River Murray:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

430 The Hon. R.I. LUCAS (29 August 2006) (First Session). As at June 2006, for each department or agency then reporting to the Minister for State/Local Government Relations:

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown by appointment type (including short and long term contracts) along with trainee and graduate numbers as at the last pay period in June 2006 is available in the

June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

476 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Police provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

477 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Premier provide a detailed breakdown, by all departments and agencies then responsible to the Premier, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

478 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Deputy Premier provide a detailed breakdown, by all departments and agencies then responsible to the Deputy Premier, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

479 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Transport provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

480 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Attorney-General provide a detailed breakdown, by all departments and agencies then responsible to the Attorney-General, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

481 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Administrative Services and Government Enterprises provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

482 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Emergency Services provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

483 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Education and Children's Services provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

484 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Families and Communities provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

485 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Agriculture, Food and Fisheries provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

486 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Employment, Training and Further Education provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

487 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Environment and Conservation provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter

what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

488 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for Health provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

489 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for the River Murray provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

PUBLIC SERVICE EMPLOYEES

490 The Hon. R.I. LUCAS (29 August 2006) (First Session). Will the Minister for State/Local Government Relations provide a detailed breakdown, by all departments and agencies then responsible to the Minister, of the number of full-time employees (based on the Office of Public Employment employee and FTE definition), whether contract or permanent, and no matter what act under which they are employed (doctors, nurses and police etc. are included), as at the payday (or days) prior and closest to 22 May 2006?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following whole-of-government response:

A detailed breakdown of full-time employees (FTEs) by appointment type (including contract and permanent) under various acts as at the last pay period in June 2006 is available in the June 2006 SA Public Sector Workforce Information Summary Report produced by the Office of Public Employment (OPE).

DEPARTMENTAL EMPLOYEES

150 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

151 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Premier—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

152 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Deputy Premier—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

153 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister for Transport—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

154 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Attorney-General—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

155 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister for Industrial Relations—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

156 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

157 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister for Education and Children's Services—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

158 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister for Families and Communities—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

159 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister for Agriculture, Food and Fisheries—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

160 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister for Employment, Training and Further Education—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

161 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

162 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister for Health—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

163 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister for the River Murray—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

DEPARTMENTAL EMPLOYEES

164 The Hon. R.I. LUCAS (12 February 2008) (Second Session). As at 30 June 2007, for each Department or agency then reporting to the Minister for State/Local Government Relations—

1. What were the number of people on short-term contracts (and also FTE number)?

2. What were the number of trainees and graduates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The information that the member asked for is presented for the entire SA Public Sector Workforce in the Commissioner for Public Employment's 'The South Australian Public Sector Workforce Information June 2007: Summary Report.'

As at June 2007 there were 18,219 persons (15,010 FTEs) employed in the SA Public Sector on short term contracts.

The number of trainees and apprentices at June 2007 was 383 persons. The number of persons employed through graduate entry programs in the SA Public Sector was 156.

PARKING

181 The Hon. D.G.E. HOOD (3 February 2009). Can the Minister for Transport advise:

1. How many free (non-ticketed) roadside parking spaces were available within the Adelaide CBD in the year 2000 and at what locations?

2. How many are available at present and at what locations?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): I am advised that:

1. The information sought is not collected or held by State Government agencies. This type of information relates directly to the operations of a local council. If the honourable member wishes to pursue the matter, he should seek this information from the Adelaide City Council who are the appropriate authority.

2. As above.

MID-YEAR BUDGET REVIEW

190 The Hon. R.I. LUCAS (18 February 2009). Can the Deputy Premier advise:

1. Does the budget line titled 'Net Impact of COAG Agreement' in Table 1.2 of the Mid-Year Budget Review refer to the net impact of increased Commonwealth grants and reduced GST; and

2. If not, what does it refer to and how is it calculated?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The 'Net Impact of COAG Agreement' line in Table 1.2 of the Mid-Year Budget Review shows the net impact of increased revenue from Commonwealth grants; changes in GST revenue payments; and the expenditure requirements of the Specific Purpose Payments and National Partnership payments agreed at the November 2008 COAG meeting. As indicated in the MYBR, the specific details and amounts of the extra expenditure will be determined as part of the 2009-10 Budget.

MID-YEAR BUDGET REVIEW

191 The Hon. R.I. LUCAS (18 February 2009). Can the Deputy Premier advise the explanation for operating cost expenditure reduction in 2011-12 being $131 million and yet ongoing savings will be a lower level of 'in excess of $100 million per annum' (refer to page 6 of the Mid-Year Budget Review)?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The reduction in operating expenditure of $131 million up to 2011-12 refers to the total estimated reduction over the 3 year period 2009-10, 2010-11 and 2011-12. It includes the reduction in FTEs in each of those years to achieve the budgeted 1200, 200 and 200 FTE reductions respectively and also takes into account the cost of a Targeted Voluntary Separation Program—which will be available for a short period of time during 2009-10.

The ongoing savings in excess of $100 million refers to the annual savings from 2012-13 once the total reduction of 1600 FTEs has been fully implemented.

MINISTERIAL TRAVEL

208 The Hon. R.I. LUCAS (18 February 2009).

1. What was the total cost of any overseas trips undertaken by the Minister and staff since 2 December 2007 up to 1 December 2008?

2. What are the names of the officers who accompanied the Minister on each trip?

3. Was any officer given permission to take private leave as part of the overseas trip?

4. Was the cost of each trip met by the Minister's office budget, or by the Minister's Department or agency?

5. (a) What cities and locations were visited on each trip; and

(b) What was the purpose of each visit?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): No overseas trips were undertaken for the period 2 December 2007 up to 1 December 2008.

MINISTERIAL TRAVEL

210 The Hon. R.I. LUCAS (18 February 2009). Can the Minister for Education state:

1. What was the total cost of any overseas trips undertaken by the Minister and staff since 2 December 2007 up to 1 December 2008?

2. What are the names of the officers who accompanied the Minister on each trip?

3. Was any officer given permission to take private leave as part of the overseas trip?

4. Was the cost of each trip met by the Minister's office budget, or by the Minister's Department or agency?

5. (a) What cities and locations were visited on each trip; and

(b) What was the purpose of each visit?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Education has provided the following information for the period 2 December 2007 and up to 1 December 2008:

1. Cost of Trip	2. Accompanying Officers	3. Private Leave Taken	4. Cost met by Minister's Office or Dept/Agency	5.(a) Cities & Locations Visited	5.(b) Purpose of Trip
$28,631.65	Chief of Staff (Julia Sumner) Media Adviser (Leah Manuel)	No	$25,852.73 Minister's Office Budget $2,778.92 Protocol Budget	Melbourne, Aust	MCEETYA meeting
				London, UK	Meetings with UK travel wholesalers, SATC UK representatives and Singapore Airlines and media commitments promoting SA
				Frankfurt, Germany	IMEX Forum meeting with European travel wholesalers
				Dernancourt, France	Wreath laying (representing the Premier)
				Paris, France	90th Anniversary commemorative services—part of the Anzac School Tour

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. CARMEL ZOLLO (15:23): I bring up the report of the committee on an inquiry into the Independent Gambling Authority.

Report received and ordered to be published.

SOCIAL DEVELOPMENT COMMITTEE

The Hon. I.K. HUNTER (15:23): I bring up the report of the committee on a review of the Department of Health report on hypnosis.

Report received and ordered to be published.

PAPERS

The following papers were laid on the table:

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Training and Skills Commission—Report 2008
Office of the Training Advocate—Report, 1 September to 31 December 2008
Regulations under the following Act—
Irrigation Act 2009—General
Partnership Act 1891—Winding Up
Renmark Irrigation Trust Act 2009—General
Superannuation Act 1988—Component of Salary
Rules of Court—
Workers Compensation Tribunal—Workers Compensation and Rehabilitation Act 1986—Rule 19—Referrals to Medical Panels

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

Proposal to move two Significant Trees to Facilitate the Extension of the Tramline to the Adelaide Entertainment Centre—Report to Parliament pursuant to Section 49(15) of the Development Act 1993—Report
Tumby Bay Council—General and Coastal Development Plan Amendment for Interim Operation and Public Consultation—Report, November 2008
Regulations under the following Acts—
Development Act 1993—
Affordable Housing
Aquaculture
Nation Building Projects—Significant Trees

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

Cancer in South Australia 2006 with Projections to 2009—A Report on the Incidence and Mortality Patterns of Cancer—Report
Review of South Australian Cancer Services—Report, 3 April 2009
Regulations under the following Acts—
Controlled Substances Act 1984—Poisons
Harbors and Navigation Act 1993—Registration Label
Mental Health Act 1993—Actions Involving Other Jurisdictions
Motor Vehicles Act 1959—Alcohol Interlock Schemes
Road Traffic Act 1961—
Miscellaneous—Revocation of Part 2A
Road Rules—Ancillary Miscellaneous—Loading Zones
Corporation By-laws—
Campbelltown—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Roads
No. 4—Local Government Land
No. 5—Dogs

By the Minister for Consumer Affairs (Hon. G.E. Gago)—

Regulations under the following Acts—
Liquor Licensing Act 1997—Dry Areas—Long Term—
Fisherman Bay and Port Broughton
Hallett Cove

INTERNATIONAL WORKERS MEMORIAL DAY

DAYLIGHT SAVING EXTENSION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:27): I table a copy of a

ministerial statement relating to the daylight saving extension made earlier today in another place by my colleague the Minister for Industrial Relations.

ECONOMIC DEVELOPMENT BOARD

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:27): I table a copy of a ministerial statement relating to the Economic Development Board's Economic Statement made earlier today in another place by my colleague the Premier.

MARATHON RESOURCES

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:27): I seek leave to make a ministerial statement in relation to Mount Gee in the Northern Flinders Ranges.

Leave granted.

The Hon. P. HOLLOWAY: Primary Industries and Resources SA and the Environmental Protection Authority have recently finalised their assessment of rectification work following breaches of the licence conditions pertaining to Exploration Licence 3258, held by Bonanza Gold and operated by Marathon Resources. I table the Closure Report (Independent Verification of Rectification Works EL3258). This report is now available online from the PIRSA website.

PIRSA, in consultation with the EPA, is now satisfied that rectification works have been completed in accordance with the approved Rectification Plan and Formal Notification. All general waste recovered from Hodgkinson, Mount Gee West and Mount Gee East sites have been removed from the exploration lease, and radiation screening has indicated that all general waste was non-radioactive. Radiation surveys conducted prior to excavation and post-rectification works confirmed that radiation levels have not changed. All mineral samples, including the mildly radioactive samples, were safely removed from bags and drums and reburied under two metres of clean and compacted soil within the same or similar geological and soil formations.

Marathon's activities on this exploration lease brought to light some deficiencies in compliance and enforcement provisions of the Mining Act 1971 that need to be strengthened. In the coming months, I will be giving notice of proposed amendments to the Mining Act. As indicated to this council previously, the government will not contemplate any further ground disturbing activity by Marathon Resources on Exploration Licence 3258, at least until that legislation is in place.

The Northern Flinders Ranges has high scenic, environmental and ecotourism values, but equally high prospectivity for copper, gold, uranium and other metals. The area is also now recognised for having high prospectivity for the development of geothermal energy. The challenge for Marathon Resources—in fact, for all explorers in this region—is to show how the mineral and energy resources can be extracted from this region in a manner that preserves the environmental and scenic values.

QUESTION TIME

PRIVATE CERTIFIERS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:30): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the establishment of a select committee in the House of Assembly.

Leave granted.

The Hon. D.W. RIDGWAY: I have a copy of a letter the minister sent to the Chief Executive Officer of the Australian Institute of Building Surveyors dated 1 April 2009. The letter states:

> I write to inform you of the government's intention to establish a parliamentary select committee in the House of Assembly...to investigate the roles and duties of private certifiers pursuant to Part 12—Private Certification of the Development Act 1993.

The minister goes on to say:

> As you would be aware, on 1 June 2005, a coronial inquest into the deaths of Ms Johanna Heynen and Ms Marilyn McDougall handed down its findings. I intend to ask the committee to consider the recommendations raised by the above coronial inquest.

The letter further states:

Issues related to the structural integrity of buildings have been the subject of broad debate in the parliament and the building industry. The government's primary concern throughout the course of this debate is public safety. Whilst the government recognises the need for industry to operate without unnecessary red tape, the safety of South Australians is of paramount importance when it comes to the integrity of structural buildings.

It is interesting to note that when one looks at the findings from the coronial inquest one can see that a number of references are made to local government but, in fact, no mention is made of any processes employed by private certifiers. In fact, the Coroner recommends the investigation of councils and does not mention private certifiers. The Coroner's recommendations state:

I recommend that the Minister for Local Government conduct an assessment to ascertain the extent to which local government is not enforcing conditions imposed on the grants of development approval, not enforcing the laws in relation to Certificates of Occupancy, not conducting an independent appraisal of the structural engineering aspects of proposed buildings, not requiring vital information about the structural integrity of the roof in a proposed building, assuming without verification the adequacy of commercially available software programs for the design of structural components in a building, not carrying out random or, indeed, any inspection of building works and not requiring an independent verification that the roof has been constructed in accordance with the plan.

The Coroner goes on to say:

If such omissions are widespread, I recommend that the Minister for Local Government should consider how they might be addressed either in relation to reviewing the Local Government Act, reviewing the financial resources of local government to enhance their capacity to act, or in other ways.

Members would know that I have a longstanding interest in the Building Surveyors Act, particularly a document called the 'Discussion Paper into Structural Engineering Calculations'. I find it quite confusing that the minister responsible for the Development Act, the Hon. Paul Holloway, is in this place, as well as me, the shadow minister. I find it almost unbelievable that the minister and the government would establish a select committee in the House of Assembly. My first question is: what is the government trying to hide by establishing this select committee in the House of Assembly? I am sure that members can read the *Notice Paper*, but why is there no mention of the recommendation in relation to the Coroner's recommendation about local government in the terms of reference moved in the House of Assembly today?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:34): Mr President, I assume it is in order for me to comment on that matter. I want to ensure that I abide by the standing orders of this place, even if members opposite do not. As the honourable member said, notice has been given by my colleague in another place in relation to the establishment of a select committee of the House of Assembly to look at the very important subject of private certification.

The Hon. D.W. Ridgway: There's no mention of the coronial findings.

The Hon. P. HOLLOWAY: Well, read the terms of reference of the select committee. I will be happy to read them for the member, because there are a number of issues in relation to that. It was my intention to make a ministerial statement on this matter tomorrow at the same time that my colleague the Minister for Transport and Infrastructure, who represents me in that place, will be moving this motion.

There are a number of reasons I believe a select committee of the House of Assembly needs to be established to look at the general subject.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Infinitely. We all know why select committees are established. We have had more select committees than members in this place, and I do not think a single one of them has ever come up with a conclusion of any value. I would like the members of the House of Assembly who deal with these issues to look at them and produce a report that has some value and some worthwhile suggestions in relation to the very important subject of private certification.

The honourable member would know from the questions he has asked that four or five councils have written to me in relation to issues that have arisen from private certification. The honourable member should also be aware that the planning review last year made recommendations in relation to private certification. In particular, the members of the planning review felt there should be a greater role for private certification. However, before that could come about, consideration would need to be given to the auditing and other issues relating to private certification, and that is a matter that I would like the committee to look at. In particular, the terms of reference that will be established for this committee, should the House of Assembly agree, include:

1. The committee will inquire into the operations of Part 12 of the Development Act (private certification) and, in particular, the framework under the Development Act to handle complaints made against private certifiers. (Clearly, there are deficiencies, and I have highlighted these issues previously.)

2. The current process for accrediting private certifiers in the state of South Australia. 3. Whether the current methods of accreditation for private certifiers is appropriate and/or whether other streams of accreditation should be considered.

4. The appropriate qualifications required by private certifiers to undertake tasks related to the structural integrity of buildings.

5. The system of auditing approvals provided by private certifiers and the adequacy of the current processes of enforcement in the event of a breach of the Development Act 1993.

I have already indicated, in answer to a number of other questions and other discussions we have had in this parliament, that I believe there are some deficiencies there, and this is a matter that a select committee should—

The Hon. J.M.A. Lensink interjecting:

The Hon. P. HOLLOWAY: Well, the Development Act has been around for a long time. There have been a number of ministers for urban development and planning since the Development Act came into force in 1993, and many more in relation to its predecessor, which had similar provisions. In relation to private certification, as I have indicated previously, the problem the minister faces is that, after you have given the person who is complained about natural justice under the provisions of the act, you really have only two choices—you can either effectively put them out of business, or do nothing. I think that is a deficiency of the act. There are also issues in relation to auditing, and these are the things I would like the committee to expeditiously and comprehensively examine. Then the next part is:

6. Any other matters directly relevant to this part of the Development Act.

We have so many select committees here that they rarely meet because it is so hard to get a quorum nowadays when you have dozens of select committees going, and I hope that will not be the case in the other place.

The second term of reference is that the committee will inquire into whether undue influence has been exerted on the building advisory committee or any of its members in the performance of their statutory duties.

The honourable member referred to the coronial inquest into the causes of the death of two people due to the collapse of the roof of the Riverside Golf Club on 2 April 2002. That event, as members in this place would be aware if they have followed this issue, led to the establishment of the minister's task force on trusses. The purpose of that task force was to identify possible reforms aimed at ensuring that rigorous yet practical measures were developed and implemented in conjunction with industry to prevent similar tragedies.

The task force identified a number of areas where industry practice was very poor in defining the various roles, responsibilities and accountability of individuals involved in the approval and construction process of buildings. I am advised that the Department of Planning and Local Government is currently working on the implementation of the recommendations by this task force in November last year. As part of the broader issues related to the assessment of building structures, the Building Advisory Committee also turned its mind to the duties and functions of private certifiers in a discussion paper provided to the Minister for Urban Development and Planning entitled 'Checking of Structural Engineering Calculations'. This report was given to me in April 2008.

The Building Advisory Committee is a longstanding and well respected committee created under statute to advise the government on the administration of the Development Act 1993. The Building Advisory Committee in its discussion paper recommended that the government consider the appropriateness and extent to which a professional engineer should be involved in the checking of building calculations. Of greatest concern to the BAC in its discussion paper was that the Development Act 1993 appeared silent on the limitations of building surveyors in exercising their responsibilities under the act.

Under the current legislative framework, it appears that building surveyors as a profession are entitled to self assess their own professional limitations. The BAC discussion paper argues that this could lead to poorer assessment of buildings, thus putting the community at risk. For many years the committee has taken on an important safety role for the South Australian community. The

committee and its members need to be assured that they are able to operate in an environment free from external influences or negative consequences when providing its advice to the government. It is the view of the government that differences of opinion, when exercised appropriately, strengthen the quality of debate.

I have just been advised that the chairperson of the Building Advisory Committee has had his life membership forfeited after a difference of opinion with some colleagues within the AIBS (Australian Institute of Building Surveyors). Members of the committee are encouraged by this government to comment on the operations of the act, knowing that the discussion points they raise will not have negative consequence for them in their professional life.

To ensure the government can continue to have confidence in the quality of advice from the committee, it is critical that the events surrounding the release of the Building Advisory Committee discussion paper and the punitive measures taken by the Australian Institute of Building Surveyors against the chairperson of the Building Advisory Committee be investigated. The events warrant the establishment of a select committee to explore the facts and circumstances around this event.

One of the main reasons I have asked a select committee of the House of Assembly to do that is so that I will not be involved in the process. As the minister, it is appropriate that I should not be part of it. When you have a situation where an institute takes action against one of its members for no reason, other than apparently chairing a statutory committee set up under a house of this parliament, it is an intolerable situation. If members opposite wish to defend that, so be it. The government will ask in the House of Assembly that a select committee be established to look at not just the general issues in relation to private building certifiers and some of the deficiencies that have become apparent in the act over its operation in recent years—the question of auditing needs to be addressed and the recommendations of the Planning Review Committee need to be further advanced, which is an important task—but in particular I would like this committee to look at the actions taken by the AIBS in relation to one its fellow members, who was the chair of a statutory body advising government in relation to building safety.

They are very important matters and I trust that the select committee in another place will diligently turn its attention to that and provide advice to this parliament in relation to those very important matters. Rather than having anything to hide, I believe it is appropriate that the body is clearly seen not to involve myself or the shadow minister (who has asked a number of questions) who could, I think, be regarded as being prejudiced in relation to the stance of the AIBS. I believe it is better that that be removed from this situation and that these very important matters—which go to the heart of the safety of buildings, and what could be more important than that—be looked at in that sort of environment. I look forward to the report of the select committee.

LAW ENFORCEMENT

The Hon. S.G. WADE (15:45): I seek leave to make a brief explanation before asking the Leader of the Government a question relating to law enforcement.

Leave granted.

The Hon. S.G. WADE: On Tuesday 7 April the Leader of the Government claimed that the Liberal Party's position on road safety was impugned by the fact that I was a Facebook friend of an individual who had posted a picture of himself committing a driving offence. The leader asserted that the fact that I had not dissociated myself from the driver involved showed that I had no respect for the enforcement of the law.

The member for West Torrens recently resigned his road safety portfolio after it was revealed that he had committed over 50 traffic offences. The Leader of the Government and the member for West Torrens are ministerial colleagues; their ministerial association is surely more significant than that of a Facebook friend. I ask the leader: will he take this opportunity to dissociate himself from the member for West Torrens so that the council can be clear that he lives by the standards that he preaches and that he does respect the enforcement of the law?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:47): The appropriate action has been taken in relation to the former minister for road safety. He has resigned and has just made a statement to parliament—which I suggest the honourable member read—in which he has taken full responsibility and apologised to the parliament and the public of South Australia for his actions. I see little more action that could have been taken.

Members interjecting:

The PRESIDENT: Order!

BUILDING WORK CONTRACTORS

The Hon. J.M.A. LENSINK (15:47): I seek leave to make an explanation before asking the Minister for Consumer Affairs a question on the subject of reviews of the Building Work Contractors Act.

Leave granted.

The Hon. J.M.A. LENSINK: There have been three discussion papers released: one with submissions closing December 2006; one July 2007; and one June 2008. While I note that a couple of the suggestions have been adopted in the proposed legislation, a large number of matters are outstanding, some of which are of significant concern to groups such as the Master Builders Association. In particular, I note that they advocate a return to the former process of a panel for disputes. My question is: does the minister intend to introduce any amendments in parliament before the next election?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:48): I thank the honourable member for her question. Indeed, in May 2005 the then minister for consumer affairs asked the Commissioner for Consumer Affairs to commence a review of the Building Work Contractors Act 1995 in relation to licensing criteria, and that review was then extended to consider the effectiveness of building indemnity insurance and aspects of that scheme.

As the member outlined, a number of discussion papers were released by the Office of Consumer and Business Affairs detailing potential options for reform of the act, including contracts, building indemnity insurance and building consultants. However, the review has since been overtaken by the Council of Australian Governments' decision in July 2008 to pursue a national trade licensing system, with builders as one of the priority occupations that have been identified to move to a national licensing regime.

It is not clear what the extent of that national licensing system will be; however, obviously work is progressing on the development of the national trade licensing system, and an intergovernmental agreement on the system is anticipated to be presented to COAG for consideration. So, although the work this state has done has been overtaken by the COAG agenda, going down the path of the national licensing regime certainly has merits for the industry. It will help streamline the different trades and make more sensible the licensing arrangements; it will also make it easier and provide a more commonsense approach to various tradespeople working across borders.

A great deal of work needs to be done in bringing about that nationally consistent approach. There is a great deal of detail around recognition of qualifications and the different levels of licensing in place among the states. The states have a wide range of different numbers of categories under the different trades, so they all need to be consolidated into one national licensing system.

There is a great deal of debate. I understand that the appropriate peak trade and training authorities are all party to this national agenda, so they are participating in those discussions and negotiations. Considerable work has been done, and we continue to work towards a nationally consistent approach to licensing.

BUILDING WORK CONTRACTORS

The Hon. J.M.A. LENSINK (15:51): As a supplementary question, will the minister advise whether the proposals being looked at include disciplinary provisions, or is it merely mutual recognition?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (51:52): I do not have the answer to that question with me, but I am happy to take it on notice and bring back a response.

OPEN SPACE

The Hon. CARMEL ZOLLO (15:52): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question regarding open space.

Leave granted.

The Hon. CARMEL ZOLLO: South Australia's local councils have played an integral role in identifying grassroots projects that have helped to beautify the state and provide jobs to local contractors. In the metropolitan area the councils along the foreshore and Torrens River have contributed to creating great open space throughout the Coast Park and the Linear Park initiatives. Many of these projects have been greatly assisted by the Open Space and Places for People grant schemes. Will the minister provide details on the latest council projects to benefit from state government grants financed through the Planning and Development Fund?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:53): I thank the honourable member for her question. The Rann Labor government has now invested more than $48 million in the past seven years from the Planning and Development Fund to encourage local government and community groups to develop public space in their local area for recreation. The latest round of grants include more than $1.1 million for projects associated with the River Torrens Linear Park, and that will build on many millions of dollars that have been spent in the past.

The government has also provided over the past seven years $13.4 million worth of grants that have assisted councils along the metropolitan coastline to take part in projects that have contributed to creating a shared use pathway to link North Haven with Sellicks Beach. This government will now provide another $4.42 million in grants from the Planning and Development Fund to local councils in metropolitan Adelaide to assist in improving open space and places for people. These grants will assist councils to invest in local projects to beautify the Adelaide metropolitan area and improve the public's access to open space.

The newest grants for the Open Space and Places for People initiatives are:

- $800,000 to the City of Onkaparinga to assist funding for the $15 million Christies Creek project upgrade as part of the Waterproofing the South initiative. The strategy seeks to provide alternative water sources such as recycled water and storm water to replace traditional sources such as mains water and groundwater. The project also aims to enhance the public's access to Christies Creek through the creation of shared use paths and trails, extensive revegetation and other landscaping associated with the linear park;
- $700,000 to the cities of West Torrens and Charles Sturt to replace the existing pedestrian footbridge spanning the Torrens River from Kanbara Street, Flinders Park, to River Drive, Lockleys, and that will safely link both sides of the River Torrens Linear Park;
- $450,887 to the City of Unley to implement the concept plan design for Orphanage Park. The redevelopment of the reserve near the Goodwood Road rail overpass, the site of the old orphanage, will include two large grassed, open space areas, a junior and senior play space, picnic and barbeque facilities, seating, toilets, shade structures, drinking fountains, and pathways;
- $410,900 to the City of Charles Sturt to redevelop the path along the River Torrens Linear Park between Kanbara Street and the corner of Belgrave Avenue and Brentwood Road, Flinders Park;
- $350,000 to the City of Port Adelaide Enfield to develop the play space area of Regency Reserve at Days Road, Regency Park. The proposed works include landscape treatments; installation of paved walkways; new play space and rubber softball; and new park furniture, including public art, seating, barbeque shelters, and bins;
- $302,471 to the City of Marion to redevelop Harbrow Grove, Seacombe Gardens with a range of passive recreation areas, including a play space, walking and cycle paths, formal grassed areas, and park furniture. The development will also incorporate water-sensitive urban design to retain and reuse stormwater for irrigation and recreational purposes;
- $290,000 to the City of Marion to undertake stage 2 of Tramway Park, between Park Terrace and Cross Road, Plympton. Tramway Park is a state government-initiated project involving the development of a linear park along the Adelaide to Glenelg tramway, and it

incorporates the construction of a sealed shared-use path linked to adjoining footpaths and street networks;

- A further $288,000 to the City of Onkaparinga to implement stage 2B of the Northern Community Recreation Park. This stage proposes to extend the existing trail linking with Glenhuntly Drive Reserve, Flagstaff Hill, which will allow an extra 1.2 kilometres and provide a variety of themed, directional and interpretative signs and park furniture;
- $230,000 to Campbelltown City Council to purchase and acquire a parcel of land situated along Rostrevor Creek, Rostrevor. The land purchase will form part of the linear creek and act as a biodiversity park;
- $192,500 to the City of Onkaparinga to purchase and acquire a parcel of land situated along the Sturt River, Coromandel Valley. The land purchase will form part of the Sturt River Linear Park, and it is also an integral part of the metropolitan open space system (MOSS) study area;
- $110,000 to the City of Port Adelaide Enfield to develop the Largs Bay foreshore, which is part of Coast Park. The upgrade will include the renovation of the existing shelter, replacement of park furniture, new paving areas, upgrade of barbeques, seating, tables, bins and irrigation system;
- $100,000 to the City of Port Adelaide Enfield to help fund feature lighting to highlight the unique architecture of the historic port precinct and to increase its potential as a major night-time entertainment area;
- $100,000 to the Adelaide City Council to develop Wirranendi Environmental Trail, an interpretative walking trail in the Adelaide Parklands, incorporating environmental, recreational and educational elements. The trail aims to foster an awareness of the value of biodiversity conservation for future South Australian generations;
- $35,000 to the City of Charles Sturt to undertake an urban design framework to enhance the vitality, safety and retail appeal of Woodville Road;
- $25,000 to the City of Unley to undertake an urban design framework for the Keswick Barracks and surrounding area. The framework will investigate the potential land use of the area should the Department of Defence vacate the barracks;
- $25,000 to the City of Prospect to undertake a parks strategy to provide direction for future development, allocation and management of the city's open space. It is anticipated that the strategy will be based on a 20-year vision, with a detailed action plan to guide open space activities for the next five years;
- $10,000 to the City of Salisbury to acquire a parcel of land at Waterloo Corner Road, Paralowie, the land adjacent to the Little Para River, and this will complement the Little Para River Linear Trail.

These millions of dollars in grants, beside providing work for landscapers, designers and tradespeople, also ensures a lasting legacy of upgraded facilities, such as bikeways, picnic areas, bridges and play equipment for all South Australians.

I expect that a further round of grants will be considered in the next few months, and that will take the total amount of investment in public infrastructure under the Planning and Development Fund to more than $50 million.

While the price of some of the projects might be small, their contribution builds, park by park and pathway by pathway, a vision that provides improved streetscapes and public facilities throughout the state for all our families to enjoy.

WATER METERS

The Hon. J.A. DARLEY (16:00): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Minister for Water Security, a question about water meter readings.

Leave granted.

The Hon. J.A. DARLEY: On 11 November 2008, I asked a question of the minister raising concerns about the inaccurate readings of water meters since the task was outsourced to AMRS

(Australia) and indicated that there is no way for a resident to know whether their meter had been read correctly. I understand that there has been a turnover rate of staff of approximately 80 per cent at AMRS (Australia) and that there is growing dissatisfaction with the service that it provides.

In the past, when SA Water undertook meter readings, its staff would leave a yellow or pink coloured slip in the letterbox to notify the resident that their meter had been read and what the reading was. My question is: in light of growing discontent with the service provided by AMRS (Australia) and the fact that quarterly meter readings have been thrust upon us, would the minister reconsider reintroducing the coloured slip system so that owners can check for themselves whether their reading is correct?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:01): I thank the honourable member for his important question. I will refer that to the Minister for Water Security in another place and bring back a reply.

BROADBAND ACCESS

The Hon. C.V. SCHAEFER (16:01): I seek leave to make a brief explanation before asking the Minister for Small Business a question about high speed broadband.

Leave granted.

The Hon. C.V. SCHAEFER: The federal government's new scheme for high speed broadband rollout will, by its own admission, not be available to any town with a population of less than 1,000 and will certainly not be available to people outside a very narrow radius around those towns. The minister is well aware that these are the very businesses that need to use advanced technology to trade and to remain competitive. I cite as examples farmers trading grain on the world market, the fledgling mining industry, regional tourism and the accommodation industry as well as the many other small businesses that service these small towns.

The minister is also well aware that South Australia has a larger percentage of towns with populations of less than 1,000 than most states. My question is: has the minister or anyone from the state government made representation to their federal Labor colleagues either opposing this scheme or, at the very least, pointing out that they are again discriminating against the less populous states?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:03): The question asked by the honourable member is an important one. Obviously, the federal government has been attempting to improve broadband facilities for all Australians because clearly our systems have not been up to scratch in the past. Of course, it was one of the important issues at the last election that the federal government campaigned on and, certainly, the comments that I have read in response to the federal government's proposals show that they have generally been very warmly welcomed by the industry.

I know in recent days, and in the past few days in particular, that there have been some comments in relation to what impact this might have on small communities. I am aware of those comments, and I am seeking some information. I do not have that information to hand yet, but I will make sure that I get that information which I have requested in relation to the impact of this system on regional communities and the benefits or otherwise of such a scheme, and I will take whatever action is necessary when I get that information. I do accept that broadband and better internet access are very important to all Australians.

It is interesting that there was an article yesterday, I think, suggesting that one of the problems the world may well face is there has been such a massive growth in connections to the internet that it may well slow down the whole system on a worldwide level in the next few years. I hope that is speculative but, clearly, within this country we have for many years lagged behind the sorts of systems that are available in many parts of the world. When I was in Korea a few years ago, I observed that the access and the speed of the internet available to residents and businesses in those communities was much faster than it was here.

At this stage, it is still somewhat of a moving feast, but I accept the importance of the honourable member's question. She can be assured that this government will make whatever representations are necessary—if, in fact, they are necessary—to ensure that South Australians get a good deal out of the commonwealth's proposals.

BROADBAND ACCESS

The Hon. J.S.L. DAWKINS (16:05): Sir, I have a supplementary question arising from the minister's answer. Given the minister's comments, is he aware that the Central Local Government Region of South Australia has expressed its disappointment and frustration that 40 per cent of the region is still unable to access reliable, modern and affordable broadband services?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:06): As I said, for many years this country has been under-serviced, and I know that the federal government has been attempting to address those issues. I guess it will be very difficult for it to satisfy everyone. I was not aware of those particular comments. I am sure that, if that body intends to write to government, I will be made aware of it. The honourable member can be assured that this government will continue to represent our small business constituents, particularly those in regional areas.

TAXI RANKS

The Hon. I.K. HUNTER (16:06): Mr President—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. I.K. HUNTER: Sir, when the council is quite ready.

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Thank you for your protection, sir. I seek leave to make a brief explanation before asking the Minister for Consumer Affairs and Minister for the Status of Women a question about taxi ranks.

Leave granted.

The Hon. I.K. HUNTER: Many women (and, dare I say, some men, including me on the odd occasion) may often feel somewhat vulnerable when out late at night at entertainment spots when they need to think about getting home. Although there will be very few who would regard late night sittings of this place as a late night entertainment venue, in recent years it is—

Members interjecting:

The Hon. I.K. HUNTER: That's right.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: I will start again, sir. Although there will be very few who would regard late night sittings of this place as a late night entertainment venue, in recent years it is the only such night spot that I have managed to frequent—and I am sure that does not apply to others. However, regardless of the quality of the entertainment at our chosen venue, we need to know that there is a safe and reliable means of transport to get from place to place and thence finally home. Will the minister advise what the government has done about safety in relation to taxi transport for patrons of late night entertainment venues around the city and suburbs?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (16:08): I thank the honourable member for his most insightful question and his ongoing interest in these very important policy areas. Recently, I launched two new managed taxi ranks to assist with ensuring the safety of late night partygoers, particularly on Friday and Saturday nights. The managed taxi ranks are monitored by concierges, security guards and CCTV. They provide a well lit and secure environment for late night patrons, particularly women and young people who are having a good night out.

These new ranks are located at Glenelg and in the heart of the city at the East End. These two new ranks complement the staffed taxi rank that has been operating in the West End for just over one year. The West End managed taxi rank has proven to be enormously successful, with about 40,000 users since its inception. I think people walk with their feet and they are clearly

showing how popular these taxi ranks are, and that is indicated by the numbers that are using these facilities.

Taxi drivers and late-night revellers have told us that they feel safe as a result of this managed taxi rank system. The government has committed $80,000 over four years towards establishing these staffed and secure taxi ranks around Adelaide and the suburbs. This initiative is in partnership with the Taxi Council of South Australia, as well as local councils. To promote and highlight the benefits of using staffed taxi ranks for late-night revellers an advertising campaign will run in May and June 2009.

This initiative complements the Women's Safety Strategy which was launched on International Women's Day on 8 March 2005 and which outlined the South Australian government's commitment to addressing the issue of violence against women, particularly including both rape and sexual assault and family and domestic violence. The Women's Safety Strategy has a very broad focus—from early intervention work focused on preventing violence through to community education—to raise awareness about the level and complexity of women's safety. The Women's Safety Strategy is led by an across-government reference group which I chair and which brings a strategic perspective to the way in which government is delivering women's safety services in South Australia.

FLOODING, PORT ADELAIDE

The Hon. M. PARNELL (16:11): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development, representing the Minister for Infrastructure, a question about the flooding of a contaminated soil dump at Port Adelaide.

Leave granted.

The Hon. M. PARNELL: In the past couple of days there has been much discussion in the media about flooding on Saturday night in the vicinity of the Newport Quays development at Port Adelaide and, in particular, at Fletcher's Slip. The flooding inundated stockpiles of contaminated soil placed there by the Land Management Corporation. Yesterday, I received a copy of a letter addressed to the EPA from Tony Kearney, Chairperson of the Port Adelaide branch of the National Trust. Mr Kearney's letter, in the form of formal complaint, states:

> On the evening of Saturday the 25th of April between 4.15 and 7pm there was a king tide in Port Adelaide, the result of which was that Jenkins Street, Fletcher's Slip and the former GMH site were inundated with river water for more than two hours.
>
> As an LMC Community Forum member, I, along with numerous others from community organisations and as community members, have for more than two years been telling the LMC that their plans for locating stockpiles of earth in the Jenkins Street precinct were courting disaster, so when we were informed that contaminated soil was to be relocated to the heritage listed Fletcher's Slip area, we aired our major concerns and pointed out that it would only lead to the soil being washed into the river. On Saturday night this came to fruition.

The letter continues:

> Our complaint is that known contaminated soil has been deposited on a site that is prone to flood and that said soil has then been washed off the site and into the Port River, a dolphin sanctuary. Our branch...informed an EPA officer of the consequences when the site was being assessed for a place to relocate the soil and frankly can't believe that the EPA granted the LMC permission to deposit contaminated soil on this known flood prone area.
>
> We expect there to be an independent inquiry undertaken and some formal action taken against those responsible as their action (or inactions) have led to the foreseeable situation of the Port River being polluted.

My questions to the minister are:

1. Why did the Land Management Corporation place the contaminated soil at Fletcher's Slip without adequate protection despite frequent warnings for more than two years by members of the LMC Community Forum that the area was very likely to be flooded in a king tide?

2. How much contaminated soil flowed into the Port River dolphin sanctuary?

3. What heavy metals and minerals are contained within the contaminated soil dump, and what testing will be conducted on the Port River to identify which heavy metals were washed in?

4. As it was a condition of its development approval for the remediation of the site that these stockpiles not be inundated, did LMC contravene its development approval?

5. Will the government initiate an independent inquiry into this situation and, if not, why not?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:14): I did see some of the press reports, and I also read a transcript of some comments Mr Wayne Gibbings from the LMC made which indicated that any soil that had been washed into the river would, at most, be a 'couple of barrel loads', I think was the comment that was made. As I understand the situation, the reason the soil was moved was that originally there had been some soil, if I recall correctly, that had been right next to a primary school and, of course, in the summer months, with the dust blowing around, it was preferable to move that soil to a site where it would have less impact.

However, they are matters for my colleague. As I said, I will refer the question to the honourable member in another place and bring back a reply.

GOVERNMENT APPOINTMENTS

The Hon. R.I. LUCAS (16:15): I seek leave to make a brief explanation before asking the Leader of the Government a question about Public Service appointments.

Leave granted.

The Hon. R.I. LUCAS: In March a series of questions were asked of the minister about the appointment of three former Labor ministerial staffers to senior director level positions in his own Department of Planning and Local Government. Those persons were Lois Boswell, George Vanco and Kaye Noske. Also, questions were raised about these appointments being made without advertising and, of course, those appointments, as I indicated at that time, had generated some significant unrest at senior levels of the minister's department. I have been contacted by another angry whistleblower at a senior level of the Public Service of South Australia who says:

Following your questions in parliament about the appointment process for directors in the Department of Planning and Local Government—

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Mr President, I am indebted to the services of my web site and Facebook, and I would encourage anyone else with important information to share to continue to contact me, as they have been doing on a regular basis.

The Hon. B.V. Finnigan interjecting:

The Hon. R.I. LUCAS: I thank the Hon. Mr Finnigan for his interjection.

The Hon. J.S.L. Dawkins: I wouldn't talk about garden gnomes too much, Bernie.

The Hon. R.I. LUCAS: Particularly speeding garden gnomes, and ones who do not pay their fines and welsh on their bets, but we will not talk about that on this occasion.

The Hon. J.S.L. Dawkins: That shut Bernie up, didn't it?

The Hon. R.I. LUCAS: Yes. His close personal friend, who might even be a Facebook friend. I will return to the quote and not be diverted by the Hon. Mr Finnigan. It states:

Following your questions in parliament about the appointment process for directors in the Department of Planning and Local Government, the department has now advertised the positions towards legitimising the appointment of the incumbent political appointments. It is apparent that the appointment process is done on a basis of ensuring that Kaye Noske, George Vanco and Lois Boswell, in particular, have the greatest opportunity to confirm their current appointments.

I am advised that, first, none of these particular advertisements was advertised in *Career One* in *The Advertiser* or in *The Australian*, which I am told is the normal process when attempting to lure the best candidates for senior director level positions within government departments. I am advised also that, on Saturday (Anzac Day) in the South Australian government's *Notice of Vacancies*, an online advertisement was placed for these particular positions. So, on Saturday, they were placed online with a closure date of just over a week later, 4 May. I am also advised that they were not included in *The Advertiser's* government notice of vacancies section, which is the careers section, but were included in the—

The Hon. R.P. WORTLEY: I have a point of order, Mr President. The Hon. Mr Lucas sought leave to make a brief statement. He has been going for three minutes and is only half way through his statement. Can you direct him to get straight to the question?

The PRESIDENT: Order! The Hon. Mr Lucas will—

The Hon. R.I. LUCAS: Mr President, part of it was taken up with interjections from his colleagues.

The PRESIDENT: Order! The Hon. Mr Lucas will get to his question.

The Hon. R.I. LUCAS: Thank you, Mr President. The specific disclaimer on that advertisement was only available to public sector employees. I am advised also that the job and person specifications were not made available on Saturday and were made available only today, six days prior to the close of nominations. I am also advised that the positions have been advertised as permanent, not as five-year contract positions, as is meant to be the case. I am also advised that, as of lunch time today, the Department of Planning and Local Government's own website, under the section of 'Careers' says a number of things, for example:

> You are encouraged to apply for vacant positions you see advertised externally and set out below on the department's website.

When you look at that, it then says, 'There are no advertised positions at this time.' The department's own website states there are no advertised positions at this particular stage. I am advised that the department's website is actually controlled by the Director of Communications, Ms Kaye Noske, who is the incumbent of one of the positions that is supposedly advertised.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: My questions are as follows:

1. Does the minister accept that it is unfair to other public servants interested in applying for these jobs that the process I have outlined is being used by the minister and his department to fill these senior director level positions?

2. Will the minister explain why his department's own website is still indicating, as of lunch time today, that there are no current advertised positions available for careers within his department, when clearly senior director level positions are being advertised?

3. Will the minister explain why these particular positions are being advertised as permanent positions as opposed to five-year contract positions, which we understand is the government's policy in relation to executive level appointments?

4. Finally, will the minister now concede that his department is now just engaged in an outrageous, improper and unfair attempted stitch-up to try to ensure that three former Labor staffers are locked in permanently to high-paying executive positions in his department prior to the election?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:22): The answer to the last question is no. The first matter that needs to be addressed is in relation to Kaye Noske. Kaye Noske I think briefly worked, as many journalists work, for members on both sides of politics, including the Hon. Frank Blevins back in the 1990s—nearly 18 years ago. Following that she had worked in PIRSA under ministers such as the Hon. Rob Kerin for many years. She worked briefly as a journalist for a Labor minister nearly 20 years ago—a very competent person, as those who have worked with her in that department would know. I know this in relation to Kaye Noske because I was minister for agriculture, food and fisheries for some time and Kaye Noske worked there. With the Hons Caroline Schaefer, Rob Kerin and other ministers before that, she had had a role in the communications department.

As was indicated, there was a vacancy in that area and she was asked to go, I understand, to work in the new Department of Planning and Local Government from the key position she had within PIRSA, and that was because of her outstanding values in that regard. It is grossly unfair that the honourable member should use the fact that someone once worked for a Labor government nearly 20 years ago and suggest that that should somehow disqualify them from all positions in future. One thing that characterises the Rann Labor government over previous Liberal governments is that we will appoint people regardless of their political background.

I noticed today that my colleague in another place, the Minister for Regional Development, has used the services of Rob Kerin in relation to a very important issue—regional development boundaries. I can think of nobody better to do that job. The one thing that distinguishes this government from members opposite is that we are prepared to use people on their merits, and that

is exactly what the government has done here. In relation to what might be on the departmental website, I will take that part of the question on notice (I do not know what is on the website as it is a matter for the department) and get back to the honourable member.

GOVERNMENT APPOINTMENTS

The Hon. R.L. BROKENSHIRE (16:25): I have a supplementary question. Based on the leader's answer, can he confirm that the media offer from the Premier to the former Liberal premier, Mr John Olsen, is specifically for the expertise which is lacking in the government, or is it for political benefit to the government?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:25): I can only repeat that this government has employed people on the basis of their merits. People who work for the media invariably work for all sorts of people; I understand that Hendrik Gout, of *The Independent Weekly*, for example, used to work for a former federal Labor minister—he has also worked for Sandra Kanck, as well as a whole lot of other people during his political career—and I do not think anyone would say that, with many of his comments, Hendrik was a friend of the Labor Party. That is true of many people who have worked in the media, but in relation to other members they should be chosen on their merits, and I am quite happy to defend the calibre of the people involved.

However, at the end of the day it will be down to the proper processes for the appointment of people within the Public Service. The Hon. Rob Lucas complained, in his first question, that in fact there would be no process in relation to that.

AQUACULTURE

The Hon. R.P. WORTLEY (16:26): My question is to the Minister for Urban Development and Planning. With aquaculture being such an important industry for this state, what is being done to cut red tape for producers?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:27): I thank the honourable member for his very important question. Aquaculture is an important industry, and it provides jobs and export earnings that contribute to the continued strength—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I will start again. I think it is important that we note that aquaculture is an important industry, which provides jobs and export earnings that contribute to the continued strength of the South Australian economy. It is also an industry that has a very strong future in our state, and one only has to look at Hagen Stehr's company Cleanseas, and its recent developments in closing the breeding cycle of the southern bluefin tuna. That is a very significant step for aquaculture; it has been done in this state, and I congratulate all those involved. I think it would be fair to say that SARDI Aquaculture and others have made their contributions to the development of the aquaculture industry over many years, and those developments could put this state at the forefront of aquaculture.

That is why I took great pleasure this week in announcing regulations (which I think were tabled in parliament today) which will reduce red tape for aquaculture licence-holders and in turn save them both time and money. Previously, licence-holders had to apply for development approval to move their pens even if they were within an existing aquaculture zone. The changes to the development regulations will remove this cumbersome administrative hurdle, which basically duplicated the assessment process undertaken under the provisions of the Aquaculture Act—you needed approval under the Aquaculture Act and, up until today, you also needed approval under the Development Act.

Aquaculture operators were previously required to apply for approval to move their pens, and then wait until the independent Development Assessment Commission reviewed that application. The sensible changes tabled today (which were actually introduced last Thursday in the *Gazette*) will allow licensed operators to avoid this burdensome process if their pens are to be relocated, provided they are within the same aquaculture zone.

The changes brought about by the Development Aquaculture Variation regulations 2009 affect aquaculture zones in Eastern Spencer Gulf, Smoky Bay, Lower Eyre Peninsula and Coffin Bay. Aquaculture businesses in these zones already go through a comprehensive application and

consultation process when applying for their aquaculture licences. The amendments mean that these businesses now do not have to lodge a development application, which can be costly and time consuming. No public consultation has been removed from this process, I should point out: the changes only streamline the referral application process between government agencies.

Currently there are 315 aquaculture sites in South Australia reporting to Primary Industries and Resources SA. Dozens of new and existing aquaculture businesses are expected to benefit from these changes each year. These changes do not affect the environmental scrutiny of the current licence approval process. A comprehensive environmentally sustainable development assessment is still required for each new and moving site, and the EPA is still required under the Aquaculture Act to approve licence conditions, but these changes will ultimately cut costs and speed up development approvals by up to two to five months for many aquaculture leases across the state.

It is a commonsense initiative that will help reduce costs for the aquaculture industry. These changes are just one of a number of initiatives introduced by the Rann government this year to streamline planning throughout South Australia. Our aim is to make the South Australian planning system more efficient, which will underpin the state's economic development.

ANSWERS TO QUESTIONS

SPORTING FACILITIES

In reply to the **Hon. T.J. STEPHENS** (10 September 2008).

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Minister for Recreation, Sport and Racing has provided the following information:

The Minister for Recreation, Sport and Racing and the Office for Recreation and Sport (ORS) regularly meets with Sport SA and other stakeholders to discuss facility requirements. This information is supplemented through information received from the ORS facility grants programs and other sources.

The ORS also works with respective local governments in relation to the provision of community level facilities as these facilities are generally under the care and control of the local Council.

POLICE RESOURCES

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (11 September 2008).

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Minister for Police has provided the following information:

A court form (Complaint and Summons) is a document issued by a Registrar, Justice or Court commanding a person to attend or to produce an article or document to the court. Summonses are generally issued with a court date sufficiently in advance to allow for receipt at appropriate police stations, service and return to Courts. For any number of reasons a summons may not be served within time in which case the summons is returned 'unserved'. Reasons include incorrect or changed addresses and evasion of police.

The Commissioner of Police has advised that at any one time the number of summons held for service at police stations across the State is fluid. However, in September 2008 State wide approximately 2,200 summonses were awaiting service by police.

I am also advised this is not unusual and the number of summonses held compares favourably with the previous corresponding period. In September 2008 most Local Service Areas (LSA's) report a reduction in the number of summonses received for service.

Accurate timelines for service of summonses are unable to be provided as some may be served within a few days whilst others often take longer.

In this context, it should be noted that South Australia Police prosecuted over 71,000 matters in 2007-08 with an average of more than 15,000 files being listed per month within Magistrate's Courts.

A range of initiatives have been implemented across SAPOL Local Service Areas to manage summons service. These include telephone contact with persons named in summonses and arrangements being made for collection at a police station as well as involving dedicated enquiry and other staff as required.

POLICE NUMBERS

In reply to the **Hon. R.L. BROKENSHIRE** (15 October 2008).

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Minister for Police has provided the following information.

1. SAPOL had 4,144.9 active FTE police officers and 158 active FTE cadets in training as at 30 June 2008.

2. There has been an increase of 148.3 active FTE police, and 5.0 active FTE cadets in training from the 30 June 2007 figures of 3,996.6 active FTE police and 153 active FTE cadets in training.

3. The recruiting target and projected attrition rates through to 2010 are:

	Recruiting target *	Graduation target (1)	Projected attrition (2)	Net increase (Active Police) (3=1-2)
2008-09	368	371	193	178
2009-10	249	297	198	99

Recruiting target includes re-employees

Projected attrition includes cadet attrition

Recruiting target and projected attrition includes Community Constable movements

* SAPOL's active police workforce was under the Approved Establishment as at 30 June 2008, however the number of cadets in training at 30 June 2008 (158) and recruitment in the early part of 2008-09 was higher than normal to make up the shortfall. Locally recruited cadets spend nine months in training prior to graduation from the Police Academy.

4. The recruiting and attrition rates over the life of this government, from 2002-03, are:

**	Recruitment	Attrition	Net increase
2002-03	137	148	(11)
2003-04	142	148	(6)
2004-05	344	175	169
2005-06	291	147	144
2006-07	278	185	93
2007-08	321	182	139

** The table at Question 4 does not include Community Constable recruitment and attrition numbers due to insufficient data available prior to July 2004. Community Constable staffing movements have been included in the numbers shown in response to Questions 1, 2 and the table at Question 3.

BASEBALL FACILITIES

In reply to the **Hon. T.J. STEPHENS** (12 November 2008).

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Minister for Recreation, Sport and Racing has provided the following information:

Baseball SA, with the assistance of government, has developed a feasibility study and business case to address their future major facility requirements.

The government has provided a significant level of financial assistance to the sport including a grant provided to the Glenelg Baseball Club. The grant was received through the Community Recreation and Sport Facilities Program and was for the re-development of Anderson Reserve.

While the government, through the Office for Recreation and Sport, will continue to promote the provision of infrastructure for sport at all levels, it also has a responsibility to consider the allocation of funds in the context of all the priorities that exist in the community.

POLICE BAIL, CHILDREN

In reply to the **Hon. SANDRA KANCK** (12 November 2008).

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Minister for Police has provided the following information:

The South Australian Police advises there are specific processes which must be considered in relation to children. Due to the nature of allegations made the matter was referred to SAPOL's Ethical and Professional Standards Service for assessment pursuant to the (Police Complaints and Disciplinary Proceedings Act) 1985. The matter has subsequently been registered as a complaint against police and is currently under investigation.

RESIDENTIAL DEVELOPMENT CODE

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (27 November 2008).

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The West Australian company, Mills Wilson Communications, was contracted to assist with the launch of the published report of the Planning Review and the draft Residential Development Code. The outcome of further discussions in June 2008 was that it was decided to complete the contract as agreed, and not extend its scope. Mills Wilson Communications has not been engaged to assist with publicity of the next stage of the Planning reforms, which includes the proposed Residential Development Code.

CANCER SERVICES REVIEW

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (16:31): I table a copy of a ministerial statement relating to the Cancer Review Report made earlier today in another place by my colleague the Minister for Health.

PAYROLL TAX BILL

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

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:32): I move:

That this bill be now read a second time.

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

Leave granted.

The *Payroll Tax Bill 2009* (the 'Bill') repeals the *Payroll Tax Act 1971* (the 'Act') and replaces it with a new Act that harmonises payroll tax provisions as far as possible with the equivalent payroll tax legislation of New South Wales and Victoria.

On 29 March 2007, all State and Territory Treasurers agreed to move towards the adoption of uniform positions in a number of key areas announced by New South Wales and Victoria in February 2007. The legislative amendments to implement these measures were contained in the *Payroll Tax (Harmonisation Project) Amendment Act 2008*, which was assented to on 26 June 2008 and came into operation on 1 July 2008.

The *Payroll Tax (Harmonisation Project) Amendment Act 2008* provided payroll tax alignment between South Australia and New South Wales and Victoria in relation to motor vehicle allowances, accommodation allowances, fringe benefits, work performed outside a jurisdiction, employee share acquisition schemes, superannuation contributions for non-working directors and grouping provisions.

With key harmonisation initiatives already incorporated into the Act, the current provisions of the Act provide the same tax outcome in South Australia as for New South Wales and Victoria, with the exception of rates, thresholds and exemptions. Consequently it is not envisaged that there will be any significant revenue implications as a result of adopting the harmonised legislative model.

During debate on the *Payroll Tax (Harmonisation Project) Amendment Act 2008* the Government flagged its intention that with effect from 1 July 2009, South Australia would adopt the harmonised payroll tax legislative model operating in New South Wales and Victoria to maximise the degree of uniformity both with those States and also with Queensland and Tasmania who had similarly announced that they would be moving towards greater harmony.

This Bill operates to repeal the Act and replace it with an Act that is harmonised both in style and substance with the legislative model implemented in New South Wales, Victoria and now Tasmania.

The Bill amends the operation of the Act in the following ways.

Firstly, it reduces by 1 week the current administrative due date of the annual adjustment return (including the monthly return for June) from 28 July to 21 July of each year. Most taxpayers currently pay their payroll tax within 21 days.

Secondly, it allows for designated group employers, with the Commissioner's approval, to lodge joint returns on behalf of specified members of the group. This will provide an administrative benefit to some employers but does not change the grouping arrangements in the context of the application of payroll tax.

Thirdly, it provides a specific provision for the collection and recovery of tax from certain third parties, including agents, trustees, executors and liquidators and provides indemnities and rights of recovery as between third parties who are required to pay tax and the person on whose behalf the tax is paid. These provisions will provide improved administration in relation to collection and recovery of tax. There will be no change to existing practice as recovery of tax was previously undertaken in accordance with the *Taxation Administration Act 1996*, which includes similar provisions.

The Bill also amends the operation of the current payroll tax arrangements by varying the exemption for charitable bodies and modifying grouping provisions. These amendments reflect recent changes to New South Wales and Victoria's harmonised legislation.

The current exemption for charitable bodies will also be amended to apply to wages paid by a non-profit organisation that has, as its sole or dominant purpose, a charitable purpose rather than a non-profit organisation that has a wholly charitable purpose.

In relation to the grouping provisions, the requirement that trustee companies be grouped together as related bodies corporate for payroll tax purposes is removed.

In moving to the harmonised legislative model, jurisdictions will have legislative provisions that relate to jurisdiction-specific circumstances.

The most significant of these jurisdiction-specific matters for South Australia is the retention of the current superannuation provisions that ensure that the payroll tax base includes contributions paid by an employer in respect of an unfunded or partly funded arrangement, and contribution holidays.

In summary, the introduction of a harmonised payroll tax legislative model will assist businesses in South Australia that operate in more than one jurisdiction by reducing the regulatory costs associated with administering payroll tax.

I also take this opportunity to thank the members of RevenueSA's Consulting Groups and Business SA who have taken the time to provide valuable assistance in the formulation of the Bill.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause sets out definitions for the purposes of the measure.

4—Taxation Administration Act 1996

This clause provides that the Bill is to be read together with the *Taxation Administration Act 1996*, which deals with matters of administration and enforcement of the Bill and other taxation laws.

5—Act binds the Crown

This clause provides that the Bill binds the Crown.

Part 2—Imposition of payroll tax

Division 1—Imposition of tax

6—Imposition of payroll tax

This clause sets out the basis for liability under the Bill, by providing that payroll tax is imposed on all taxable wages, being wages that are not exempt from tax, and that have the requisite connection to SA. The definition of *taxable wages* is contained in clause 10 of the Bill.

7—Who is liable for payroll tax?

This clause imposes payroll tax on employers. An employer is liable for payroll tax in respect of all SA taxable wages paid or payable by that employer.

8—Amount of payroll tax

This clause provides that the method for determining an employer's payroll tax liability is contained in Schedules 1 and 2 of the Bill.

9—When must payroll tax be paid?

This clause sets out when payroll tax must be paid. For wages paid or payable from July until May, payroll tax for each month must be paid by the 7th day of the following month. At the end of the financial year, registered employers must lodge an annual adjustment return, due by 21 July, which accounts for any underpayment or overpayment of tax throughout the year, and includes tax for wages paid or payable in the month of June. The Commissioner has the power to fix a different date for payment of payroll tax where the Commissioner believes that a person may leave Australia before their payroll tax liability arises.

Division 2—Taxable wages

10—What are taxable wages?

Subclause (1) defines *taxable wages* to mean wages, other than exempt wages, that are paid or payable by an employer for services performed, and that are:

- paid or payable in SA (except if the relevant services are performed wholly in 1 other State or Territory); or
- paid or payable outside SA for services performed wholly in SA; or
- paid or payable outside Australia for services performed mainly in SA. Taxable wages do not include wages paid or payable in respect of services which are performed wholly in another country for a continuous period of more than 6 months. Such wages are exempt from tax from the commencement of the period of overseas service.

Subclause (2) provides a method for determining the jurisdiction in which wages are payable, in circumstances where the wages have not been paid at the time that the payroll tax liability arises.

Subclause (3) provides a method for determining the time and place of the payment of wages where the payment is made by way of an instrument (such as a cheque) or transfer of funds.

Subclause (4) provides that, in determining where services are performed in Australia, regard must be had only to the services performed in the month in respect of which the question arises.

Subclause (5) defines *instrument* for the purposes of subclause (3).

11—Wages not referable to services performed in a particular month

This clause provides that wages which are not referable to services performed in a particular month are taken to be paid or payable for services performed during the month in which they were in fact paid or became payable.

Division 3—Other

12—Liability for payroll tax not affected by subsequent amendment to Act

This clause provides that a liability for payroll tax arises and will be assessed in accordance with the provisions of the Bill as in force at the time the liability arises and such a liability, once having arisen, is not affected by a subsequent amendment to the Bill (except to the extent that the amendment operates retrospectively).

Part 3—Wages

Division 1—General concept of wages

13—What are wages?

This clause provides the general concept of wages for the purposes of the Bill. Wages means wages, remuneration, salary, commission, bonuses or allowances paid or payable to an employee, whether paid or payable at piece work rates or otherwise, and whether paid or payable in cash or in kind. The clause also provides that wages include:

- an amount paid or payable as remuneration to a person holding an office under the Crown;
- an amount paid or payable under any prescribed classes of contracts to the extent to which that payment is attributable to labour;

- an amount paid or payable by a company as remuneration to a director;
- an amount paid or payable as commission to an insurance or time-payment canvasser or collector;
- any amount or benefit that is included as or taken to be wages under the Bill.

Division 2—Fringe benefits

14—Wages include fringe benefits

This clause provides that a fringe benefit constitutes wages for payroll tax purposes, with the exception of certain benefits which are exempt benefits under the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth.

15—Value of wages comprising fringe benefits

Subclause (1) provides a formula for determining the value of a fringe benefit for payroll tax purposes. This value is the taxable value of the fringe benefit grossed up using the formula for 'Type 2 benefits' specified in the *Fringe Benefits Tax Assessment Act 1986* of the Commonwealth. Under the *Pay-roll Tax Act 1971*, fringe benefits were grossed up using the 'Type 1 benefits' formula or the 'Type 2 benefits' formula accordingly.

Subclauses (2) and (3) specify the bases on which fringe benefits are to be included in monthly returns for payroll tax purposes. An employer must include the actual monthly value of the fringe benefits determined under subclause (1) unless the employer has made an election under clause 16, and that election is still in force.

16—Employer election regarding taxable value of fringe benefits

This clause permits employers to elect to declare 1/12 of the SA aggregate fringe benefits amount (grossed up using the formula for 'Type 2 benefits') included in a preceding annual FBT return. The clause provides a method for reconciling these monthly amounts at the end of the financial year with the current year's FBT return. An election, once made, may only be terminated with the approval of the Commissioner. The clause also specifies the basis on which a final adjustment of payroll tax is to be effected by an employer who ceases to be liable to payroll tax.

Division 3—Superannuation contributions

17—Wages include superannuation contributions

This clause provides that a superannuation contribution constitutes wages for payroll tax purposes. A superannuation contribution includes an employer contribution:

- to a superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;
- as a superannuation guarantee charge within the meaning of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth;
- to or as a form of superannuation, provident or retirement fund or scheme, including to the Superannuation Holding Accounts Special Account within the meaning of the *Small Superannuation Accounts Act 1995* of the Commonwealth, and to a retirement savings account within the meaning of the *Retirement Savings Accounts Act 1997* of the Commonwealth;
- involving the crediting of an account of an employee, or any other allocation to the benefit of an employee (other than the actual payment of a contribution), or the crediting or the debiting of any other account, or any other allocation or deduction, so as to increase the entitlement or contingent entitlement of the employee under any form of superannuation, provident or retirement fund or scheme.

A superannuation contribution also includes a non-monetary contribution, the value of which is to be worked out in accordance with clause 43 of the Bill.

The Bill retains the ability of the Treasurer to estimate the contingent liability of an employer for contributions that will be payable to or in respect of an employee who is a member of the old or new scheme of superannuation under the *Superannuation Act 1988* or of any other unfunded or partly funded scheme of superannuation, and the Treasurer's estimate is to be treated as a contribution paid or payable by an employer in respect of an employee for the purposes of the definition of a superannuation contribution.

A superannuation contribution also constitutes wages if paid or payable in respect of a company director, or in respect of a person taken to be an employee under the contractor provisions in Division 7.

Division 4—Shares and options

18—Inclusion of grant of shares and options as wages

This clause provides that the grant of a share or option to an employee constitutes wages for payroll tax purposes.

The clause also ensures that the grant of a share or option by or to a third party may be subject to payroll tax under the third party payment provisions in clause 46 of the Bill.

19—Choice of relevant day

This clause permits employers to elect to treat the wages constituted by the grant of a share or option as having been paid or payable on the date the share or option is granted to the employee, or the date on which the

share or option vests in the employee. The vesting date of a share is the date on which any conditions applying to the grant of the share have been met and the employee's legal or beneficial interest in the share cannot be rescinded. The vesting date for an option is the earlier of 2 dates, being the date on which the share to which the option relates is granted to the employee, or the date on which the employee exercises a right to have the share transferred or allotted to (or vest in) him or her. The clause adopts provisions of the *Income Tax Assessment Act 1936* of the Commonwealth for determining when a share or option is granted.

20—Deemed choice of relevant day in special cases

This clause provides that, where an employer does not include the value of a grant of a share or option in its taxable wages for the financial year in which the grant occurred, the wages constituted by the grant are taken to have been paid or payable on the vesting date of the share or option. Where the value of a grant of a share or option is nil, or the wages constituted by such a grant would not be liable to payroll tax on the date of the grant, such wages will be treated as paid or payable on the date that the share or option was granted.

21—Effect of rescission, cancellation of share or option

This clause ensures that payroll tax will continue to be payable in respect of a grant of a share or option that is later withdrawn, cancelled or exchanged, if it is withdrawn, cancelled or exchanged for valuable consideration. The clause also allows an employer to reduce its taxable wages by the value of a grant of a share or option, where it previously paid payroll tax on the grant, and the grant is subsequently rescinded because the conditions attaching to it were not met.

22—Grant of share pursuant to exercise of option

This clause ensures that, where an employer has paid any applicable payroll tax in respect of the grant of an option, the subsequent grant of a share pursuant to the exercise of that option is not subject to payroll tax. Additionally, payroll tax is not payable where an employer grants a share pursuant to the exercise of an option, if the option was granted before 1 July 2003.

23—Value of shares and options

This clause provides for the valuation of grants of shares or options in accordance with Commonwealth income tax provisions. Any consideration paid by an employee in respect of the share or option is to be deducted from the value of the share or option for payroll tax purposes.

24—Inclusion of shares and options granted to directors as wages

This clause ensures that the grant of a share or option to a director as remuneration for the appointment or services of the director constitutes wages for payroll tax purposes.

25—When services considered to have been performed

This clause provides that, where a grant of a share or option constitutes wages under the Bill, the services to which those wages relate will be taken to have been performed during the month in which the grant or vesting (whichever date applies, as determined under clauses 19 and 20) of the share or option occurs.

26—Place where wages are payable

This clause provides that wages constituted by the grant of a share or option will be taken to be paid or payable in SA if the share is a share in a company registered in SA or any other body corporate incorporated under a SA Act. If the wages are taken to be paid or payable outside SA, the grant of a share or option may still be liable to payroll tax in SA (under clause 10 (1) (b) or (c) of this Bill) if the grant is made for services performed wholly or mainly in SA.

Division 5—Termination payments

27—Definitions

This clause defines *termination payment* as a payment made in consequence of the retirement from, or termination of, any office or employment of an employee. This includes:

- unused annual leave and long service leave payments; and
- employment termination payments (within the meaning of section 82-130 of the *Income Tax Assessment Act 1997* of the Commonwealth) that would be included in the assessable income of an employee under Part 2-40 of that Act, including transitional termination payments within the meaning of section 82-10 of the *Income Tax (Transitional Provisions) Act 1997* of the Commonwealth, and any payment that would be an employment *termination payment* but for the fact it was received more than 12 months after termination.

The definition of *termination payment* also includes amounts paid or payable:

- by a company as a consequence of terminating the services or office of a director; or
- by a person who is taken to be an employer under the contractor provisions contained in Division 7, as a consequence of terminating the supply of services by a person taken to be an employee under those provisions.

28—Termination payments

This clause provides that a *termination payment*, as defined in clause 27, constitutes wages for payroll tax purposes.

Division 6—Allowances

29—Motor vehicle allowances

This clause provides that wages do not include the exempt component of a motor vehicle allowance, calculated in accordance with this clause. An employer need only pay payroll tax on the amount of the motor vehicle allowance that exceeds the exempt component. The exempt component is a function of the number of business kilometres travelled during the financial year and the exempt rate (being a rate prescribed by regulations under the *Income Tax Assessment Act 1997* of the Commonwealth, or otherwise as prescribed by regulations under the Bill). The method for determining the number of business kilometres travelled is determined in accordance with Part 4 of Schedule 1.

30—Accommodation allowances

This clause provides that wages only include an accommodation allowance paid or payable to an employee for a night's absence from his or her usual place of residence to the extent that it exceeds the exempt rate. The exempt rate is ascertained by reference to Australian Taxation Office determinations in respect of reasonable daily travel allowance expenses, or is otherwise as prescribed by regulations under the Bill.

Division 7—Contractor provisions

31—Definitions

This clause contains the following definitions applicable to the contractor provisions:

contract which is defined to include an agreement, arrangement or undertaking, whether formal or informal and whether express or implied;

relevant contract which is defined to have the meaning given in clause 32 of the Bill;

re-supply which, in relation to goods acquired from a person, is defined to include a supply to the person of goods in an altered form or condition, and a supply to the person of goods in which the first-mentioned goods have been incorporated;

services which is defined to include results, whether goods or services, of work performed;

supply which is defined to include supply by way of sale, exchange, lease, hire or hire-purchase, and in relation to services includes the provision, grant or conferral of services.

32—What is a relevant contract?

Subclause (1) defines a *relevant contract* as one under which a person, in the course of a business carried on by that person, supplies services to another person, or is supplied with persons to perform work, or gives out goods to natural persons for work to be performed by those persons and for the re-supply of those goods to the first-mentioned person.

Subclause (2) provides that various contracts are not *relevant contracts* for payroll tax purposes. These include contracts under which a person, in the course of a business carried on by that person, is supplied with services meeting any of the following criteria:

- the services are incidental to the supply or use of goods by the person who is supplying the services;
- the services are of a kind not ordinarily required in the course of the person's business and which are provided by persons who are genuinely supplying services to the public generally;
- the services are of a kind ordinarily required in the course of the person's business but are required for less than 180 days in a financial year;
- the services are provided by a person for less than 90 days in a financial year;
- none of the above criteria are met, but the Commissioner is satisfied that the services are supplied by a person who ordinarily supplied services of that kind to the public generally in the financial year in respect of which liability is being assessed.

The clause further provides that, in some cases, a contract is not a relevant contract where a contractor supplies services to a person, in the course of a business carried on by that person, and uses 1 or more additional persons to perform the work to which the services relate. Nevertheless, such a contract will be taken to be a relevant contract if the Commissioner determines that the contract or arrangement under which the services were supplied was entered into for the purposes of evading or avoiding tax.

The clause also provides that a contract is not a relevant contract if it relates to services supplied by an owner driver, insurance agent or direct selling agent, unless the Commissioner determines that the contract or arrangement under which the services were supplied was entered into for the purposes of evading or avoiding tax.

Lastly, the clause provides that the relevant contract provisions do not apply to employment agency contracts, which are covered by Division 8 of Part 3.

33—Persons taken to be employers

This clause provides rules for determining which of the parties to a relevant contract is taken to be the employer for payroll tax purposes.

34—Persons taken to be employees

This clause provides rules for determining which of the parties to a relevant contract is taken to be the employee for payroll tax purposes.

35—Amounts under relevant contracts taken to be wages

This clause provides that amounts paid or payable by an employer under a relevant contract are taken to be wages for payroll tax purposes. However, where only part of the amount paid or payable relates to the performance of work or re-supply of goods under the contract, the Commissioner has the power to determine how much of the overall amount paid or payable will be taken to be wages for payroll tax purposes.

The clause also provides that the following are taken to be wages:

- any payment which would amount to a superannuation contribution if the parties to the relevant contract were actually in a relationship of employer and employee;
- the value of any grant of a share or option, provided or liable to be provided by the person taken to be the employer, that would be wages under Division 4 if the parties to the relevant contract were actually in a relationship of employer and employee.

36—Liability provisions

This clause is designed to prevent double taxation. Where a person taken to be an employer has paid payroll tax in respect of a payment taken to be wages under the contractor provisions, no other person is liable to pay payroll tax in respect of that payment, or any other payment for the same work, unless any such payment is made for the purpose of avoiding tax.

Division 8—Employment agents

37—Definitions

This clause defines an *employment agency contract*, which includes an agreement, arrangement or undertaking under which an employment agent procures the services of another person (*service provider*) for a client of the agent. Due to the wide concept of *person*, a service provider may include a company, a partnership or a natural person. An employment agency contract does not include arrangements under which a contract of employment results between the service provider and the client.

38—Persons taken to be employers

This clause provides that an employment agent under an employment agency contract is taken to be an employer for payroll tax purposes.

39—Persons taken to be employees

This clause provides that the natural person who performs the work for the client of the employment agent is taken to be an employee of the employment agent. This clause applies to situations where the service provider is a company, partnership or trustee. It provides that the natural person who in fact performs the work is taken to be an employee of the employment agent.

40—Amounts taken to be wages

This clause provides that any amount paid or payable (or the value of any benefit which would be a fringe benefit or a payment which would be a superannuation contribution) to or in relation to the service provider in respect of the provision of services under the employment agency contract is taken to be wages paid or payable by the employment agent. However, such a payment or benefit is not taken to be wages if it would be exempt from payroll tax under Part 4 of the Bill (other than under Division 4 or 5 or clause 50 of that Part) had the service provider been paid by the client as an employee. It is a requirement that the employment agent receives a declaration to that effect from the client. This clause also provides that if it is not reasonably practicable to determine the extent to which an amount, benefit or payment constitutes wages, the Commissioner may accept a return, or make an assessment, in which the amount on which payroll tax is levied is determined on the basis of estimates

41—Liability provisions

This clause is designed to prevent double taxation. Where an employment agent has paid payroll tax in respect of an amount or benefit taken to be wages under an employment agency contract, no other person is liable to pay payroll tax in respect of wages paid or payable in respect of the provision of those services by the service provider for the client.

42—Agreement to reduce or avoid liability to payroll tax

This clause provides that if an employment agency contract has the effect of reducing or avoiding the liability of any party to the contract to assessment, imposition or payment of payroll tax, the Commissioner may disregard the contract and determine any party to it to be an employer and any payment in respect of the contract to be wages. A notice of the determination must be served on the person taken to be an employer.

Division 9—Other

43—Value of wages paid in kind

This clause sets out the method for determining the value of wages (except fringe benefits, shares and options) that are paid or payable in kind.

44—GST excluded from wages

This clause provides for GST to be excluded from wages in circumstances where payment for a supply of services is taken to be wages under the Bill and the payment includes an amount of GST.

45—Wages paid by group employers

This clause provides that a reference in the Bill to wages paid or payable by a member of a group includes wages that would be taken to be paid or payable by a member of a group if the member were the employer of the employee to whom the wages were paid.

46—Wages paid by or to third parties

This clause ensures that payments of money or provision of other valuable consideration, which is referable to an employee's services to his or her employer, is taken to be wages paid or payable by the employer to the employee (and therefore subject to payroll tax), even if the amount is paid, or the benefit is provided, by:

- a third party to the employee; or
- the employer to a third party; or
- a third party to a third party.

The same principles apply to payments of money or provision of other valuable consideration by way of remuneration for the appointment or services of a company director.

47—Agreement etc to reduce or avoid liability to payroll tax

This clause is an anti-avoidance provision which relates to agreements etc under which a natural person performs services for or on behalf of another person, and a payment in respect of those services is made to a person related or connected to the natural person. If such an agreement has the effect of reducing or avoiding the liability of any party to the agreement to assessment, imposition or payment of payroll tax, the Commissioner may disregard the agreement and determine any party to it to be an employer and any payment in respect of the agreement to be wages. A notice of the determination must be served on the person taken to be an employer.

Part 4—Exemptions

Division 1—Non-profit organisations

48—Non-profit organisations

This clause provides an exemption for non-profit organisations. Wages are exempt from payroll tax if they are paid or payable by a religious institution or a public benevolent institution. In order to qualify for exemption, the wages must be paid or payable for work of a kind ordinarily performed in connection with the religious or public benevolent purposes of the institution, and to a person engaged exclusively in that kind of work.

The clause also provides an exemption for wages paid or payable by a non-profit organisation that has wholly charitable, benevolent, philanthropic or patriotic purposes. The wages must be paid or payable for work of a kind ordinarily performed in connection with those purposes, and to a person engaged exclusively in that kind of work.

Wages are not exempt under this clause if they are paid or payable by a school, an educational institution, a company in which an educational institution has a controlling interest, or an instrumentality of the State. However, schools and persons providing educational services may be exempt from payroll tax under Division 2 of this Part.

Division 2—Education and training

49—Schools and educational services and training

This clause provides a payroll tax exemption for wages paid or payable by schools and certain other educational bodies. The exemption is specific to SA. The content of the exemption is set out in Division 1 of Part 3 of Schedule 2 to the Bill.

50—Community Development Employment Project

This clause provides that wages are exempt from payroll tax if they are paid or payable to an Aboriginal person who is employed under an employment project of the Community Development Employment Project.

Division 3—Health services providers

51—Health services providers

This clause provides that wages paid or payable by an employer who provides health services otherwise than for the purpose of profit or gain are exempt wages. The wages must be paid or payable to a person engaged exclusively in the provision of health services, or work that is incidental to the provision of health services.. A health care service provider is defined in Division 2 of Part 3 of Schedule 2.

52—Division not to limit other exemptions

This clause ensures that the provisions relating to the exemption for health care service providers do not limit the application of any other payroll tax exemption. In other words, the exemption for health care service providers may co-exist with other exemptions. An example is given of a health care service provider which is also an exempt non-profit organisation under clause 48 of the Bill.

Division 4—Maternity and adoption leave

53—Maternity and adoption leave

This clause provides an exemption from payroll tax in respect of paid maternity leave and paid adoption leave. Employers providing paid maternity or adoption leave are entitled to an exemption from tax for any wages paid or payable to an employee, up to a maximum of 14 weeks maternity leave or adoption leave. The maternity leave exemption is available in respect of leave provided to female employees. The adoption leave exemption is available in respect of leave provided to employees of either gender.

54—Administrative requirements for exemption

This clause provides that an employer wishing to claim an exemption for paid maternity or adoption leave must obtain certain records and keep them for a period of at least 5 years, as required by section 53 of the *Taxation Administration Act 1996*.

Division 5—Volunteer firefighters and emergency service volunteers

55—Volunteer firefighters

This clause provides an exemption from payroll tax for wages paid or payable to an employee in respect of any period when he or she was engaged as a volunteer member of a SACFS organisation within the meaning of the *Fire and Emergency Services Act 2005* in responding to any situation that involved or may have involved an emergency under that Act.

56—Emergency service volunteers

This clause provides an exemption from payroll tax for wages paid or payable to an employee in respect of any period when he or she was engaged as a volunteer member of an emergency services organisation under the *Fire and Emergency Services Act 2005* in responding to any situation that involved or may have involved an emergency under that Act.

57—Limitation of exemption

This clause provides that the exemptions for volunteer firefighter and emergency service duty do not apply to wages paid or payable as part of approved leave.

Division 6—Local government

58—Councils

This clause provides an exemption for wages paid or payable by a council.

59—Limitation on local government exemptions

This clause provides that councils and their subsidiaries are not entitled to an exemption for wages paid or payable in respect of specified activities.

60—Specified activities

This clause specifies activities for the purposes of clause 59, including the supply of electricity and gas, water supply, sewerage, and the conduct of other activities. An exemption is also not available for wages paid or payable in respect of construction of buildings or works, or installation of plant, machinery or equipment, for use in or in connection with any such activities. The list of non-exempt activities can be extended by regulation.

Division 7—Other government and defence

61—State Governors

This clause provides that wages paid or payable by the Governor of a State are exempt wages.

62—Defence personnel

This clause provides an exemption for wages paid or payable to an employee who is on leave from employment by reason of being a member of the Defence Force of the Commonwealth, or the armed forces of any part of the Commonwealth of Nations.

63—War Graves Commission

This clause provides an exemption for wages paid or payable by the Commonwealth War Graves Commission.

Division 8—Foreign government representatives and international agencies

64—Consular and non-diplomatic representatives

This clause provides an exemption for wages paid or payable by a consular or other representative in Australia to members of his or her official staff. This exemption does not apply to a diplomatic representative.

65—Trade commissioners

This clause provides an exemption for wages paid or payable by a Trade Commissioner representing any other part of the Commonwealth of Nations in Australia, to members of his or her official staff.

66—Australian–American Fulbright Commission

This clause provides an exemption for wages paid or payable by the Australian-American Fulbright Commission.

Part 5—Grouping of employers

Division 1—Interpretation

67—Definitions

This clause provides definitions of *business* and *group* for the purposes of this Part.

68—Grouping provisions to operate independently

This clause provides that the fact that a person is not a member of a group constituted under 1 of the grouping provisions does not prevent them from being a member of a group constituted under any of the other grouping provisions.

Division 2—Business groups

69—Constitution of groups

This clause ensures that when 2 or more groups form part of a larger group, the 2 or more smaller groups are not considered as groups in their own right.

70—Groups of corporations

This clause provides that corporations constitute a group if they are related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth.

71—Groups arising from the use of common employees

This clause provides for groups arising from the inter-use of employees. Where:

- 1 or more employees of an employer perform duties for 1 or more businesses carried on by the employer and 1 or more other persons; or
- 1 or more employees of an employer are employed solely or mainly to perform duties for 1 or more businesses carried on by 1 or more other persons; or
- 1 or more employees of an employer perform duties for 1 or more businesses carried on by 1 or more other persons, being duties performed in connection with or in fulfilment of the employer's obligation under an agreement, arrangement or undertaking for the provision of services to any of those persons,

the employer and each of those other persons constitutes a group.

72—Groups of commonly controlled businesses

This clause provides for groups arising through common control of 2 businesses.

Under this clause, a group exists where a person, or a set of persons, has a controlling interest in each of 2 businesses. The entities carrying on the businesses are grouped.

The rules for determining whether a person (or set of persons) has a controlling interest in a business vary depending upon the type of entity conducting the business (eg a corporation, partnership or trust), and generally relate to the level of ownership or control of the business, or of the entity conducting the business.

In some circumstances, a person or set of persons will be taken to have a controlling interest in a business on the basis that a related person or entity has a controlling interest in that business. More specifically:

- if a corporation has a controlling interest in a business, any related body corporate of the corporation (within the meaning of the *Corporations Act 2001* of the Commonwealth) will also be taken to have a controlling interest in the business;
- if a person or set of persons has a controlling interest in a business, and the person or set of persons who carry on that business has a controlling interest in another business, the first-mentioned person or set of persons is taken to have a controlling interest in the second-mentioned business;
- if a person or set of persons has a controlling interest in the business of a trust, and the trustee(s) of the trust has a controlling interest in the business of another entity (being a trust, corporation or partnership), the person or set of persons is taken to have a controlling interest in the business of that other entity.

73—Groups arising from tracing of interests in corporations

This clause provides for groups arising from the tracing of interests in a corporation.

Under this clause, an entity (being a person or 2 or more associated persons) and a corporation form part of a group if the entity has a controlling interest in the corporation. Such a controlling interest exists if the entity has a direct interest, an indirect interest, or an aggregate interest in the corporation, and the value of that interest exceeds

50%. Division 3 applies in making this determination. This clause also contains a definition of *associated person*, and defines a number of other relevant terms.

74—Smaller groups subsumed by larger groups

This clause provides that, where any person is a member of 2 or more groups, those groups will form a single group. Under clause 69, the smaller groups which have been subsumed cease to exist as groups for the purposes of the legislation. This clause also provides that if 2 or more members of a group have together a controlling interest in a business (within the meaning of section 72), all the members of the group and the person or persons who carry on the business together constitute a group.

Division 3—Business groups—tracing of interests in corporations

75—Application

This clause applies this Division for the purposes of grouping an entity with a corporation under clause 73.

76—Direct interest

This clause provides that an entity has a direct interest in a corporation if the entity can directly or indirectly exercise, control the exercise, or substantially influence the exercise of voting power attached to voting shares in the corporation. The clause also provides that the percentage interest of voting power which an entity controls is the percentage of total voting power which the entity can exercise, control the exercise of, or substantially influence the exercise of.

77—Indirect interest

This clause provides that an entity has an indirect interest in a corporation (called the indirectly controlled corporation) if the entity is linked to that corporation by a direct interest in another corporation (called the directly controlled corporation) that has a direct and/or an indirect interest in the indirectly controlled corporation. The clause also provides that the value of an indirect interest in an indirectly controlled corporation is determined by multiplying the value of the entity's direct interest in the directly controlled corporation by the value of the directly controlled corporation's interest in the indirectly controlled corporation.

78—Aggregation of interests

This clause provides that an entity has an aggregate interest in a corporation when it has either a direct interest and 1 or more indirect interests, or 2 or more indirect interests. The clause also provides that the value of an entity's aggregate interest is the sum of the entity's direct and indirect interests in that corporation.

Division 4—Miscellaneous

79—Exclusion of persons from groups

This clause provides the Commissioner with a discretion to exclude a member from a group if satisfied that the business conducted by that member is independent of, and not connected with, the business conducted by any other member of the group. In considering the application of this discretion, the Commissioner will have regard to the nature and degree of ownership and control of the businesses, the nature of the businesses, and any other relevant matters. The discretion is not available for corporations that are related bodies corporate under section 50 of the *Corporations Act 2001* of the Commonwealth.

80—Designated group employers

This clause provides that the members of a group or the Commissioner may designate 1 member of the group to be the designated group employer for the group. The designated group employer is the member entitled to claim the benefit of the threshold on behalf of the group when calculating its payroll tax liability.

81—Joint and several liability

This clause provides for the joint and several liability of every member of a group where any one of them fails to pay an amount required under the Bill. The Commissioner is entitled to recover the whole amount payable from any member of the group.

Part 6—Adjustments of tax

82—Determination of correct amount of payroll tax

This clause provides that this Part applies to both group and non-group employers, and defines various terms which are used in the Part. Where an employer is a group employer for parts of a financial year, and a non-group employer for other parts of the same financial year, separate adjustments are to be made in respect of any period as a group employer, and any period as a non-group employer.

83—Annual adjustment of payroll tax

This clause provides for an annual adjustment of payroll tax at the end of each financial year in accordance with the calculations in Schedule 1. Where an employer has paid too much tax throughout a financial year, the employer may apply for a refund from the Commissioner. Conversely, where an employer has not paid enough tax throughout a financial year, the employer must make up the difference in their annual return.

84—Adjustment of payroll tax when employer changes circumstances

This clause requires an employer to make an adjustment of payroll tax if they change their circumstances at any time during a financial year, meaning that they cease to pay or be liable to pay wages, become a member of a group, or cease to be a member of a group. The adjustment is made at the time that the employer's circumstances change, and relates to the period commencing from the start of the financial year (or the last change of circumstances, whichever is more recent) and ending with the change of circumstances. The adjustment requires an employer to compare their monthly returns with their actual liability for the period (using the annual payroll tax calculations in Schedule 1, pro-rated for the number of days in the period). The employer is then required to make up any tax shortfall to the Commissioner.

Any payments made under this clause are taken into account in the employer's annual adjustment calculation at the end of the financial year.

85—Special provision where wages fluctuate

This clause ensures that an employer who only pays or is liable to pay wages for part of a financial year receives the benefit of the payroll tax threshold for the whole year if the Commissioner determines that, by reason of the nature of the employer's trade or business, the wages paid or payable by the employer fluctuate with different periods of the year. If the employer only conducts that trade or business in Australia for part of the financial year, they can still seek a determination under this clause, and if successful, will receive the benefit of the payroll tax threshold for that part of the financial year.

Part 7—Registration and returns

86—Registration

This clause provides that an employer who pays wages in SA must register for payroll tax if their total Australian wages exceeds the weekly exemption level during any 1 month. If the employer is a member of a group, the total Australian wages paid or payable by all members of the group determines whether the employer should register for payroll tax. If a registered employer's wages fall below the weekly exemption level during any 1 month, the Commissioner may cancel that employer's registration.

87—Returns

This clause provides that every employer who is registered, or required to be registered, under the Bill must lodge a monthly return within 7 days after the end of each month except June, and an annual adjustment return (including the monthly return for June) by 21 July of each year. The Commissioner may vary the time within which a specified employer is required to furnish returns and the period in relation to which a specified employer, or employers of a specified class, are required to furnish returns generally, or returns relating to wages of a specified kind.

This clause also provides that designated group employers may, with the Commissioner's approval, lodge joint returns on behalf of specified members of the group.

Part 8—Collection and recovery of tax

Division 1—Agents and trustees generally

88—Application

This clause provides that this Division applies to an agent or trustee for an employer, and states that nothing in the Division limits the application of the Part 5 grouping provisions to agents and trustees.

89—Agents and trustees are answerable

This clause provides that an agent or trustee for an employer may be treated as the employer and is subject to all of the employer's obligations arising from the payment of taxable wages under the Bill.

90—Returns by agent or trustee

This clause provides that an agent or trustee must make returns, in its representative capacity only, and where a person is an agent or trustee for more than 1 employer, returns for each employer must be made separately.

91—Liability to pay tax

This clause provides that an agent or trustee must retain enough money to pay payroll tax out of any money which comes to the agent or trustee in their representative capacity, and provides for the personal liability of the agent or trustee in some circumstances where they fail to do so.

92—Indemnity for agent or trustee

This clause provides an agent or trustee who pays tax in its representative capacity with an indemnity and right of recovery against the employer.

Division 2—Special cases

93—Tax not paid during lifetime

This clause provides for the lodgment of returns and payment of tax by the trustee of a deceased estate where the deceased person did not make complete and accurate returns during his or her lifetime, and therefore escaped full payment of tax. The amount of tax payable is a charge on the estate with priority over all other encumbrances.

94—Payment of tax by executors or administrators

This clause provides for the assessment and recovery of tax from executors or administrators of an employer's estate where an employer dies without paying all of the tax payable up to the date of death.

95—Assessment if no probate within 6 months of death

This clause provides for the assessment of a deceased person where probate has not been granted within 6 months of their death. The clause requires the Commissioner to advertise the notice of assessment, and permits any person claiming an interest in the estate of the deceased to lodge an objection. Once an assessment has been advertised and confirmed under this clause, the Commissioner may rely on the general rights to recover unpaid tax contained in the *Taxation Administration Act 1996*.

96—Person in receipt or control of money for absentee

This clause provides that the Commissioner may recover tax from any person (the *controller*) who has the receipt, control or disposal of money belonging to a person (the *principal*) who is liable for tax, and who is resident out of Australia. The clause requires the controller to retain sufficient money to pay the tax, and provides for the personal liability of the controller in some circumstances where it fails to do so. It also provides the controller with an indemnity and right of recovery against the principal.

97—Agent for absentee principal winding-up business

This clause provides for the recovery of tax from an agent of an absentee principal who has been required to wind-up the principal's business. The agent is required to notify the Commissioner of the intention to wind-up the business before taking any steps to do so, and must pay any payroll tax liability from the assets of the business. The agent is penalised for failure to comply with these obligations, and made personally liable for the tax.

98—Recovery of tax paid on behalf of another person

This clause provides a general right of recovery for any person who pays tax for another person under the provisions of the Bill.

99—Liquidator to give notice

This clause provides for the recovery of tax from a liquidator of an employer which is registered or required to be registered under the Bill. A liquidator is obliged to set aside assets to the value of the amount of tax notified by the Commissioner as being payable by the employer, and is liable as trustee to pay the tax to the extent of the value of those assets. The liquidator is penalised for failure to comply with these obligations, and made personally liable for the tax.

Part 9—General

100—Returns etc to be completed in manner approved by Commissioner

This clause provides that a return, application, statement, notice or any other document relating to the payment of payroll tax that is to be provided to the Commissioner for the purposes of the Bill or the *Taxation Administration Act 1996* must be provided in a manner and form determined or approved by the Commissioner.

101—Regulations

This clause provides powers to make regulations for the purposes of the Bill.

Schedule 1—Calculation of payroll tax liability

This Schedule makes provision for matters relating to the calculation of payroll tax liability.

Schedule 2—South Australia Specific Provisions

This Schedule contains provisions relating to payroll tax, including exemptions from payroll tax, that are specific to South Australia.

Schedule 3—Repeal and transitional provisions

This Schedule repeals the *Pay-roll Tax Act 1971* and contains transitional arrangements for the implementation of the measure.

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

STAMP DUTIES (TAX REFORM) AMENDMENT BILL

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:32): 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.

Legislative amendments were introduced and passed, as part of the 2005-06 Budget, to phase out rental duty and mortgage duty. Both of these stamp duties will be abolished from 1 July 2009.

In the case of rental duty, the termination provisions were drafted on a basis consistent with representations made by the finance industry—namely, to restrict the phase out of stamp duty to new rental

contracts so as to avoid the administrative burden of adjusting existing rental contracts each time stamp duty rates were reduced and then abolished.

The finance industry has since made representations for the legislation to be amended to enable all rental contracts in existence at 1 July 2009 to obtain the benefit of the abolition of rental duty. Industry revised their position following the receipt of more detailed advice in relation to the application of the Goods and Services Tax (GST) that removed the need to issue GST adjustment notices when stamp duty rates changed.

This Bill gives effect to the amendments that have been requested by industry and ensures that no rental duty is payable on rental contracts on or after 1 July 2009.

In the case of mortgage duty, amendments have also been included in the Bill to clarify the stamp duty treatment of mortgages entered into both before and after the abolition date of 1 July 2009.

A mortgage executed on or after 1 July 2009 will be free from stamp duty.

Mortgages executed prior to 1 July 2009 will only be liable for stamp duty where an advance is made under such a mortgage prior to 1 July 2009 and will be chargeable at the rate in force, as at the date that the advance was made.

In addition to clarifying the abolition of rental and mortgage duty the opportunity is being taken to extend the concessional stamp duty treatment provided to exploration licences to include geothermal licences.

The *Stamp Duties Act 1923* provides for concessional stamp duty arrangements for the transfer of exploration licences. However, the current wording of the provisions does not cover transfers of geothermal exploration licences under the *Petroleum Act 2000*.

The opportunity has therefore been taken to update the coverage of exploration licences eligible for concessional stamp duty arrangements under the *Stamp Duties Act 1923* to include geothermal exploration licences under the *Petroleum Act 2000*.

A number of minor amendments to the *Stamp Duties Act 1923* have also been included such as repealing redundant provisions in relation to cheque duty and lease duty which have not operated for some time.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The Act will come into operation on the day of assent. However, clause 13, which amends section 79 of the *Stamp Duties Act 1923*, will come into operation on 1 July 2009. It is necessary for this amendment to come into operation on the day on which duty ceases to arise in relation to mortgages.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Stamp Duties Act 1923*

4—Amendment of section 7—Distribution of stamps, commission etc

This amendment is consequential on the abolition of duty in respect of cheques and cheque forms. Duty is not chargeable on cheque forms issued, or cheques paid, on or after 1 July 2004. Clause 8 repeals provisions of the Act relating to duty in respect of cheques. This clause amends section 7 by removing a redundant provision referring to the payment of duty in respect of cheque forms and cheques.

5—Amendment of section 16—Duty in force when instrument produced for stamping to apply

Section 16 provides that the duty chargeable on an instrument is to be calculated according to the rates in force when the instrument is produced to the Commissioner. This clause makes a consequential amendment to section 16 to make it clear that the section operates subject to the Act. This is because proposed section 104(2), to be inserted by clause 15, provides for a different calculation of duty in certain circumstances.

6—Amendment of section 31B—Interpretation

This clause amends the definition of *dutiable rental business* in section 31B of the Act. This amendment is necessary because section 103 in new Part 4A, which provides for the abolition of various duties (to be inserted by clause 15), is to abolish duty on rental business from 1 July 2009.

7—Insertion of section 31N

This clause inserts a new section.

31N—Repeal of Division

Section 31N provides for the repeal by proclamation of Part 3 Division 2 of the Act, which relates to duty in respect of rental business.

8—Repeal of Part 3 Division 5

This clause repeals Part 3 Division 5 of the Act. Division 5 deals with duty payable in respect of cheques and cheque forms. The Division is to be repealed because duty is not chargeable on cheque forms issued, or cheques paid, by financial institutions on or after 1 July 2004.

9—Amendment of section 71—Instruments chargeable as conveyances

Under section 71(14), if property transferred to a trustee is subsequently transferred back to the transferor, and duty was paid on the first transfer, the Commissioner may refund the duty paid less $10 to the person who paid the duty. Under the provision as amended by this clause, the whole amount of the duty paid will be refundable.

10—Amendment of section 71C—Concessional rates of duty in respect of purchase of first home etc

The contents of proposed section 71C(3a) are currently included in a note at the end of subsection (3). Subsection (3a) will replace the note.

11—Amendment of section 71D—Concessional duty to encourage mineral or petroleum exploration activity

This clause updates the definition of *exploration tenement* so that it includes exploration licences granted under the *Petroleum Act 2000*.

12—Repeal of Part 3 Division 9

Section 75A of the Act provides that no liability to duty arises in relation to leases entered into on or after 1 July 2004. This clause repeals Part 3 Division 9 of the Act, which contains provisions no longer required because they relate to the duty previously payable in respect of leases.

13—Amendment of section 79—Mortgage securing future and contingent liabilities

It is necessary to repeal subsections (6) and (7) of section 79 on the date on which mortgages cease to be liable to duty. Subsection (6) prevents the registration of the discharge of a mortgage for an unlimited amount unless the instrument of discharge is endorsed with a certificate stating that the mortgage has been duly stamped.

14—Insertion of section 82A

This clause inserts a new section.

82A—Repeal of Division

Part 9 Division 10 of the Act contains provisions relevant to the duty payable in respect of mortgages. Section 82A will provide for the repeal by proclamation of Division 10. This is because, under proposed section 104, duty will not be payable in relation to mortgages first executed, or that first affect property in South Australia, on or after 1 July 2009.

15—Insertion of Part 4A

This clause inserts new Part 4A. The provisions of this Part have the effect of abolishing various duties.

Part 4A—Abolition of various duties

Division 1—Abolition of duty on rental business

103—Abolition of duty on rental business (1 July 2009)

Section 103 provides that there is to be no duty in relation to amounts received in respect of rental business after 30 June 2009. Rental business is currently dutiable under the provisions of Part 3 Division 2 of the Act. Despite those provisions, registration under Division 2 is not required or to be granted on or after 22 July 2009. The registration of a person who is registered immediately before that date will be taken to have been cancelled.

Division 2—Abolition of duty on mortgages

104—Abolition of duty on mortgages (1 July 2009)

Section 104 abolishes duty in relation to mortgages first executed, or that first affect property, on or after 1 July 2009. Further, if a mortgage is executed before 1 July 2009, or first affects property in South Australia before that day, but no advance secured under the mortgage is made before that day, no liability to duty will arise. It will also be the case that no liability to duty will arise in relation to an advance on or after 1 July 2009 under a mortgage first executed, or that first affects property in South Australia, before that day.

If a dutiable mortgage, bond, debenture, covenant or warrant of attorney is executed before 1 July 2009 but produced to the Commissioner after that day, the duty is to be calculated according to the rates in force when the instrument became liable to duty.

16—Amendment of section 107—Transfer of property to correct error

Section 107 of the Act authorises the Commissioner to grant relief from stamp duty in respect of an instrument if the sole purpose of the instrument is to reverse or correct a disposition of property resulting from an error in an earlier instrument. Currently, the amount of duty payable if the Commissioner grants such relief is $10 in addition to the amount (if any) by which the duty that would have been paid on the earlier instrument if it had been

correctly made exceeds the amount of duty actually paid on that instrument. This clause removes the reference to $10, so that the duty payable in these circumstances is only the difference (if any) between the correct amount of duty and the amount actually paid.

17—Amendment of Schedule 1—Transitional provisions

This clause inserts a new transitional provision connected to the repeal of the provisions of the Act relating to duty on cheques and cheque forms. Despite any other provision of the Act or the *Taxation Administration Act 1996*, no refund of duty on cheque forms is allowed.

18—Amendment of Schedule 2—Stamp duties and exemptions

This clause amends Schedule 2 of the Act by deleting provisions relating to the duty formerly payable in respect of cheques and leases.

Schedule 1—Related amendments

Part 1—Amendment of *Statutes Amendment (Budget 2005) Act 2005*

1—Repeal of Part 7

This clause repeals Part 7 of the *Statutes Amendment (Budget 2005) Act 2005*, which has not yet come into operation. Section 21 of the Budget 2005 Act is to repeal section 81A of the *Stamp Duties Act 1923*. However, that section was repealed by the *Statutes Amendment and Repeal (Taxation Administration) Act 2008*. Section 22 of the Budget 2005 Act, which amends the *Stamp Duties Act 1923* to abolish duty on mortgages, is to be repealed because the way in which that abolition is achieved is inconsistent with the way in which the abolition of duty on mortgages is to be achieved under provisions to be inserted by the *Stamp Duties (Tax Reform) Amendment Act 2009*.

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

AUTHORISED BETTING OPERATIONS (TRADE PRACTICES EXEMPTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 April 2009. Page 1895.)

The Hon. T.J. STEPHENS (16:34): This is one of those rare occasions when I get to stand up and say, 'I told you so.' When this bill was introduced last year we gave it every bit of support we could but made very clear at the time that we thought the legislation was flawed. We actually made that point during the briefing and also during the debate. It is no surprise to us that this amendment bill has been brought back. What does make me a little concerned is that I think this will probably not be the end of it. As I said the last time I spoke, we are very concerned about the state of racing in this state, and we know that we cannot stand in the way of what is an important piece of legislation.

I still harp on and go back to the fact that I wish the New South Wales government, which introduced the legislation in haste that this bill seeks to make sure we address, had consulted with the other states and could have done it in a decent and meaningful way rather than putting up what I still think is flawed legislation. With those few words, we will support the government in its endeavours and hope we have speedy passage of this bill, but probably it will not be the last of it.

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (16:36): In making a few brief concluding remarks, I thank the Hon. Terry Stephens for his support for this bill. Nationally in recent times the wagering industry has been litigious. This led to a breakdown in the gentlemen's agreement, and that poses a serious risk to the South Australian racing industry.

The parliament acted quickly last year to amend the Authorised Betting Operations Act to give the tools to the South Australian racing industry to operate in the new national wagering environment arising from the Betfair High Court case. Those amendments have been successfully implemented, and I look forward to progressing this bill expeditiously through the committee stage and thank members for their support.

Bill read a second time.

In committee.

Clause 1.

The Hon. T.J. STEPHENS: Can the minister give us an indication that there is no longer a risk of litigation by Northern Territory bookmakers and that this legislation will be enforceable and will hit the target that was originally intended?

The Hon. G.E. GAGO: I have been advised that this amendment decreases the risk of litigation. It cannot eliminate the risk of litigation completely, but it will significantly reduce the risk. It reduces the risk of litigation as it relates to the provisions of the commonwealth Trade Practices Act.

The Hon. T.J. STEPHENS: Minister, will the department continue to try to ensure that this legislation will tighten the provisions currently in force?

The Hon. G.E. GAGO: Obviously, the department will continue to review the operation of this legislation. As with all legislation, we will strive to improve the legislation wherever it is reasonably possible.

Clause passed.

Remaining clauses (2 to 4) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

STATUTES AMENDMENT AND REPEAL (FAIR TRADING) BILL

In committee.

Clause 1.

The Hon. G.E. GAGO: A number of questions were raised during the second reading debate, and I will deal with some of those questions specifically when we deal with the appropriate clause. However, fair trading does not fit into any of those areas, so I will take the opportunity to address that issue under clause 1.

During the second reading debate, questions were raised about the proposed fair trading reforms. Some of the fair trading reforms outlined in the discussion paper, such as the proposal to allow officers to investigate breaches involving South Australian traders, are being considered in the development of a new national consumer law, and it is more appropriate that these reforms are considered as part of that process.

Most of the changes in this bill will strengthen the powers of the commissioner and will allow the Office of Consumer and Business Affairs to take more decisive action and deal with complaints more quickly. This may increase the number of complaints handled by the Office of Consumer and Business Affairs, but these new powers will also allow that office to use resources more efficiently.

Clause passed.

Clauses 2 to 6 passed.

New clause 6A.

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

Page 6, after line 31—Insert:

6A—Amendment of section 4—Application of Act

Section 4(3)—delete subsection (3)

This is a technical amendment and will remove reference to the Recreational Services (Limitation of Liability) Act, which is to be repealed, from the Civil Liability Act.

New clause inserted.

Clauses 7 to 9 passed.

Clause 10.

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

Page 7, line 31 [clause 10(1), inserted text]—Delete:

'Division 3A' and substitute:

Division 2A.

Again, this is a technical amendment. Clause 10 refers to Division 3A of the Trading Act. There is no such division or any proposal to create a new Division 3A. Clause 10 should instead refer to proposed new Division 2A. This amendment makes that correction.

Amendment carried; clause as amended passed.

Clause 11 passed.

Clause 12.

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

Page 9, after line 20 [clause 12, inserted section 8A]—After subsection (8) insert:

(8a) An application to the Magistrates Court under subsection (7)(b) is a minor statutory proceeding for the purposes of the *Magistrates Court Act 1991*.

This bill provides for consumers and traders to enter into a conciliated agreement. In the event that a party to a conciliated agreement fails to abide by the terms of the agreement, the commissioner or another party may apply to the Magistrates Court for an order enforcing the terms of the agreement. The amendment makes it clear that it is the Civil (Consumer and Business) Division of the Magistrates Court that will deal with these matters.

Amendment carried; clause as amended passed.

Clauses 13 to 34 passed.

Clause 35.

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

Page 13, line 14 [clause 35, inserted section 74B(1)]—Delete:

'Subject to section 74I, a term' and substitute:

A term

This is consequential upon my amendment No. 2. It makes reference to section 74I which I will move to delete in amendment No. 2.

The Hon. G.E. GAGO: The government opposes this amendment, which proposes to make the prohibition against unconscionable conduct and the prohibition against misleading and deceptive conduct criminal offences. Neither the prohibition on unconscionable conduct nor the prohibition on misleading and deceptive conduct is a criminal offence under the commonwealth Trade Practices Act. The same is true in most jurisdictions across the country (I think there is an exception for Tasmania). The rationale for this is that unconscionable conduct and misleading and deceptive conduct are concepts that require interpretation and are not clear-cut. It would not be fair to impose criminal sanctions on people when it is so difficult for them to know in advance what steps they must take to avoid those contraventions.

Moreover, it is important to remember that misleading and unconscionable conduct cover a continuum of behaviour that ranges from very serious misconduct to, in some cases, very trivial breaches that can be quite unintentional. Under the proposed amendment, simple mistakes will be raised to the level of a criminal offence. Of course, there will be some forms of misleading and unconscionable conduct that should attract a criminal sanction. I beg your pardon, sir, I have been informed that I am not speaking to the correct amendment. Apparently, we do not have a copy of the amendment that has been referred to. I was assuming it was the next amendment that we had under the member's name.

The government opposes this amendment. The effect of this amendment would be that service providers would be subject to the statutory warranty that requires service providers to provide service with due care and skill. That would mean that service providers would not be able to waiver that statutory duty. So, if the government were simply to repeal the Recreational Services (Limitation of Liability) Act and do nothing more, recreation providers would not be able to use waivers to modify or exclude the statutory warranty that requires services to be rendered with due care and skill.

In effect, the proposed bill before the committee will provide that, under certain circumstances, adults will be able to waiver their rights but our bill proposes that children cannot do

so. This amendment would remove the ability for anyone, both adults and children, to waiver their rights and, therefore, the government does not support it.

The Hon. J.M.A. LENSINK: My understanding (and I will take the advice of the mover with respect to his three amendments) is that section 56, which relates to misleading or deceptive conduct, and section 57, which relates to unconscionable conduct, will be made criminal sanctions; that is, subject to a $100,000 fine. I note that the member's next amendment, which I believe is consequential, is to delete entirely section 74I. For the reasons that the minister outlined in the immediately preceding explanation and the one prior to that, the Liberal Party will not be supporting these amendments.

Amendment negatived.

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

Page 13, lines 27 to 30 [clause 35, inserted section 74C]—Delete the section

Among other things the bill updates and consolidates South Australia's fair trading laws. As part of that consolidation the provisions of the Consumer Transactions Act have been repealed and placed in the Fair Trading Act. The effect of this amendment is to delete proposed section 74C of the Fair Trading Act. That provision has been carried across from the Consumer Transactions Act and is not appropriate in the context of broader provisions of the Fair Trading Act.

The Hon. A. BRESSINGTON: Will the minister make very clear the effect that proposed section 74C would have in relation to proposed section 74I, in particular whether this would prevent recreational service providers, at the compulsion of their insurers, having legally unenforceable waivers signed?

The Hon. G.E. GAGO: The effect of proposed section 74C, I am advised, makes it a criminal offence to require a consumer to sign a waiver where they are not permitted to do so. However, we recognise that some service providers will make genuine mistakes about asking recreational service users to sign waivers when in fact they are not permitted. This amendment ensures that genuine mistakes are not penalised.

The Hon. A. BRESSINGTON: I thank the minister for her answer, but I would like further clarification, because we know for a fact that some insurance providers are insisting that recreational service providers have waivers signed—whether they have validity or legal standing, or whether consumers are of the belief that they are waiving their rights for any sort of compensation for injury due to negligence, or whatever the terminology is. I am looking to see whether the government is providing ample protection for those recreational service providers who are literally forced by insurers to have waivers produced and signed.

The Hon. G.E. GAGO: I am advised that whether an insurer requires a waiver to be signed where they are not permitted they will not be effective.

Amendment carried.

The Hon. A. BRESSINGTON: I will not be proceeding with my next amendment.

The Hon. J.M.A. LENSINK: I move:

Page 17, lines 1 and 2 [clause 35, inserted section 74I(2)(b)]—Delete paragraph (b)

This amendment goes to the most contentious aspect of the bill, that is, the notion of child waivers. If this paragraph is to continue in this bill, our advice from the Insurance Council of Australia is that it will be more difficult and more costly for insurers to price risk, and that the inclusion of it in this bill would create a separate class of consumers, that is, children would be considered separate.

I do appreciate, as I outlined in my second reading contribution, that the common law is very clear in relation to child waivers when matters come before the courts. However, this bill is about recreational service providers—or those aspects within section 74 are about public liability insurance, that is, the ability of insurers to price risk and to provide it at an affordable price. We therefore think that this paragraph should be deleted from the bill.

The Hon. G.E. GAGO: The government opposes this amendment. Under the bill, minors who consume recreational services supplied in the course of a business will receive the protection of the statutory warranty that requires services to be rendered with due care and skill. Neither the child nor a person who acquires services on behalf of the child can waive that warranty or indemnify the service provider for a breach of that warranty.

Child welfare agencies have pointed out that children are the most vulnerable members of our community and are not in a position to clearly understand what rights they are giving away or question the actions of a service provider when a parent or guardian is not present—and parents are not always present during these recreational activities; children are not always supervised by their parent or guardian on all these occasions.

The government has been upfront with recreational providers and has made this very clear. The proposed amendment would only serve to confuse service providers. It will not allow minors to waive their rights to have the services provided with due care and skill. So the effect is that it still, in effect, protects the rights of children. However, the bill would remain silent on that and create ambiguity, leaving open the opportunity for insurers (as the Hon. Ann Bressington has mentioned) to use that as leverage. So insurers could, for instance, require that recreational service providers sign a waiver for children that we believe would be ineffective (and we have put that on record), but it would not make that practice illegal, and therefore could potentially hold service providers over a barrel.

Also, in effect, service users who have signed a waiver could, in fact, believe that the waiver was effective and if there was an accident they might not pursue their legal entitlements for compensation and therefore those children's welfare would be disadvantaged and families could be disadvantaged, because some of these injuries could be quite significant. Just because we are talking about the provision of a service with due care and skill, nevertheless, that could still result in accidents that could have profound and life-long effects on that child and therefore that family, for instance, paraplegia.

So, we believe this would create an ambiguity and uncertainty within the industry. Our view is that good public policy should be clear and unambiguous, and we believe the current bill before us does just that. We believe, as is the case in Victoria, that the insurance industry adapts to circumstances. We believe that, overall, the insurance industry will receive quite a positive effect from this legislation because of the provision of waivers for adults under certain circumstances, so we believe that it is fair and reasonable that waivers for children not be allowed.

The Hon. J.M.A. LENSINK: I have a couple of questions of the minister in relation to this. The minister has stated, both in her second reading contribution and this recent contribution, that this bill is modelled on the Victorian legislation. Can she advise the committee whether such an exclusion is included in the Victorian legislation or, indeed, any jurisdiction in Australia? Secondly, if the exclusion does not exist in Victoria, how long have those provisions been in operation and have they been successful?

The Hon. G.E. GAGO: I have been advised that there are no express provisions that exclude these matters anywhere within Australia. However, we are aware that there have been significant criticisms of, in particular, the New South Wales provision where the provisions for minors remain unclear. We believe that South Australia is in a privileged position. We are now building on work done by other states and we believe we have learnt from their experiences, and we believe that addressing this particular issue in a very overt and clear way improves the legislation and, in effect, provides South Australia with a very strong and clear good public policy.

The Hon. A. BRESSINGTON: I indicate that I do not support the amendment of the Hon. Michelle Lensink, and if I can have the indulgence of the committee I will explain why. I am in agreement with the minister about the ambiguity of the bill should its silence on minors go ahead, and there is also another concern that I have. I could not understand why the Insurance Council of South Australia was so keen either to have waivers signed or to have the bill silent on minors, especially when these waivers are unenforceable legally. Then it occurred to me that, if the bill is silent on minors, insurers can continue to have waivers signed by minors or their parents for what is colloquially known as the big bluff or the bluff effect.

It would be reprehensible of this place to pass an amendment that would basically indicate bad information to the public out there, to parents in particular, that, should their child be injured in a recreational activity, because they have signed a waiver, as the minister pointed out, they have no further claim to compensation, whereas we know they have a claim for compensation under common law. Many people would believe that they had signed away that right. I urge other crossbenchers in this place to consider the situation we would create in South Australia if we were to allow that bluff to continue, as it has for some time. I congratulate the minister for not falling into the trap and being under the pressure of trying to find a way through this to keep everybody happy. We should vehemently oppose this amendment.

The Hon. R.D. LAWSON: I believe the views of the Insurance Council on this point are important. After all, one of the critical issues facing us, and which must be addressed in this bill, is whether or not the providers of recreational services are able to obtain insurance at a competitive price. All of us I imagine believe that recreational services ought to be available, and particularly to those under the age of 18 years. We also believe that recreational service providers ought to be able to conduct their business without negligence and fairly, and ought to be able to obtain insurance because, if they cannot do so, those services will not be available. The Insurance Council says, as has been indicated by the deputy leader, that this provision is not reflected—and the minister has acknowledged this—in the civil liability legislation of other jurisdictions. The Insurance Council reported as follows:

> Our members—

that is, the insurance companies—

> report that the likely effect of section 74I(2) of the bill, if enacted, will see a significant increase in the price of public liability insurance for providers of recreational services to children, and the potential for some insurers to withdraw from the market.

I am not convinced by the minister seeking to sweep this under the table by saying that we have a unique opportunity in South Australia to do something that no other jurisdiction has done. That is hardly a convincing argument. We are seeking to ensure an adequate balance between the protection of consumers and the availability of these services and the availability of insurance. To sweep it under the carpet in the way the government seeks to do is lamentable.

The Hon. G.E. GAGO: I feel quite confused in terms of the mixed messages coming from the Hon. Robert Lawson, whose views I hold in high regard. He has a great deal of expertise in a range of areas and made a very significant contribution during the second reading debate, so I am most confused now at the position he is taking.

He spoke vehemently against signing away the rights of children. He even stood here in this chamber and said that he would never sign a waiver for a child, that it was a most improper thing to do, and that it would take away the rights of that child, possibly for the rest of their life, in circumstances where the well-being of that child might significantly rely on their potential to have access to compensation in relation to these matters. He spoke very strongly and movingly on this matter. Yet today he is supporting a provision that would allow exactly that to happen, even though inadvertently.

We have said that there is a possibility that insurance companies will use their bluff factor and will lean on service providers to require them to sign waivers for children and be invited to receive a particular insurance rate because of that. We are deeply concerned that the insurance industry could, by accepting the amendment moved by the Hon. Michelle Lensink, have that effect and insurance companies could lean on service providers, who would then be required to have waivers signed, even though they know it is ineffective and even though the Insurance Council knows that these waivers are virtually ineffective—it has admitted that publicly. Given that, why on earth would it want this important piece of public policy to be silent and ambiguous on this most important matter?

The Insurance Council itself has identified the ineffectiveness of these waiver provisions, so why on earth is it requiring that this bill remain silent? I am at a loss to know why the Hon. Robert Lawson would support such a provision that could very well have that effect. He stood there with his hand on his heart and said that as a parent he would never sign a waiver for a child.

The Hon. R.D. LAWSON: The minister suggests that this provision is necessary to stop insurance companies leaning on policyholders to seek invalid waivers. She points to no evidence at all of that happening. This bill, told by the government, is based on the Victorian model, which has been introduced. In the Victorian model this explicit provision does not apply.

The Hon. G.E. Gago interjecting:

The Hon. R.D. LAWSON: In Victoria the common law applies, and I am perfectly content for the common law to apply in relation to this matter. This provision, dreamt up in the minister's office as a unique provision for South Australia, will create uncertainty and make it more difficult for recreational service providers to obtain insurance in this state. For that reason the opposition believes that this explicit provision ought be taken out of the legislation; it has nothing to do with its ultimate effect. The provision is unique to South Australia. There is no need for it; it is not in the

legislation on which this bill is modelled. Leave it out and let our recreational service providers obtain their insurance.

The Hon. R.L. BROKENSHIRE: I would like the mover of the amendment to advise the committee what evidence the Insurance Council of Australia has provided. In my second reading contribution I highlighted the frustration and annoyance experienced in trying to get basic facts and figures from the Insurance Council of Australia to find out why the premiums are going up so much. The insurance council alleges that so many people are putting in claims and getting massive payouts, but if it wants this committee to withdraw the amendment on the basis that it claims it will be cheaper and more affordable (and we all want that), then I ask: what categorical evidence has the insurance council given that premiums will be cheaper for those people if we remove this clause?

The Hon. J.M.A. LENSINK: First and foremost, the premiums will be cheaper with the repeal of the Recreational Services (Limitation of Liability) Act, which has been an unmitigated failure in this state. That will, of itself, have an effect. The evidence to which the honourable member can refer—which is the evidence to which the minister has also referred—is that these provisions have been successfully operating in Victoria since 2003. Thanks to those provisions, that state has been able to obtain affordable insurance; we cannot obtain affordable insurance in South Australia because we have a completely different regime.

Rather than just adopt the Victorian model holus-bolus, the government has sought to insert a clause which exists in no jurisdiction in Australia. An email from the Insurance Council of Australia, dated 24 February 2009 (and to which the Hon. Robert Lawson has referred), states:

> Our members report that the likely effect of that section of the bill, if enacted, is to see a significant increase in the price of public liability insurance for providers of recreational services to children and the potential for some insurers to withdraw from this market.

That is the advice we have received. The insurance council advised that it will find it more expensive to price because it will be a different regime. This will be the only regime in Australia which operates differently to the other states, and therefore it is about pricing risk. I do not know what more evidence than that I can give. If you want cheaper and more affordable insurance, support the amendment; if you would like to see insurance less affordable for recreational service providers and for them to be unable to continue to operate as a result, oppose it.

The Hon. A. BRESSINGTON: I would like to ask the minister for some clarification. Do not the other states to which the Hon. Michelle Lensink has referred, which do not have this particular provision in their legislation, also have waivers, which could be somewhat responsible for the downward pressure on insurance policies for recreational services? If we are not supporting waivers, it is curious why we would want to be silent on children. I do not see the logic. We will keep this big secret that children who sign waivers will still have access to common law compensation if it is because of the misconduct of a service provider. I just do not understand the logic; why would we not want to make children's rights very clear in this legislation if we are not having waivers and if service providers are being forced to have waivers signed on behalf of children?

The Hon. Robert Lawson has said that he has not heard of any examples of that but, in fact, in my second reading contribution I gave a very clear example where a recreational service provider was forced by their insurer to have those waivers signed. I ask the minister: is there any evidence that not having this provision interstate but also having waivers is, in fact, responsible for affordable insurance? If we have decided not to go that way, why are we doing half of one and not the other? I am going round in circles here, but why would the opposition even suggest that it would be an acceptable way forward for the bill to be silent on children? I know I have not been very clear on the question, but are the waivers having an effect interstate?

The Hon. G.E. GAGO: My advice is that we know that Victorian's legislation is silent on the issue of waivers for children, but we are not sure whether or not the industry uses waivers. I do not have that advice with me. The New South Wales legislation is quite different but, again, generally speaking it is ambiguous about the provision of waivers for children. The advice I have is that the industry does use waivers for children. I am not aware of any major price differentials; I have not been informed of any significant price advantages that that creates across jurisdictions. However, the information is rather sketchy; it is not easy to get information from the insurance industry, as we are all aware.

The bottom line is—and let us be really clear about this—first of all, South Australia should not be afraid to lead in good public policy. Since when have we been afraid to provide leadership, sound direction and clear legislation in relation to good public policy that protects the fundamental rights and interests of our children? Since when have we in this state been afraid to show some leadership?

In relation to the effectiveness of waivers, we know from the Crown Solicitor's advice to us—and I know everyone has received similar advice, although there is a degree of ambiguity—that these waivers are ineffective; they are an ineffective means of dealing with the issue of warranty. So, this legislation seeks to ensure that waivers are not made available to remove the rights and protections of children.

In relation to price, the insurance sector is already likely to gain significantly from this piece of legislation so, because of the waivers around provisions under certain conditions for adults (and even the Hon. Michelle Lensink has put that on the public record), in terms of pricing there are likely to be significant positive effects for insurance companies with the successful passing of this legislation as it stands, without amendment.

We know that the insurance companies are ahead; why on earth would we want to go back to a situation where we know the law is unclear and ambiguous and gives the insurance industry an opportunity to use, as the Hon. Ann Bressington has clearly stated, a bluff factor that could potentially result in removing the important protections and rights of children?

The Hon. J.M.A. LENSINK: In answer to some of the Hon. Ms Bressington's questions, the New South Wales legislation is quite different, in that it specifically states that recreational service providers can provide child waivers, and it might be argued similarly that they are not worth the paper they are written on so why are they allowed to do it? One might ask the New South Wales parliament that. My understanding is that there is not a great deal of differential in pricing between Victoria and New South Wales; that is, the effect is similar.

I would ask the minister in a rhetorical question: since when has she protected the rights of recreational service providers? The answer is: not since 2002, because the existing legislation has been an unmitigated failure. What this is about is affordable pricing for insurance providers. We all agree that we would like recreational service providers to continue to be able to provide services, which means they need to have appropriately priced insurance.

Our best advice, and the experience over the border in Victoria, is that to take out this clause would provide that. So, notwithstanding all these arguments about protection of children, we know that at common law their rights are protected, and the matter before us is not whether they will continue to be protected—because they will—but whether those recreational activities they wish to participate in will still be available if this amendment is not supported. I commend the amendment to the committee.

The Hon. A. BRESSINGTON: The Hon. Michelle Lensink just stated that we know that children are still afforded those rights under common law and, yes, we do know but, once they sign a waiver, many parents do not know and believe they have no further recourse if their child is severely injured. If we propose that this bill remain silent on children we can only assume then that we are saying in this place that it is okay for insurance companies to continue to bluff members of the general public who do not have any further knowledge of how this legislation would work. We are here making the law; we understand these things. The average Joe Blow out there does not and often is bluffed by lawyers and insurance companies saying, 'You signed the waiver, mate; you should have thought twice.' It is happening.

The Hon. R.D. LAWSON: First, the minister suggests that the insertion of this provision which we seek to have removed will remove some ambiguity that exists currently about the status of waivers on behalf of children. There is absolutely no ambiguity about the status of waivers purportedly given on behalf of children. The common law position is perfectly clear; it has been clear for centuries. There is no need to insert some legislation to try to modify or even reinforce the common law. That will only create ambiguity, and it is for that reason that we do not believe this clause is appropriate.

The Hon. Ann Bressington says that people are being bluffed into signing waivers, that insurance companies are heavying people and that the rights of individuals are being jeopardised because of the existence of waivers which may not be effective. I do not believe that is the case. Everyone knows about the fine print on insurance policies and bills of lading and every other form

of contract. People do not simply assume that what might appear to be the effect of that clause on their rights is the case. They consult a lawyer, who will advise them about the effectiveness.

I simply do not know of cases where people, for example, drive their vehicle into a car park which has a big sign saying 'Enter at own risk' and when their car is damaged they say, 'Oh well; there's a sign saying I entered at my own risk; therefore I have absolutely no claim at all, because I accept that there is a sign saying I entered at my own risk,' and that sign might well have been put on the door as a condition of an insurance policy.

All sorts of claims are made by people about their liability for damages. Ultimately, people do have to take advice and, when someone is seriously injured, there is no doubt that they do seek advice. There are lawyers who are prepared, on a 'no win, no fee' basis, to act for people who are injured. It is wrong to suggest that people out in the community will be confused about the effect on their rights if this particular provision, which is not found anywhere else in the commonwealth, is removed.

For the minister to say, 'Well, we're going to take the lead. We don't shy away from the fact that we will lead the nation in this particular area,' is a little like the proud mother at the ANZAC parade saying, 'Look, little Johnny is in step, and all the others are out of step.' We ought, in this case, stay in step to ensure that our recreational service providers have the opportunity to provide the services they seek to provide.

The Hon. R.L. BROKENSHIRE: I think that most members would acknowledge that waivers do not work and that we all want common law to be available to ensure that there is some legal recourse for anyone who is seriously injured. After taking advice in relation to this bill, we made a decision to support the government's removing the codes of conduct, which were introduced by the Hon. Kevin Foley back in 2004 or whenever it was, because they simply have not worked.

However, I was advised to be very careful in supporting the mechanisms the government will implement to replace the codes of conduct. I ask the minister whether she, on behalf of the government, can categorically assure the committee that she is absolutely confident that, if the committee supports retaining paragraph (b) as it stands, it will not increase insurance premiums.

The Hon. G.E. GAGO: The honourable member knows very well that it would be impossible to give that guarantee. The insurance industry is very complex, and its prices are affected by a wide range of factors not only within this state but also, more importantly, nationally and internationally. There are no guarantees around these things. The honourable member is an experienced member of parliament, and he would know that such a guarantee could not be given.

However, what we can do is look at some of the principles around this issue. As I have said in this place previously, we know, for instance, that the bill as it stands is likely to provide a particularly positive impact on the insurance industry by potentially bringing down the cost of their premiums. This bill provides for waivers, in some circumstances, in relation to the rights of adults and, overall, the insurance industry will potentially benefit from this provision. The insurance industry will receive a big positive from this legislation. So, they will be winners from the introduction of this legislation.

Let us now look at the other players. We have recreational service providers that have been faced with the imposition of codes of practice. I have already put on the record that these codes of conduct did not work, and I have also put on the record the reason why this government chose to go down the road of putting in place codes of practice during that time of insurance crisis rather than choosing other ways of dealing with the crisis. We believe that it was a more balanced and a fairer way to go. We tried something, but it was shown that it did not work. So, after a number of years of concerns being raised about the way in which it was working, we are now seeking to change the process.

This bill will provide much clearer certainty and surety for recreational service providers. We believe that, overall, it will potentially provide an opportunity for insurance premiums to be reduced, and recreational service providers will therefore benefit from that reduction in premiums. We believe that the provisions around the waivers for both adults and children are quite clear and overt in this legislation, making it possible for service providers to know where they stand in relation to the legislation. So, we believe that service providers will be winners in terms of this legislation.

In accordance with the advice I have received, our view is that these changes are unlikely to have a significant impact on insurance premiums imposed on services provided for children. It is on the record that these waivers are ineffective, so why would providing clarity about that provision have the effect of increasing insurance premiums? What we are saying is that, if waivers are in place, they are ineffective and are not offering insurance companies any protection at all. So, why would introducing legislation that makes that issue clearer, given that the advice is that waivers are ineffective, suddenly produce an adverse pricing outcome? It does not make sense.

I want to briefly place on the record my views in relation to the very unclear position put forward by the Hon. Robert Lawson. This provision about waivers for children makes it clear that this bill is overtly consistent with common law. How much clearer can you get? Yet, he is suggesting that somehow that provision produces an ambiguity. I fail to understand the logic of that statement whatsoever, because this provision makes it absolutely clear that, in relation to waivers for children, the bill is consistent with provisions under common law, and I think that that is a clarity everyone can benefit from.

The Hon. C.V. SCHAEFER: Having listened to this debate for some time, I want to put some of my personal concerns on the record. I happen to be someone who had children who did undertake high risk sports. They rode horses competitively, many of their friends rode motorbikes competitively and, indeed, one of my children was seriously injured. However, I believe that they had the right to participate in those high risk sports and that I had the right, if not the duty, to support them when they did so.

I cannot see that, under this proposed legislation, my grandchildren will enjoy the same freedom. I believe that, having participated in those sports, my children became stronger people both physically and mentally. They took risks which were legal and, in my view, healthy, in spite of, as I say, a fairly major accident.

I am currently on the board of management of Riding for the Disabled. I know that Riding for the Disabled parents sign a waiver. Is this legislation going to preclude people from participating in Riding for the Disabled? Is it going to so frighten country shows that they will no longer have showjumping? Is it going to preclude riding schools from having children participate? Many of us have been swamped with emails about this.

If adults want to do those things, they will be able to because they can sign a waiver, but will those people who conduct those businesses quite legitimately now be so frightened of the consequences that they will allow adults to participate but not children? Suddenly, we are going to have adult people who want to learn to ride and do the things they should have done and participated in as children.

What of Learn to Swim? Where is this going to stop? The Hon. Michelle Lensink's amendment does not seek to make the rights of parents to sign a waiver mandatory. It simply seeks to make the legislation open. As a parent whose children are now adults, I would be horrified to think that my grandchildren could not participate in what are, I am the first to admit, high risk sports because we have such a nanny state that they have to stay home and be very careful.

The Hon. G.E. GAGO: We have already dealt with these issues much earlier on in the debate, but I am quite happy to go over them yet again. People can still participate in all the same recreational activities that they have in the past. This legislation will have no impact on people's ability to participate in recreational activities.

The advice I have received is that children, whose rights are fundamentally protected under common law, cannot waive their common law rights and that waivers are therefore ineffective. They do not have the effect that people might think they have. The advice I have received is that, in effect, they provide a false sense of security for those people who are using them to reduce their liability. That is the best legal advice we have at the moment.

Currently, the legal advice is that the waivers people sign are ineffective. The Hon. Robert Lawson outlined this meticulously and at length in his second reading speech (I think it went for an hour and a half or so), and he outlined these very facts meticulously: given that currently waivers are ineffective, according to the advice that we have, people using them have a false sense of security.

The advice we have is that they have no effect in reducing the liability of service providers. If they have no effect, why would making that clear in legislation have a different effect? Why would that make any change to the price of insurance policies, given that we know that insurance

companies receive the same kind of advice we have about the ineffective provisions of waivers? As I said, the best advice available is that waivers are ineffective because you cannot waive the rights of children under common law, whereas you can, I understand, waive the rights of adults under common law.

So, that is the crux of the issue. Fundamentally, the level of protections is the same under this bill as it is currently. The only difference is that this bill provides a consistency between this bill and common law and makes it very clear, in terms of the provision of waivers for children.

The Hon. J.M.A. LENSINK: Has the minister sought the advice of the insurance industry and, if so, what was it?

The Hon. G.E. GAGO: The same as what everyone else has received.

The Hon. J.M.A. Lensink: Have they told you?

The Hon. G.E. GAGO: That is their point of view. We have received a range of other advice. I have been open about what we have received, and it is on the record.

The Hon. R.L. BROKENSHIRE: I appreciate and accept what the minister has generally said; that this should be a better framework for insurance premiums than what we had in the past. However, in order for members on the crossbench to make a decision as to whether or not we support the government, I need an indication of whether the minister, on behalf of the government, is comfortable. I am not asking for a guarantee but I need an indication. Obviously, she has done some work, because I am told that this clause is different from other states. The minister has done this work and added this additional clause. Is the government comfortable that this clause will not have a negative impact on insurance premiums that will work against what we are all trying to achieve, and that is opportunities for people to be able to recreate, and so on?

The Hon. G.E. GAGO: The short answer is yes: the government is comfortable that it will not have a negative impact. However, as I have put on the record, there are no guarantees around this, given the complexity of the industry.

The Hon. R.I. LUCAS: This has been a confusing debate in some respects. The mere fact that we are debating the legislation is confusing, given that we were advised by the whips at lunch time today that this legislation was not coming on for debate and then, all of a sudden, mid afternoon it was brought on for debate.

The Hon. G.E. Gago: Oh, you poor thing!

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: If the minister wants to operate that way, that is fair enough.

The Hon. G.E. Gago: Do you think that our priorities are moving?

The Hon. R.I. LUCAS: No, it is not a priority; it was further adjourned for the day. It was not a priority. It was indicated to all members that we would not even debate it today. I think that is the first—

Members interjecting:

The CHAIRMAN: It was a priority on my *Notice Paper*, I think.

The Hon. R.I. LUCAS: You obviously have one that is different from everyone else's, because your whips provided a copy to all other members that indicates that it was to be further adjourned today.

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: I did not say anything to you.

Members interjecting:

The CHAIRMAN: Order! The Hon. Mr Lucas has the floor.

The Hon. R.I. LUCAS: The second point of confusion was that, over the past couple of weeks, I have been contacted by a number of recreational service providers—

Members interjecting:

The Hon. R.I. LUCAS: Have you finished squawking?

The Hon. G.E. Gago: You shouldn't call your colleague a squawker.

The Hon. R.I. LUCAS: I was talking to you. The second part that confused me is that, over the past couple of weeks, a couple of recreational service providers have urged me to support the Hon. Ms Bressington's position in relation to waivers.

The Hon. A. Bressington interjecting:

The Hon. R.I. LUCAS: I know. That is what I am saying; that is the confusing part. I am not criticising the Hon. Ms Bressington; I am just saying that a number of people asked me to support her position, because she was the person who was defending the rights of the recreational service providers. As I entered the debate I still had an open mind but, as my colleagues will know, I had a view that I was prepared to consider sympathetically some version of the amendment that the Hon. Ms Bressington was proposing.

Based on the advice of my learned colleague the Hon. Mr Lawson, we did not want to make allowances for waivers in the case where, as he colourfully described to us, the operators of the Spin Dragon carelessly leave a bolt off the bottom of the machine, but where you prevent negligence being condoned in any way—what you might call, as I presume my colleague the Hon. Caroline Schaefer might term, an accident occurring, when the operator has done everything humanly possible to prevent an accident occurring; that is, there has been no negligence—that was the general frame in which I was entering the debate.

As I said, it was only when I caught up with the fact that we were debating it that I realised that the Hon. Ms Bressington had removed her amendment and had changed (as she is entitled to do) her position somewhat significantly, if I could perhaps understate the position. So, for those of us who were being urged to support the Hon. Ms Bressington, I was listening to her argument and wondering why I was being urged to support her position when she appeared to be arguing completely the reverse of what I had been told her position would be. Those aspects have made it harder for some of us who are trying to follow the intricacies of this debate.

The third point I would make is that, with the greatest respect to my learned colleague the Hon. Mr Lawson, when you put eight lawyers together there is every potential that you will get eight different opinions. As an economist, I accept the same criticism if you put eight economists together. So, when the minister says to me it is absolutely clear that the law says this, this or this, I think the minister just does not understand the complexity of the law in relation to this issue.

As the Hon. Ms Lensink indicated, one other Labor-led parliament, supported by a number of other parties, I assume, and based on the best legal advice available to the New South Wales parliament—and I am advised that my colleague the Hon. Mr Evans, the member for Davenport, has supported provisions and a position which makes allowance for these waivers, which everyone says is absolutely clear—there is no doubt at all in the law that there is no point in having them.

I have not had a chance to talk to the lawyers who advised the New South Wales Attorney-General, the New South Wales opposition shadow attorney-general and all the members who supported it, but the one thing I have learnt in my long career in parliament is that those people who say that the law is absolutely clear are likely to be somewhat wide of the mark on most occasions. In my view it is always arguable, and clearly the New South Wales legal advice and parliament have taken a different view. We appear, as I understand it, to be adopting a similar legal view, position and process to the Victorian parliament in relation to that.

The fourth point I will make is to support some of the views my colleague the Hon. Caroline Schaefer put, as well as a question from the Hon. Mr Brokenshire to the minister, in relation to what will be the impact of this legislation. What we as individual legislators are being told is that some recreational service providers' views are that if this legislation goes through they will not be able to continue to operate. They will not operate. They will not provide those services they currently provide. The minister is saying that that is not the case. I am not in a position to agree or disagree because, in the end, we will not know, assuming this legislation passes.

I guess that it is my concern that there has been such a depth and breadth of concern from some recreational service providers that we may well find that the degree of comfort the minister is giving, that this will not impact on the industry and recreational services, will be wide of the mark. We were in fact given indications that the legislation of four or five years ago—however long ago it was—would solve all these problems, and it did not. We are now being told, 'Don't worry. We've sorted it all out. The law is clear and this will not impact.'

Well, I am a cynic in relation to these things. I guess that, whilst I cannot prove it and I am not in a position to prove it, all I can say is that, for those who accept the minister's position on this, only time will tell. I hope you are right. I hope that those of you in the majority, the Hon. Ms Bressington and the government, are right. I sincerely do, because I hope that the recreational services industry can continue to provide the services they have got, that young people can continue to take reasonably based risks in terms of horse riding, motor biking and a range of other things such as that, that the industry can continue to operate and that the rights of those who are injured are protected as well.

I do hope that you are right, but there is the cynic or the doubt in me which says that, in a year or two or in a few years, this parliament will be asked again to revisit this legislation and we will see that the impact has been significant on some sections of the recreational services industry, contrary to the assurances being given by this minister and this government that it is quite clear that the law is clear on this issue.

The Hon. A. BRESSINGTON: First, I made very clear in my second reading contribution that I would be withdrawing my amendment on waivers. Perhaps if we took more time to read second reading explanations we would all be up to scratch. However, it has not been a backflip or a turnaround. The reason I withdrew my amendment on waivers—and I will be quite honest about this—is that, in the beginning, I took advice from the member for Davenport who was very clear in his support for waivers for children. However, when we looked into this further we realised that waivers for children were not effective, that they were not legal.

We still have children who are participating in recreational activities being threatened with no cover. Recreational service providers are being threatened by insurance companies that if waivers are not signed then children will participate without coverage. It is that bluff factor that should get under our skin. Insurance providers are hiding behind this waiver and relying on the fact that not all people will be conned, but some will. If this was to go head, that is what would put the downward pressure on insurance premiums. If we are going to support dishonesty—let us call it what it is—if we are going to support that in order to keep the insurance industry happy, then shame on us.

It started out to be clear for the Hon. Rob Lucas that this is not a last minute backflip by me. This position was considered. I know that this particular debate on waivers did cause problems within the Liberal Party—and rightly so. When I realised that it was not Liberal Party policy for waivers and realised the reasons why, I withdrew that particular amendment.

The committee divided on the amendment:

AYES (12)

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

NOES (9)

Bressington, A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Winderlich, D.N.	Wortley, R.P.	Zollo, C.

Majority of 3 for the ayes.

Amendment thus carried.

[Sitting suspended from 18:10 to 19:45]

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

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Lines 3 and 4 [Clause 35, inserted section 74I(2)(c)]—

Delete paragraph (c) and substitute:

(c) the supplier has given the consumer a notice in a form approved by the Commissioner setting out—

(i) the terms of the exclusion, restriction or modification; and

(ii) any other information that the Commissioner thinks fit; and

Line 5 [Clause 35, inserted section 74I(2)(d)]—

Delete 'term was' and substitute:

terms of the exclusion, restriction or modification were

Lines 7 and 8 [Clause 35, inserted section 74I(2)(e)]—

Delete 'term in the prescribed manner' and substitute:

Terms of the exclusion, restriction or modification in a manner approved by the Commissioner

I have just filed these amendments and I draw them to the attention of—

Members interjecting:

The CHAIRMAN: Order!

The Hon. G.E. GAGO: They are an excited lot, Mr Chairman. I filed these amendments around dinner time as a result of the opposition's successful amendment just before dinner to remove the provision that made—

The Hon. S.G. Wade: Well, you should have tabled them before dinner.

The Hon. J.M.A. Lensink: You have had them for weeks.

The Hon. G.E. GAGO: I would like them to listen so I do not have to repeat this, which inevitably I will have to do.

The Hon. S.G. Wade: We know what is happening. You are just trying to ambush the debate.

The Hon. G.E. GAGO: If they could just calm down, Mr Chairman. Right on dinner time—

The Hon. S.G. Wade: We can see. You tried to do the same thing with equal opportunity.

The CHAIRMAN: Order! There might be some others who want to hear it, Mr Wade, if you do not. You might want to leave the chamber.

The Hon. G.E. GAGO: We just need to do the business of the chamber. There is no need to get excited. Everything is all right. Democracy will be upheld.

The CHAIRMAN: The minister will help by not exciting members any more.

The Hon. G.E. GAGO: Thank you for your guidance, Mr Chairman. So, right on dinner time an amendment by the opposition that made waivers for children ineffective was upheld. I had considered what I would do if that occurred. I believe that this provision helps damage control, if you like, the effects of that provision, so that is why it was filed at the time that it was.

The Hon. S.G. Wade: It should have been tabled before dinner.

The Hon. G.E. GAGO: The amendment was only passed—

The Hon. S.G. Wade: Yes. Well, table it straight after that.

The Hon. G.E. GAGO: We did, but there were no attendants in the chamber at the time.

The CHAIRMAN: Order! It would be best if the minister does not respond to interjections that are out of order.

The Hon. G.E. GAGO: Democracy will prevail because I am just drawing it to people's attention now. We do not have to deal with it now. I have filed it now. It is a very simple amendment, so I am happy to test the waters but, if the prevailing mood is that members need more time to think about it, I respect that. What I would then do, after hearing from people, is I would be prepared to withdraw it and then recommit it, perhaps tomorrow, after people have had time to sleep on it, if that is what they believe that they need to do.

No-one needs to feel that they will not have adequate time to think about this. It is a very simple amendment. I take the opportunity now briefly to describe the effect of this amendment.

There has been some concern that the reference to 'prescribed particulars' may not allow the government to prescribe a waiver that includes information about the rights of consumers.

In relation to some of the discussion that occurred previously, a concern was raised by me and other members of the bluff factor. I am sure that no-one would like a provision to prevail within the industry whereby insurance companies could bluff recreational providers into signing waivers. I am sure that no-one here would like that to occur. This allows a provision that would enable us to inform consumers, through information on the waiver, as to their legal entitlements under certain provisions.

The purpose of amendments Nos 1, 2 and 3 is to ensure that the government can require waivers to include information about the effect of the new law on the rights of consumers. It may be appropriate, for example, to explain on a waiver that there are other laws that affect people's rights to claim compensation, such as their common law rights, and amendments Nos 1, 2 and 3 ensure that this can happen.

The prescribing information would be done through regulation, which is a multipartisan committee structure. So, again, everyone would have plenty of opportunity to see those details. This is a provision that would enable us to damage control, if you like, any potential bluff factor effects.

The Hon. J.M.A. LENSINK: I indicate that we will not be happy to proceed with this. I feel somewhat ambushed. Clearly, the minister has had our amendment on the record for weeks and was well aware of it, as we have had discussions about it, and she has had this prepared and brought to our attention just as we resumed debate. So, I am not happy to discuss this until we have had due chance to consider it.

The Hon. R.D. LAWSON: I have a couple of questions for the minister in relation to this late amendment. First, has she had any discussions with the insurance industry to indicate whether it regards this proposal as facilitating the provision of insurance in South Australia at the same rate as is offered in other comparable jurisdictions? Secondly, will the minister indicate to the committee the model, if any, adopted for the introduction of this provision? Thirdly, how is this seen as consistent with the model adopted in Victoria, which was allegedly the basis of the bill before us?

The Hon. G.E. GAGO: The answer to the first question is no. Clearly I did not know the outcome, although, as the Hon. Michelle Lensink indicated, her amendment had been on file for some time. I have many gifts but telepathy is not one of them, so I did not know the outcome or numbers. Many members held their cards very close to their chest on how they would vote on that matter. I was not able to predict the outcome of that and was not able to predict the outcome of that particular amendment until that matter was put.

With regard to discussing it with the industry, no, I have not, but I am quite happy to consult with industry—that is not a problem. In terms of the model, I have talked about South Australia providing some leadership in terms of addressing the ambiguity identified and criticised in other jurisdictions. The Victorian model was something on which we based our legislation, but I have never indicated that our legislation was identical to that. In fact, I have always indicated that our version was an improved and unambiguous piece of legislation.

I have been advised that the amendment as put is in a form approved by the commissioner. That has just been drawn to my attention. I requested that that be done through regulation, which is not indicated in this amendment. As I indicated, I am happy to do the amendment here and now, but I am more than prepared to withdraw and recommit, perhaps tomorrow.

The Hon. R.L. BROKENSHIRE: Whilst Family First would need some time to deliberate over this late amendment, will the minister in lay language explain the intent of the amendment for the bill and for consumers?

The Hon. G.E. GAGO: It informs and educates consumers as to their rights in terms of their protection under law. For instance, some of the prescribed information we could give to consumers that might be included on the waiver might, for example, indicate that there are other laws, such as common law, that enshrine consumers' rights, particularly the rights of children. It is to educate and inform.

The Hon. A. BRESSINGTON: I ask the minister to clarify this for me: will the information included on a waiver be the responsibility of the insurance providers, or will it be a separate piece of information that the commissioner will provide?

The Hon. G.E. GAGO: My advice is that this information will be included on the waiver and the waiver will not be effective unless this information is included, and that information will be prescribed, as always intended, by regulation.

The CHAIRMAN: I am in the hands of the committee to decide whether this amendment is dealt with now or, as the minister has indicated, whether we soldier on and the minister handles it by recommitting it.

The Hon. G.E. GAGO: Given that the opposition has indicated that it needs more time, I am happy to withdraw the amendments. I indicate that I will recommit and will look to do that at our earliest convenience.

The Hon. R.D. LAWSON: I pose a question for the minister to answer in due course. I do not expect an answer now. I certainly agree with the course of action she has proposed. One of the real difficulties about waivers and children is that a child is entitled to bring an action up to three years after it achieves its majority. For an injury suffered to a child aged, say, five, we are talking about the possibility of an action being brought some 15 years subsequently. In those circumstances, the proof of waivers and other events that occur at the time are extremely difficult or may be extremely difficult to establish. Perhaps the parties at the particular time will realise how seriously the child is injured or will realise the importance of keeping records and documents. We know, for example, that medical records and the like are ordinarily kept but does that also apply to things like waivers and notices in forms prescribed by regulation by the minister? Are they signed? I raise that as yet another difficulty in the way of the government endeavouring to improve, in some way, the common law in relation to this matter.

The Hon. G.E. GAGO: I seek leave to withdraw my amendments.

Leave granted; amendments withdrawn.

The CHAIRMAN: The next indicated amendment to clause 35 is in the name of the Hon. Ms Bressington.

The Hon. A. BRESSINGTON: I move:

Page 17, line 12 [clause 35, inserted section 84I(3)]—

After 'established' insert:

(by applying the general principles set out in section 34 of the Civil Liability Act 1936).

As I detailed during my second reading contribution, this amendment seeks to make sure that the courts, when determining whether a recreational service provider's reckless conduct causes significant injury, that they apply the current principle of causation codification by section 34 of the Civil Liability Act 1936.

Much of the angst about this bill has arisen due to the new language to be introduced into what was otherwise a largely settled area of law. While the test of negligence is now largely directed by statute, each component has undergone thorough litigation and it is now predominantly clear about what a plaintiff must successfully allege to be awarded damages. A fundamental component of this test is that of causation which not only requires the plaintiff to demonstrate that the defendant's negligence was a necessary cause of the injury but also that it is appropriate to hold the defendant liable for the injury sustained.

The concern in the bill before us is the new definition of 'cause' which includes the phrase 'contributes to'. This would be the only instance of a statutory definition of 'cause'—other than the Civil Liability Act—and, when one compares the requirements of section 34 to the term 'contributes to', one sees the potential for a plaintiff lawyer to argue that causation, as set out, does not apply as this is much more restrictive than 'contributes to'. This amendment, which works in tandem with my other amendment that removes the definition of 'cause' from the bill, directs the court to apply the principles as outlined in section 34. In addition to the consistency provided, this is what I consider a preventative step and I hope, if passed, it goes towards ensuring that the balance struck by this bill is not undermined during the process of litigation.

The Hon. G.E. GAGO: The government supports this amendment. Amendments Nos 1 and 2 deal with the definition of the term 'cause'. The amendments make it clear that the ordinary principles of causation applied in the cases of negligence are to be used when assessing whether a provider's reckless conduct caused a consumer's injury, and we think the bill benefits from this clarification.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Page 17, after line 20 [clause 35, inserted section 74I]—After subsection (5) insert:

(5a) A person who, under a contract of insurance, agrees to indemnify a person who supplies recreational services in relation to any liability that may arise out of the provision of those services must—

(a) within 30 days after a claim is made under the contract—notify the Commissioner of the claim; and

(b) within 30 days after the claim is finalised—notify the Commissioner of the outcome,

in a manner and form approved by the Commissioner.

Maximum penalty: $2,500.

Expiation fee: $210.

(5b) The Commissioner must include in the report under section 12 statistical information about the claims of which the Commissioner has been notified under subsection (5a), including information about the supplier, claimant, type of conduct giving rise to the claim and outcome.

The reason for moving this amendment is quite simple. After consideration of the debate on removing part B of the opposition's amendment, I stand by the fact that Family First has enormous concern when it comes to the transparency and credibility of a lot of insurance company claims, about how much claim and liability they have in respect of sporting and recreational activities.

I think it would be appropriate and in the interests of this legislation if there were transparency when claims occurred. In a nutshell, this amendment sets out a framework for a reporting process and, most importantly, it requires the commissioner to include in the report 'statistical information about the claims of which the commissioner has been notified under subsection (5A), including information about the supplier, claimant, type of conduct giving rise to the claim and outcome'.

Whilst I do not want to see a rise in premium for or an impost placed on people participating in these kinds of activities, there needs to be this sort of transparency, and pressure needs to be placed on these insurance companies to provide transparency. I think it is time that the community and the parliament had some transparency, and that is why I move this amendment. I see this amendment as a simple reporting process to put pressure on insurance companies to provide transparency.

As the Hon. Rob Lucas has said, we do not want to be revisiting this legislation time and again, particularly when insurance companies are a bit like fuel companies in that any excuse will do to put up their price. I want to see some factual evidence that claims are occurring so that in the future the parliament and the community have the right to see that proper transparency and consideration are given to claims, and that is what this amendment is about.

The Hon. G.E. GAGO: The government opposes this amendment. It requires insurers to notify the commissioner of insurance claims and the outcome of those claims. The commissioner must then include that information in his annual report. This places an administrative burden on both insurers and the Office of Business and Consumer Affairs for no real benefit. Although the Office of Business and Consumer Affairs would collect information about the number of claims made and resolved, there is little to be gained from the collection of that information. It would also be very difficult for the Office of Consumer and Business Affairs to enforce this requirement on overseas insurers. For those reasons, we oppose the amendment.

The Hon. J.M.A. LENSINK: I commend the honourable member for this initiative. I understand his frustrations in relation to the collection of statistical data relating to this industry. However, I agree that it would place an unreasonable administrative burden on both OCBA and the insurance industry without a huge amount of gain. I note that the relevant monitoring body in the first instance for the insurance company rests with the responsible commonwealth agencies; therefore, it is more than likely more information is available that is collected at that level.

Amendment negatived.

The CHAIRMAN: The next indicated amendment is in the name of the Hon. Ms Bressington.

The Hon. A. BRESSINGTON: Mr Chairman, I withdraw the amendment.

The CHAIRMAN: I do not think so.

The Hon. A. BRESSINGTON: You do not think so?

The CHAIRMAN: It is up to you, of course.

The Hon. A. BRESSINGTON: I move:

Page 17, after line 20 [clause 35, inserted section 74I]—After subsection (5) insert:

(5a) The Commissioner must publish information setting out the rights of consumers in relation to contracts for the supply of recreational services on a website determined by the Commissioner.

This amendment requires that the rights of consumers be posted on the OCBA website by the commissioner so that service providers can refer their customers to that website to be informed of their rights, as well as the information that is included on the waiver. I thought that, because of the waiver amendment, this particular amendment would not be necessary, but then I realised that we have not voted on it` yet, and so that is why I am moving this.

The idea behind this is that service providers can be forced by their insurance companies to have waivers signed. I have an example, whereby they can try to explain that the waiver is not lawful for children but the insurance company will still insist that parents sign those waivers on behalf of their children.

The service providers can then refer such customers, who are being forced to sign waivers, to the OCBA website to get the information about their particular rights for damages or for compensation if a serious injury occurs rather than having to take the recreational service provider's word for it. Some of them have not been believed when they have informed their customers that these waivers are nothing more than a bluff. That is the reason for this amendment, and I commend it to members.

The Hon. G.E. GAGO: The government supports this amendment. I know that, even though we indicated a further amendment, it would still be complementary to this. The government is very pleased the honourable member is continuing with this amendment, which aims to inform consumers about their rights and the effect of waivers.

I believe that the information will help consumers understand their rights and the effect of the new law, and I think that is a very good thing. They do this by accessing a particular website. I understand that information about the website for consumers is made in a discretionary way. There is no significant impost on either service providers or service users.

The Hon. R.D. LAWSON: Can the minister explain to the committee what she means by this provision being 'discretionary' in some way?

The Hon. G.E. GAGO: There is no requirement on the service provider to provide information to the recreational service user that the website is available or what information is on it. So, there is no impost. The information would be made available on the website—that is my understanding—and it would be up to service providers to make consumers aware of that information, or, for that matter, recreational providers initiating an interest and accessing it. What I am trying to indicate is that there is no requirement that that information be made available or reference be made to the availability of that information on that particular website.

The Hon. R.D. LAWSON: The minister's statements have re-undermined any confidence that one might have ever had that this minister has any grasp of this provision, with the government agreeing to a proposal that you put on a website something that will give consumers information about their rights. Their rights will actually be determined in the particular contractual arrangements that might have been entered into, in relation to the particular transaction, in relation to the particular waiver (if there be a waiver) or, generally, in relation to many factors. The idea that you can actually put up a website that describes the rights in anything but the most general possible way is absolutely ludicrous.

The Hon. G.E. Gago: What are you so afraid of, then?

The Hon. R.D. LAWSON: Well, I am not afraid of anything. It is misleading to suggest that we put up a website, and then you will say to consumers, 'Well, you should've looked at the website; that will tell you what your rights are.' This website could never tell them what their rights are.

The Hon. G.E. Gago: So, what are you afraid of?

The Hon. R.D. LAWSON: I am not afraid of anything. The job of this committee is to ensure that this legislation is workable and is useful and that it does not create websites and suggestions that, if you just look at the website, you know everything. The Hon. Ann Bressington had the good sense to say in the first place that she was not going to move it. Unfortunately, she changed her mind with the encouragement of the minister and you, Mr Chairman. I am frankly staggered, but not surprised.

The Hon. A. BRESSINGTON: I thank the Hon. Mr Lawson for commending my common sense; it is going to be on the public record. I think we need to clear this up. The intention is to post on the website information about the legality of a waiver that parents are being forced to sign for their children to participate in recreational services. They are being forced to sign the waiver because the insurance company is forcing the recreational service provider to insist on that.

As the Hon. Michelle Lensink mentioned earlier in this debate, people know their rights—they just know them! Well, people do not; people get conned by this. This is again trying to eliminate the insurance providers' bluff that if you sign a waiver you sign away your rights to compensation for serious injury.

For the commissioner to post this information on the website of the Office of Consumer and Business Affairs, it gives the explanation of the invalidity of these waivers some weight when recreational service providers are trying to keep contracts and trying to keep people from participating in their activity who really do not feel comfortable about signing away the rights of their children.

Every member in this chamber got the letter from the lady who runs the riding school. She was told by her insurance provider that the parents of those kids must sign a waiver, and she tried to explain to the school and to the parents that it meant nothing if their kids were seriously injured through negligence. Still, the parents would not sign the waiver, and she lost that contract.

This is a mechanism to help provide some sort of protection to those recreational service providers who are literally being bullied by the insurance companies to have waivers flaunted and consumers made to sign in the belief that maybe even 10 per cent of them will think that they have signed away their right to compensation for serious injury.

The Hon. M. PARNELL: I will weigh into the debate at this stage to say that I will be supporting the amendment. If there is anything that has characterised all the debate so far, it is that this is a complex area of law that most members do not fully understand. The idea of the commissioner putting on a website even basic information about how the statute operates—things that might be legal or illegal to put into a contract, whether they be the issues raised by the Hon. Ann Bressington or other issues—is no different to the sorts of websites that tell people what to look out for when buying used cars and a whole range of other things where you do need to have some basic information.

I accept what the Hon. Robert Lawson says: this is not specific legal advice. There will be other things in contracts that determine whether or not the person has any rights. The website cannot answer all those questions, but it might be able to tell them whether or not certain clauses are likely to stand up. I think that, given members' difficulty understanding liability and the interaction between the common law and the statutory protections offered by the bill that we are now amending, any regime that proposes more information and more clarity is to be supported.

The Hon. J.M.A. LENSINK: I do not think that too many people would agree with the Hon. Mark Parnell. The more information the better and the clearer the information the better, but there is no need to do it through a clause in a bill, particularly when the terminology is used in relation to contracts. As I think the Hon. Robert Lawson was indicating, how can you possibly provide information on a website, or put a clause in a statute, that will cover every possible form of contract? It is rather preposterous. We support the principle, but it just does not belong in an act of parliament.

Amendment carried.

The Hon. A. BRESSINGTON: I move:

Page 17, lines 22 and 23 [clause 35, inserted section 74I(6), definition of cause]—

Delete the definition

As stated earlier, this amendment removes the definition of 'cause' from the bill and, with it, the contentious phrase 'contributes to'. It is consequential to the amendment previously agreed to.

Amendment carried; clause as amended passed.

New clause 35A.

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

Page 21, after line 2—After clause 35 insert:

35A—Amendment of section 75—Offences against this Part

Section 75(1)—delete '(other than section 56 or 57)'

This amendment is aimed at permitting the Commissioner for Consumer Affairs to issue fines against persons or corporations that contravene sections 56 or 57 of the Fair Trading Act, which relate to misleading and deceptive conduct and unconscionable conduct. I outlined in my second reading contribution circumstances in which consumers are left with no other alternative than to sue rogue traders for misleading and deceptive conduct, because OCBA does not have the power to issue fines for this type of conduct. I think that the commissioner's role should include powers to issue fines to send a real message to those people who prey on consumers.

The Hon. G.E. GAGO: This amendment proposes to make the prohibition against unconscionable conduct and the prohibition against misleading and deceptive conduct criminal offences. Neither the prohibition on unconscionable conduct nor the prohibition on misleading and deceptive conduct is currently a criminal offence under the Trade Practices Act. The same is true in most other jurisdictions (I understand that there is an exception in Tasmania).

The rationale for this is that unconscionable conduct and misleading and deceptive conduct are concepts that require interpretation and are not clear cut. It would not be fair to impose criminal sanctions on people when it is so difficult for them to know in advance what steps they should or could take to avoid that potential contravention. Moreover, it is important to remember that misleading and unconscionable conduct cover a continuum of behaviour that ranges from very serious misconduct to quite trivial breaches that can be unintentional. Under the proposed amendment simple, unintended mistakes would be raised to the level of a criminal offence.

Of course, there will some forms of misleading and unconscionable conduct that should attract criminal sanction in specific cases where it is easier to tell whether conduct is misleading. The Fair Trading Act does create criminal offences. Take section 58, for example. Under that section, a person must not falsely represent that goods are of a particular standard, quality, value, grade or model, and so on. Traders clearly know that false representations about the quality of goods are misleading and that they will be guilty of an offence if they make false representation.

Although opposing the proposed amendment, the government agrees that more needs to be done to help consumers resolve disputes involving allegations of unconscionable and misleading conduct. We certainly are sympathetic to the sentiments underlying this particular amendment. The government therefore has included a provision in the bill that will give the commissioner the power to conciliate disputes on behalf of consumers and compel traders to attend conciliation conferences. We have included that provision in the bill, but we are unable to support this amendment as it stands.

The Hon. A. BRESSINGTON: I seek clarification from the Hon. Mr Darley. Is your amendment to do with, say, some of the incidents we see on *Today Tonight*—the rogue builder who keeps going around ripping off people and is never brought to justice? Is that the type of conduct you are talking about, where there never seems to be any sort of recall for people and they are not stopped from continually ripping off one person after the other? Is that the intention of your amendment?

The Hon. J.A. DARLEY: Yes, that is the intention, because these particular rogue traders know that no action will be taken by OCBA. They go through the conciliation process, but nothing ever happens.

The Hon. R.D. LAWSON: I should indicate that, whilst I have every sympathy for the sentiments behind the Hon. John Darley's amendment, I do not think it should be supported, not only for the reasons given by the minister but also by reason of the fact that this legislation, the Fair Trading Act, follows the model of the federal Trade Practices Act, which does not provide for specific criminal penalties for misleading and deceptive conduct or unconscionable conduct.

However, the legislation does provide a civil remedy, which is available to anyone who suffers loss in consequence of misleading and deceptive conduct or unconscionable conduct.

As the minister quite correctly says, this does not mean that rogue traders are free to engage in fraudulent activities, because there are other provisions in the act—notably section 58 (I think it is)—which contain a long series of prohibitions which will catch any rogue trader engaging in the sort of false and misleading representations that ought be stamped out.

New clause negatived.

Clauses 36 to 45 passed.

New clause 45A.

The Hon. R.L. BROKENSHIRE: I move:

New part, page 23, after line 35—Insert:

Part 5A—Amendment of Government Financing Authority Act 1982

45A—Amendment of section 11—Functions and powers of Authority

Section 11(1)(d)—after 'the State' insert:

, including, for example, acting as the insurer of first choice for persons who supply goods or services on a not-for-profit basis

I am moving this amendment because, frankly, I think it is a good bit of social policy. It seems to be that, these days, more and more is to be done by the private sector, but every now and again there needs to be a check and a balance. We continually see premiums going up with no explanation, no transparency and no opportunity for little organisations to combat what effectively almost puts them out of business, or, in many cases, stops that organisation from continuing and therefore deprives our community of the pleasures and enjoyments we have been able to have during our lifetime.

SAICORP, as a government insurance company, was set up primarily to look after government insurance requirements, but I point out that a number of voluntary organisations are already covered by SAICORP. There is no reason why the government could not run efficiently additional policyholders for not-for-profit organisations, such as those we have mentioned today that are so valuable. It would put a bit of pressure on the private sector in terms of stopping what I see as a rip-off. I have no evidence to say otherwise (because you cannot get the evidence from the insurance companies), but I am not advocating that the government gets into the business of insuring the private sector that is in there for profit. That would be wrong.

I am simply saying that we have a fundamental problem with not-for-profit organisations that are providing great recreational sporting services and services that are vital to the wellbeing of the community. This would allow, as a first choice, those organisations to go to what was known as SAICORP—it has changed its name now as it has come under new management authorities; but effectively it is what we knew as the South Australian Insurance Corporation, government owned. It would give those people a chance to say, 'This is the sporting or volunteer organisation I represent,' Trees for Life as an example, 'what premium can the government offer?'

I think that would put a lot of pressure back on the private sector to clean up its act. I have thought about this since way back in 2002. I did not put it up at that time in another place because the Treasurer indicated that he had things under control. Here we are now, seven years later, and they are not under control at all. I am sick and tired of decent South Australian volunteers trying to do the right thing for our community who are getting done over by ridiculous insurance premiums. I see this as part of the core business of government, that is, providing an insurance opportunity for not-for-profit organisations that, at the end of the day, are often providing services from which governments today have withdrawn or which they are not providing. I therefore commend this amendment to the committee.

The Hon. G.E. GAGO: The government opposes this amendment. The Government Financing Authority Act is administered by the Treasurer. The Department of Treasury and Finance advises that, apart from a small number of cases where organisations are involved in service delivery activities funded by the state government, it is not current policy to insure risks outside the public sector. Consistent with this, the government does not believe that amending section 11(1)(d) in the manner proposed is appropriate for extending or clarifying SAFA's functions to provide this type of insurance.

The government believes that section 11(1)(d) should be left in its current form for the purposes of addressing circumstances determined by the Treasurer to be appropriate as and when they arise and without interfering or constraining the nature of the activities which the Treasurer should or should not determine to be in the interests of the state. The insertion of this specific example as to the use of section 11(1)(d) will do this, implying that the Treasurer will or should extend SAFA's functions so as to become an insurer of first choice for not-for-profit bodies generally, and certainly it is not the government's intention to do so. The government therefore opposes this amendment.

The Hon. R.L. BROKENSHIRE: Will the minister explain to me why some chosen not-for-profit organisations—and I do not care whether it is one, two or 50—do get the benefit of insuring through SAICORP? Who is the judge on making the decisions that a few groups are eligible but the rest can take a running jump and have to go out into the private market and be done over?

The Hon. G.E. GAGO: It would be Treasury.

The Hon. M. PARNELL: I am very attracted to this amendment, but I am not entirely sure of its consequences. By including these words, which talk about the state insurer acting as an insurer of first choice, does this amendment oblige them to act generally as an insurer of first choice for all not-for-profit organisations or does it simply not shut the door on that happening?

The Hon. R.L. BROKENSHIRE: My understanding of the drafting of this amendment is that it gives the government insurance company the opportunity to open the door. As a first choice those not-for-profit organisations that are struggling with high premiums can go to the government through SAICORP (or its new name) and say, 'This is the service I provide; what is the premium?' It is opening a door for an alternative opportunity to the private sector and I believe that it puts pressure back on the private sector to show a bit of decency when it comes to some of the exorbitant premiums confronting the organisations which are providing services to the community.

The Hon. DAVID WINDERLICH: I support the amendment. This legislation is complex and there has been some great effort applied to understanding it and explaining it tonight, but most of the discussion has been irrelevant in relation to the community sector and small private organisations that offer some of the high risk activities, such as horse riding, and so forth.

This amendment is the only amendment that gets to the heart of the issue; that is, the benefits provided by these community organisations accrue to us all because they provide opportunities for the community, individuals and young people to develop by taking risks. Those opportunities are valuable to the entire community. We all get the benefits of the services these people provide, but the risks fall narrowly on the service providers, even though the rest of us benefit from their activities and services.

This amendment is the only one that addresses that fundamental issue. Everything else I have heard tonight has been an assertion made without evidence. There is no evidence that any of the amendments that have been moved will improve the situation. There is absolutely no evidence that somehow insurance premiums will drop as a result of the amendments moved by the opposition.

The central issue is that the benefits fall to us all and they fall widely, but the risks are concentrated on the service providers. This is the only amendment that attempts to address that situation and, therefore, I support it.

The Hon. R.D. LAWSON: I, too, have some sympathy for what the honourable member seeks to achieve here. I am not surprised that the government has adopted the attitude that the financing authority would not be interested in conducting this sort of business. It seems to me that the real weakness of the proposal is that the expression 'acting as an insurer of first choice' sounds good, but it is actually acting as the insurer of last resort for persons who supply goods and services on a not-for-profit basis.

Without some indication that the Treasurer would be interested in actually providing this service at a cost that would be affordable, clearly with the attitude expressed by the minister, Treasury, if it was required to engage in this business, would simply offer it at a higher rate or at the same rate that current insurers are offering and it would be to little avail.

I also take up the point made by the Hon. David Winderlich a moment ago. This is only available to those organisations who provide services on a not-for-profit basis. The principal opponents of the current regime have been the private providers of horse riding services and the private providers of recreational services; and there are as many private providers as there are

public providers. I readily admit there are some, like the boy scouts association, for example, which are conducted on a non-for-profit basis, but I also cannot see the equity in allowing this form of insurance—if, indeed, it were to be allowed—to be available only to the not-for-profit sector. There is nothing wrong, in my view, with people providing recreational services with a view to making a profit; conducting a business. That is an entirely legitimate exercise, and I do not believe they should be excluded from an opportunity of this kind. Personally, they are the reasons why I would not support this amendment.

The Hon. M. PARNELL: Having heard the debate, I support the amendment. I perhaps would not do so if the intent of the amendment was to open up an insurance opportunity that had only ever been used by government activities but, as the minister said, if it is already able to be used by groups that are funded by the state government, then we could extend it to groups that are part-funded. We could make it an extension of the government's own volunteering support programs, because these non-profit organisations rely very heavily on volunteers.

I am not persuaded by the Hon. Robert Lawson's argument that somehow we need a level playing field between profit and non-profit providers. I am more than happy to give a leg up to the non-profit sector—groups such as the scouts—and, if this government insurance is already available to some non-profit organisations, let us keep the door open. I guess my support for it is on the basis that it does no harm. I do accept that the Treasurer's attitude may be that if they do not want this clientele they will make the premiums so high that no-one in the non-profit sector will choose to use the government service because it is more expensive, yet I am more than happy to keep the door open.

The Hon. DAVID WINDERLICH: I think the Hon. Robert Lawson makes a fair point. There are private organisations that offer these services and they can be valuable, too, and, indeed, the lines between profit and not-for-profit can blur—they can overlap quite a lot. You can have ostensibly profit-driven organisations that are effectively community organisations. That is the reality. However, I think this amendment represents some progress. It is not perfect and we need to do more, but it feels to me that it is at least a step towards fixing this issue, which is really an issue about insurance.

I note that SAPOL has an agreement with Neighbourhood Watch whereby Neighbourhood Watch volunteers are insured by SAPOL. So, there are examples of this sort of thing around already, and there are probably more if we care to look. I think there is progress in this debate. Most of the amendments tonight I do not think took us anywhere—I think we were playing with fig leaves. I think this one takes us somewhere and might actually improve the situation for at least the community sector organisations, and that will be of benefit to all of us.

The Hon. A. BRESSINGTON: I rise to indicate that I also support this amendment. I come from the non-government sector and, in 2002 when this public liability crisis took hold on the non-government sector, it was the arrangement for non-government with government insurance that basically saved our bacon and allowed us to continue to keep the doors open. It was a valuable rescue, I might say, and it ended up saving us—when I say 'us' I mean the organisation I previously worked for—a great deal of angst and heartache that the government provided this opportunity to our organisation as a state-funded organisation. So I believe that this amendment would go a long way, as other members have said, to partly solving this particular problem for not-for-profit services, and I support the amendment.

The committee divided on the new clause:

AYES (5)

Bressington, A.	Brokenshire, R.L. (teller)	Hood, D.G.E.
Parnell, M.	Winderlich, D.N.	

NOES (16)

Darley, J.A.	Dawkins, J.S.L.	Finnigan, B.V.
Gago, G.E. (teller)	Gazzola, J.M.	Holloway, P.
Hunter, I.K.	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G.	Wortley, R.P.

NOES (16)

Zollo, C.

Majority of 11 for the noes.

New clause thus negatived.

Remaining clauses (46 to 59) and title passed.

Bill reported with amendments.

STATUTES AMENDMENT (VICTIMS OF CRIME) BILL

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I intend to explain the government's amendments that were filed very late in the piece. I apologise to the committee for any inconvenience that may have caused. The amendments are designed to fix an anomaly discovered late in the course of the passage of this bill. The amendments themselves are somewhat obscure and I will now try to explain their reason and effect. Sections 32(7) and (8) of the Victims of Crime Act 2001 say, in effect, that a court must impose the levy set for each offence and only the Governor, not the court, can remit or forgive any levy or part of a levy.

The levy is enforceable under the Criminal Law (Sentencing) Act 1988. Section 13(1) of the Criminal Law (Sentencing) Act 1988 provides that the court must not make an order requiring a defendant to pay a pecuniary sum if the court is satisfied that the means of the defendant, so far as they are known to the court, are such that:

(a) the defendant would be unable to comply with the order, or

(b) compliance with the order would unduly prejudice the welfare of dependants of the defendant, and in such a case the court may, if it thinks fit, order the payment of a lesser amount.

Section 14 in effect directs the court that, when exercising that discretion, it must give primary place to any order for monetary compensation in favour of the victim. These discretions apply to any pecuniary sum. That is a defined term. The definition specifically includes a VIC levy.

It necessarily follows that under the Criminal Law (Sentencing) Act a levy is treated just like any other monetary sum and may not be imposed in whole or in part like any other. Furthermore, sections 70I and 70J of the Criminal Law (Sentencing) Act appear to confer general powers to remit or reduce the levy if it has been imposed. The two acts are inconsistent, and the inconsistency should be fixed. The policy should be that the victims levy should not be treated as just another pecuniary sum. It should be more difficult to get dispensation from paying it.

It is not feasible or desirable to set up an entirely separate regime for just victims' levies. A set of amendments to the bill has been drafted implementing a policy that has the effect of making sure that (a) the levy cannot be remitted or varied by the court of sentence; (b) the levy cannot be remitted or varied by a registrar; and (c) the levy can be remitted or varied by the court on review.

The existing system has its own test for dispensation. The test is: if the court is satisfied that the debtor does not have and is not likely within a reasonable time to have the means to satisfy the pecuniary sum without the debtor or his or her dependents suffering hardship. This is an appropriate test.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

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

Page 4, lines 19 to 23 [clause 6(6), inserted subsection (5), definitions of prescribed summary offence and total incapacity]—

Delete the definitions of prescribed summary of events and total incapacity and substitute:

prescribed summary offence means a summary offence that has caused the death of, or serious harm to, a person;

serious harm means—

(a) harm that endangers, or is likely to endanger, a person's life; or

(b) harm that consists of, or is likely to result in, loss of, or serious and protracted impairment of, a part of the body or a physical or mental function; or

(c) harm that consists of, or is likely to result in, serious disfigurement.

Members previously agreed to this amendment when I moved it in 2008. It amends clause 6 of the bill to extend the circumstances in which a victim has the right to tender a victim impact statement to the court where a summary offence has been committed. The government limits the circumstances to summary offences resulting in the death or total incapacity of a victim. My amendment extends this to summary offences resulting in death or serious harm. This would allow more victims the opportunity to deliver a victim impact statement where a defendant's actions have had very serious and life-changing consequences. As I said, honourable members, with the notable exception of government members, have supported this previously, and I urge them to do so again.

The Hon. P. HOLLOWAY: I note that this same amendment was moved by the Hon. Mr Darley when the Criminal Law (Sentencing) (Victims of Crime) Amendment Bill 2007 was before the council. The government continues to oppose the amendment. The government bill extends the right to make a victim impact statement that exists now only for indictable offences to prescribed summary offences.

A prescribed summary offence is a summary offence which results in the death of the victim or which causes total incapacity. The purpose of this measure is to capture those cases where, for example, an offender has been reckless or negligent in his or her driving, and death or total and permanent incapacity to the victim results, but the offender has been convicted on a summary offence as opposed to the major indictable charge of cause death by dangerous driving. There are not many of these cases, but the impact of these offences warrants a victim impact statement being read.

It should be noted that it would also apply, for example, to industrial accidents constituting summary offences under workplace safety law. The amendment proposed by the Hon. Mr Darley seeks to broaden this general right to include those victims who have incurred serious harm as a result of a summary offence. The government believes this to be impractical. The practical exigencies of the business of the Magistrates Court and the need to deal with a list in an expedient manner mean that business cannot be interrupted or delayed except at great disruption to the summary dispensation of justice.

A glance at the cause list on any day in a magistrate's court in South Australia provides the requisite proof of this. However, the government did take on board the general thrust of the amendment and included an additional provision in the bill when reintroduced. The compromise applies to victims of serious harm and other offences. Clause 5 amends section 7 of the Criminal Law (Sentencing) Act 1988 so that in cases where the offence is not an offence to which a victim impact statement may be furnished in accordance with section 7A the court must, nevertheless, allow particulars to be furnished, which includes a victim impact statement, unless the court determines it would not be appropriate to do so.

There is a compromise to this proposed amendment already contained within this bill for victims of serious harm and other offences, and that is achieved in clause 5, which proposes to amend section 7 of the Criminal Law (Sentencing) Act 1988. Clause 5 of this bill states that, in cases where the offence is not an offence to which a victim impact statement may be furnished in accordance with section 7A, the court must nevertheless allow particulars to be furnished, which includes a victim impact statement, unless the court determines it would not be appropriate to do so. The government provision respects the balance between a victim's right and the necessity for the delivery of summary justice in a summary court.

There will be many of these cases. The Office of Crime Statistics has provided this table (which I tabled during the committee stages of the predecessor to this bill), and, until fresh figures are publicly released by the Office of Crime Statistics later this year, the following statistics still remain an accurate snapshot. There will be between 100 and 200 such cases per year, which could be considered as falling within the definition of serious harm. I seek leave to insert the document in *Hansard*; it is purely statistical.

Leave granted.

Defendant Convictions

	Assault GBH	Major Assault Other	
2003	58	43	101
2004	40	39	79
2005	58	40	98
2006	67	68	135
2007	38	167	205
	261	357	618

The Hon. P. HOLLOWAY: The amendment is not workable, particularly when the court system is under stress and under pressure to deal with delays in caseloads.

The Hon. S.G. WADE: The opposition was interested to hear the response of the minister because, as the minister and the Hon. Mr Darley indicated, this issue is not new to the committee; we have discussed it before. The committee really needs to decide whether it got it wrong in 2007. As I understand it, the government's explanation is, basically, that the best way to avoid a flood of cases clogging up the Magistrates Court is not to put power in the hands of victims but to put it in the hands of the presiding officer of the Magistrates Court.

The Liberal Party believes, as a general principle, that victims have rights. That is why in the 1990s and in 2000 and beyond it introduced a number of reforms that enhanced the rights of victims. The Liberal Party believes that, wherever possible, the decision should not be in the hands of a presiding officer but in the hands of the person who cares most—and that is the victim.

What we as opposition members ask ourselves, in relation to the Hon. Mr Darley's amendments, is whether this is so radical an expansion of the entitlements of victims that it would put undue pressure on the Magistrates Court in the administration of justice. The minister has informed us that the information provided to the council two years ago in relation to the 2007 bill is still current, and that is that there might be 100 or 200 cases that, shall we say, fall within the definition of serious harm. It hardly sounds like a flood. First, between 100 and 200 sounds like pretty broad figures, and, secondly, we have not been given any indication from the government regarding the propensity or rate of uptake by victims in terms of the use of victim impact statements.

The impact on victims is so important to the administration of justice that in the opposition's view it would need to be a serious detriment to the court's operation for members on this side to discontinue support for the Hon. Mr. Darley's amendments. The opposition does not believe it is appropriate for the government to say that the courts are stretched, that the resources are not going far enough and that therefore we cannot give any enhancement to the rights of victims. It is the government that funds the courts.

Time and again we see the belligerent attitude of the Attorney-General in relation to judicial officers and the judicial system. He has repeatedly failed to give them the resources they need. Why should we trust the Attorney-General when he tells us that the floodgates would open and victims cannot be given an appropriate place in the criminal justice system? Considering the minister's response tonight, the opposition will continue to support the Hon. Mr. Darley in his amendment.

The Hon. P. HOLLOWAY: Surprise, surprise! I do not think one could expect much else from an opposition that is so pathetic, so incapable and so lacking in credibility that I suppose it will do the only thing it can do, which is just use and abuse its numbers in this place. What justice do victims get if the legal system does not work properly? In fact, it is the opposition through its intransigent stance on this that will most damage victims' rights. If our judicial system does not work properly because it gets gummed up in these measures, there will be no justice for victims. So, let us have none of this nonsense that the member opposite is really on about.

This is all about the Liberal Party exercising power, as it loves to do. It is so irrelevant in the political scene in South Australia that the only thing it can do is abuse its numbers in this place, as it perpetually does—but so be it. The opposition's attitude is not surprising. It is why it is where it is—where it deserves to be. Let us have none of this nonsense. What I certainly cannot let go by is this nonsense that somehow or other the Liberal Party is standing up for victims' rights when it is pursuing something that can only make our system unworkable.

An honourable member interjecting:

The Hon. P. HOLLOWAY: The Hon. Mr Wade talks about more resources being needed for the judiciary.

The Hon. S.G. Wade: Hear, hear!

The Hon. P. HOLLOWAY: 'Hear, hear!' he says. Does the Hon. Mr Wade understand the financial situation? Does he really think that there is a magic pudding out there? Does he understand that hundreds of millions of dollars—

The Hon. S.G. Wade interjecting:

The Hon. P. HOLLOWAY: Do you understand, Mr Wade, that one of these days—God help this state—you might actually be a minister? So, Mr Wade, will you stand up and say that an incoming Liberal government will guarantee—notwithstanding the current financial crisis—additional resources for the court system? Let's hear you say this.

The Hon. S.G. WADE: I can give an undertaking to this committee that an incoming Liberal government will give due priority to the rights of victims and not put this matter at the whim of a magistrate or an attorney-general who shows disregard for the judicial system. In relation to the minister's jump into the gutter, bringing partisanship into this debate, let me be honest about it: attorney-general after attorney-general, Liberal and Labor, have used these arguments. The Hon. Trevor Griffin used the floodgates argument. We in government were cautious. We do not blame the government for being cautious.

We appreciate that the government has gone to the bother of getting an estimate of how many cases might be involved but, faced with a history of attorneys-general who have used the floodgates argument time and again, this council has decided to expand the rights of victims and, lo and behold, the Magistrates Courts are still, brick on brick, standing and operating. So, faced with the information provided to the parliament and faced with a history of attorneys-general who are overly cautious on the entitlements of victims, we believe that this committee should support the Hon. Mr Darley.

I remind the minister to do his numbers. We have only eight members in this chamber. We cannot pass anything without the support of our crossbench colleagues. I remind members of a very recent debate. The Hon. Ann Bressington educated me—as she often does—about why a retail worker in an equal opportunity tribunal should have to ask the tribunal chair to have legal representation. It is the same issue here: why should a victim have to ask a magistrate whether they have the right to have their say? We believe that victims are entitled to rights and entitlements. They are not entitled to suffer under an attorney-general who, in the seven best years that this government has had, gives the judicial system such a low priority. We certainly will not have a government that says no to every idea that comes from the crossbenches and the opposition. We will be supporting the Hon. John Darley.

The Hon. P. HOLLOWAY: Inevitably, of course, the Hon. Mr Wade would seek to dissemble and misinform. What needs to be pointed out is that, under the changes that the government is putting forward, there is a presumption in favour of the victim. The presumption is in favour of the victim. As I indicated, it is only if the courts determine in those situations that it is not appropriate in the circumstances of the case, and that is exactly what we are saying in new subsection (2a). The Hon. Mr Wade talked about previous attorneys-general. If I recall correctly, it was actually the Hon. Chris Sumner, when he was in this place, who—

The Hon. S.G. Wade: A very long history.

The Hon. P. HOLLOWAY: Well, the victims of crime movement does have a long history. Under Chris Sumner, we were one of the first jurisdictions in the world to introduce measures in support of victims of crime. Like everything else, life is complex and difficult. You have to reach a compromise between providing those benefits to victims and the administration of justice. In fact, if you get the balance wrong you will not be helping victims at all, because if it tilts too far in favour of the effective operation of justice, an unfortunate side effect of that is that you will actually be harming the victims. Let us at least have the debate on what really is before us. If you look at clause 5—amendment to section 7, it provides:

> If the offence is not an offence in relation to which a victim impact statement may be furnished in accordance with section 7A, the court must nevertheless allow particulars furnished under this section to include a victim impact statement unless the court determines that it would not be appropriate in the circumstances...

This is what we have put forward as a compromise amendment. Let us not have this misinterpretation as if it is some black and white issue. In fact, the clause provides that the

presumption of the victim impact statement applies 'unless the court determines that it is inappropriate in the circumstances....(and the other provisions of this division relating to the impact statements apply to such a statement as if it were furnished under section 7A)'. So, let us at least debate the amendment the government has put forward.

The Hon. M. PARNELL: In the spirit of the minister's contribution, I would like to test, through questions, the compromise the government says it has put forward. If I look at the Hon. Mr Darley's amendment and I ask myself the question, 'Should people who fall into that category be entitled to have their voice heard?', I think the answer is yes. However, if I look at the government's amendment, I see that there is still a presumption of these victims being able to have their say. The key words of disagreement seem to be 'the ability of a magistrate to determine that the victim cannot be heard'. The words in the government's amendment are 'unless the court determines that it would not be appropriate in the circumstances of the case'.

My question to the minister is: would a court be able to apply that section and deny a victim the right to have their say because, for example, the court says, 'The court list is busy. There are lots and lots of cases. We're running out of time. People are waiting too long to have their cases heard.'? Would that be sufficient reason for a magistrate to say, 'I'm sorry; even though there is a presumption that you should have your say, we've got to rip through the case list. We're miles behind. We're not going to let you.'? Would that be a reasonable way for a magistrate to interpret the government's amendment?

The Hon. P. HOLLOWAY: If the magistrate refused, he would have to give reasons as to why he would not allow a victim impact statement. So, one would not think it likely that a magistrate would do that. If the magistrate had to give reasons why he would not allow it, I guess that would cause a delay in the system, anyway. If one looks at the specifics of section 7(2a), which is the provision that the government is proposing to insert, it provides that a victim impact statement can be included 'unless the court determines that it would not be appropriate in the circumstances of the case'. It specifically provides 'in the circumstances of the case' which, of course, would not and should not cover whether the courts are too busy.

The Hon. J.A. DARLEY: Section 7 of the Criminal Law (Sentencing) Act provides that the prosecution must—and I emphasise 'must'—furnish the court with particulars of the injury, loss or damage resulting from the offence. How would it cause any more delay to the court to have a victim furnish the court personally with their statement, as I am proposing in this amendment, rather than have the prosecutor do this, as he or she is mandated to do under section 7? If the prosecution must do this, how is it causing a delay if the victim does it instead?

The Hon. P. HOLLOWAY: The statistics that I tabled earlier give some indication to the committee of the impact of Hon. Mr Darley's provision if it were successful. I think those statistics really stand for themselves. By way of compromise, the government is proposing to put an appropriate safeguard into the act that would give the court the option that, if it were not appropriate in the circumstances of the case, the magistrate could make that decision, and, of course, as we indicated earlier, would have to give reasons for doing so.

We are attempting to deal with a practical problem in relation to what impact this might have on our courts, while at the same time maintaining a presumption in favour of victim impact statements. That is what we are trying to do: get the balance right. There is a presumption that there will be a victim impact statement. It is not just indictable offences; it is covering all offences, remember. But, there is this safeguard that, if the court determines it would not be appropriate in the circumstances of the case, the court can so determine and, of course, would give its reasons for so doing.

The Hon. S.G. WADE: I would like to explore the comment reiterated by the minister on at least three occasions that, under the government's proposed clause 5, new section 7(2a), the court would need to give reasons. I note in the Hon. Mr Darley's amendment for a new clause 8A, section 44A(2) specifically provides that 'if a court refuses to make an order under this section, the courts must state the reasons for that refusal'. That is very clear. I presume that parliamentary counsel thought it needed to put that in because courts can make decisions without giving reasons, and that is my understanding. On what basis does the minister assert that new section 7(2a) would require the courts to give reasons?

The Hon. P. HOLLOWAY: The answer is that it is not prescribed in that particular provision, but we are talking here about the fundamental legal principle that courts give reasons, for example, if bail is rejected. They may be very brief or they may be detailed, but I think there are

legal principles involved here that, when courts make decisions, they explain them. As I said, it is a fundamental legal principle.

The Hon. S.G. WADE: I must admit that that answer is not credible to me, but the committee will make its own judgment. If the government keeps asserting that they are going to give reasons, I would like to see it in the clause just as the Hon. Mr Darley put it in his clause. However, going back to the minister's data that he tabled, I would like to specifically ask the minister: in relation to the 100 or 200 cases that he referred to that would be eligible under the Hon. Mr Darley's amendments, first, how many does the government anticipate would take up that opportunity and, secondly, to get an idea of the magnitude of this flood that the minister is warning about, how many cases are dealt with by the Magistrates Court in any one year?

The Hon. P. HOLLOWAY: We went through all this when the previous bill was discussed some 12 months ago or more. I believe the information that we then provided was that, within superior courts, we understand that about 80 per cent of cases are taken up with victim impact statements. In relation to the Magistrates Court, I believe it is currently about 5 per cent.

Obviously if this bill were passed, we would expect that to significantly increase. This was all covered during the previous debate. We can only make predictions based on what information we have in relation to other courts. The caution has to be that they will be predictions. In relation to the number of cases before the Magistrates Court, in the annual report for 2007-08 the number of criminal hearings was 230,816.

The Hon. S.G. WADE: Linking those thoughts, if the government is suggesting that the propensity to take up the opportunity for victim impact statements in the Magistrates Court is 5 per cent and if the estimated number of eligible people under the Hon. Mr Darley's amendment is 100 or 200, we are facing the tragic challenge of the courts dealing with between five and 10 victim impact statements in a total case pool of 230,000. To me, the Hon. Mr Darley's amendment is very moderate.

In fact, the minister referred to his clause 5, and his amendment has a lot more risk, because the Hon. Mr Darley's amendment limits the entitlement only to people with serious harm or death. The minister laboured the point that it can be anything. So, considering the total case pool is 230,000, if you want to apply the current data (e.g. 5 per cent of magistrates courts take them up), 5 per cent of 230,000 is certainly a lot more than 5 or 10 per cent of 100 or 200.

I think the government is using this traditional Attorney-General's argument to scare the committee into not maintaining its steady incremental approach to expanding the rights of victims. As I indicated, the opposition will support Mr Darley's amendment.

The Hon. A. BRESSINGTON: I rise to indicate that I will not be supporting this amendment. I am aware that I did last time, but my office has been assured by the commissioner that the government's amendment does cover the amendment of the Hon. John Darley. I believe that, if the commissioner is satisfied with the amendment that has been put forward, it is probably in our best interests to appoint people to these positions for reasons and, when they indicate that they are satisfied with the amendment put forward, perhaps it is in this chamber's best interests to respect the people and their opinions who are in those positions, rather than play political games with this.

The Hon. S.G. WADE: I want to make the brief observation that it is unfortunate that the Hon. Ann Bressington relies on advice from a commissioner that is not available to the whole committee. With all due respect, the Hon. Ann Bressington may interpret that advice in a different way from the opposition, and I indicate my regret.

The Hon. P. HOLLOWAY: The commissioner is available to speak to anybody; the Hon. Mr Wade has chosen not to do so. I think it is a bit out of order for him to try to criticise other members who have taken the time to inform themselves. The only other point I make is in relation to what impact it might have. The victim impact statements can take between 15 and 30 minutes to read out.

The Hon. S.G. Wade interjecting:

The Hon. P. HOLLOWAY: Why should they be necessarily any different? We know that the magistrates courts are extremely busy, as you would expect if they are dealing with 230,816 cases, as they did in 2007-08. I suspect, unfortunately, that it will probably be more this year.

The Hon. S.G. Wade: Rann's crime explosion.

The Hon. P. HOLLOWAY: It is probably more to do with the economic situation than anything else. This government is quite happy to back its credentials in relation to law and order and the initiatives we have taken. One of the reasons there could be more court cases is that we have introduced many effective laws in this state, and they are all about protecting victims. Remember that victim impact statements are an important part of the process, but there is a lot more to protecting victims' rights than just having statements read, as important as that might be. As I said, we have to get the overall balance right if we really are to give the best deal to victims. It can take significant time, and it has a significant impact on a very busy court.

The committee divided on the amendment:

AYES (11)

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

NOES (10)

Bressington, A.	Finnigan, B.V.	Gago, G.E.
Gazzola, J.M.	Holloway, P. (teller)	Hunter, I.K.
Parnell, M.	Winderlich, D.N.	Wortley, R.P.
Zollo, C.		

Majority of 1 for the ayes.

Amendment thus carried; clause as amended passed.

Clause 7 passed.

New clause 7A.

The Hon. P. HOLLOWAY: I move:

Page 5, after line 17—After clause 7 insert:

7A—Amendment of section 13—Order for payment of pecuniary sum not to be made in certain circumstances

Section 13(1)—after 'pecuniary sum' insert:

(other than a VIC levy)

The Hon. P. HOLLOWAY: As I previously indicated, these amendments are to fix an anomaly that was discovered in the course of the passage of this legislation. I have already indicated the reasons, so I will not repeat them.

New clause inserted.

Clause 8 passed.

New clause 8A.

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

Page 5, after line 41—After clause 8 insert:

8A—Insertion of section 44A

Before section 45 insert:

44A—Assistance to victims etc

(1) If—

(a) a court intends to—

(i) impose a sentence of community service on a person in respect of an offence; or

(ii) include a condition requiring the performance of community service in a bond imposed on a person in respect of an offence; and

(b) the court is advised by a victim of the offence, or by the prosecution on behalf of a victim of the offence, that the victim would like the defendant to be required to perform community service in accordance with this section,

the court may order that the community service, or a specified number of hours of the community service, consist of projects or tasks—

(c) for the benefit of the victim; or

(d) of a kind requested by the victim.

(2) If a court refuses to make an order under this section, the court must state the reasons for that refusal.

(3) If a court makes an order under this section in relation to a person, the community corrections officer to whom the person is assigned must consult with the victim before issuing any directions requiring the person to perform projects or tasks.

(4) This section does not apply in relation to the performance of community service by a youth.

Note—

See section 51(1) of the Young Offenders Act 1993 which provides that work selected for the performance of community service under that Act must be for the benefit of specified persons and bodies, including the victim of the offence.

Again I indicate that I moved this amendment previously when we visited this bill last year. It amends section 44 of the Criminal Law (Sentencing) Act to provide that, if a court intends to impose a sentence of community service for an offence, the victim is allowed to have input into what that order of community service would entail. This would allow victims to at least suggest that a defendant perform service that allows them to face the consequences of their actions: for example, requiring a person convicted of death by dangerous driving to undertake community service relating to helping in relation to driver safety programs or rehabilitation of road trauma victims.

I draw members' attention to the wording in section 44A(1)—'the court may order'. This leaves the matter entirely to the discretion of the court and they still have the ultimate say in whether the order is to be made. The amendment simply allows an option for a victim's request to be accommodated. I note that the government in its new clause 7C allows a victim to make a submission on sentence. My amendment is well within the spirit of the government's amendment and simply allows for the possibility of extending the victim's ability to comment on sentence.

The Hon. P. HOLLOWAY: I note that the same amendment was moved by the Hon. Mr Darley when the Criminal Law (Sentencing) (Victims of Crime) Amendment Bill 2007 was before this council. The opposition supported this amendment but it was unacceptable to the government which, in turn, proposed two compromises. The deadlock conference failed and the bill was later rescinded on 19 June 2008. This amendment, along with other government measures, were also present in the private member's bill introduced by the Hon. Mr Darley in 2008. The effect of this amendment is that, if any court is intending to impose a sentence that involves community service in any form and the court is informed that the victim wants the community service to be performed for the benefit of the victim, or of a kind requested by the victim, the court should do it or give reasons why not. Further, if such an order is made, Community Corrections has to consult with the victim before issuing any directions requiring the person to perform projects or tasks.

The government continues to oppose this amendment for the same reasons as when the amendment was first introduced. Furthermore, it seeks to equip the Community Corrections officer with a power of veto if an offender disagrees with what is being suggested by the Department for Correctional Services. While restorative justice does have its place, particularly in the Young Offenders Act, the inclusion of it in this one stand-alone amendment is inadvisable. Consideration must be given to circumstances where an offender refuses to undertake the community service directed by the victim. It is currently the case that the imposition of community service as a sanction is dependent upon the consent of the offender. If the offender is not prepared to do it, or for whatever reason is only prepared to do community service that does not involve the victim, what occurs then?

The amendment fails to consider the delays that could be caused when a magistrate or judge decides to sentence an offender immediately after submissions on sentence (as is often the

case in the Magistrates Court) and it is decided that community service is to be imposed. If the victim is not present in court, must the court then be adjourned and the matter held in the list to enable the prosecutor to make contact with the victim? It is common practice in busy summary jurisdictions for only one police prosecutor to be present in court. Does this mean that the rest of the matters in the list on that day are to await the return of the prosecutor who has left the courtroom to chase up the victim with a telephone call? If the victim cannot be contacted, how long should the matter be adjourned? Whose responsibility will it be to continue attempts to contact the victim? What are the obligations of police prosecutors—to take the opinion of all victims just in case?

I think those questions clearly indicate that there are some serious practical problems in relation to the amendment. There is a chance that use of community service as a sanction will decline in favour of other penalties, mainly to overcome the issue of not being able to contact the victim or the offender not consenting to community service for the benefit of the victim. Much good work occurs as a result of community service performed by offenders. We should be encouraging the use of community service as a sanction, not making it harder to do or putting obstacles in its way.

Another consideration is the logistics of putting this amendment into practical effect. The impact this may have upon Correctional Services should not be underestimated. Issues that spring to mind include insurance problems about variable places of community service or practical problems about not putting offenders into designed programs and resource issues because supervisions will be scattered over a whole lot of individual programs rather than concentrated on joint programs.

Thousands of hours of community service are ordered each year. If the department was required to consult with victims in circumstances suggested in the proposal, it would be time consuming and create delays in work being completed. How does correctional services overcome unreasonable requests made by victims which are unsafe, impractical or contrary to the spirit of what is being proposed? By what benchmark will requests or submissions made by victims be assessed and deemed appropriate or within the capabilities of the Department for Correctional Services?

In the spirit of compromise and in an attempt to avoid another deadlock, clause 7 of this bill includes a provision that will enable victims to comment upon the sentence to be imposed by the court in their victim impact statement. This, of course, will be a choice and not a mandatory requirement on the victim. If a victim did elect to make a comment or suggestion for penalty, the court could take notice of the suggestion in the same fashion that it currently takes notice of the prosecutor's and defence counsel's submissions.

The government believes that permitting victims to comment on sentence is the best option to achieve the outcome desired by the Hon. Mr Darley, minus the logistical problems and impracticalities that this amendment would create if passed.

The Hon. A. BRESSINGTON: I will not be supporting this amendment. I did not support it last time. I would just like to make a couple of very brief points. I notice that we are starting to throw around this terminology 'restorative justice'. Somehow we are of the belief that one amendment in one bill will change the course of handling victims after crimes have been committed. I remind members in this place that restorative justice is a whole other process in its place. We cannot take only one bit of a restorative justice process, implant it into a piece of legislation and hope that we will get the desired outcomes that you get from a true restorative justice process.

In my contribution to this bill last year I made the point that sometimes victims are not the best people to be involved in this kind of process. Sometimes the grief and loss of victims in dealing with the trauma that has been left behind does unhinge them for a while. We hear that some of these processes will give a victim closure. Closure is a myth. You do not get closure until you have been able to go through your own grief process in your own sweet time. There is no judicial process and no restorative justice process that will give any victim closure after the loss of a child or the maiming of a child, a partner or whatever. I think that even in psychological circles that is accepted.

Closure is a personal thing that you achieve going through your own personal process, and it has nothing to do with the judiciary. We need to be very careful that we are not blurring the lines or crossing the border between parliament and our wishes, hopes and dreams for our constituents and interfering with that legal process. I stand by my objection to this amendment as I did last time.

The Hon. S.G. WADE: I thank the Hon. Ann Bressington for her comments, because it does highlight that, whilst restorative justice elements might improve, shall we say, the traditional justice system, quite different processes are involved. I just indicate that, in spite of the ALP policies in support of restorative justice, I understand that the Attorney-General publicly stated to a workshop earlier this year that whatever the ALP policy says he did not believe in it. I do not know why the minister thinks we can trust an Attorney-General who does not believe in restorative justice to manage a bill with elements of it.

In terms of the logistics argument, I do not propose to delay the council by trying to pick up a number of the issues the minister raised, but let us use just one. He suggested that the absence of the prosecutor or the victim might delay the proceedings of a court, as the court needed to establish whether or not the victim or the prosecutor wanted to make a statement. That is just spin. Section 44A(1)(b) provides that if 'the court is advised by a victim of the offence'. The onus is on the victim or the prosecution to advise the court.

The third issue—and this is not a response to the government but, rather, to reiterate why the opposition is willing to even countenance this proposal—is the phrase that the Hon. John Darley highlighted in section 44A(1), which provides that 'the court may order'. We would not be comfortable with the court losing its sentencing discretion, but we believe that it is appropriate for the victim to have an opportunity to express their view.

We welcome new clause 7A and we think it is an improvement to the bill. It is interesting that it takes opposition and the crossbench members staying committed to the views of the council at a deadlock conference to get the government to come back with compromises. Let us remember that this was not a long and protracted deadlock conference where the council tried long and hard to come to an agreement with the House of Assembly and failed. My recollection is that it did not meet more than once.

Whilst I am disappointed that this suggestion was not made available to a deadlock conference on the previous bill and the government belligerently delayed appropriate reforms to the bill, we will be maintaining our commitment to support this clause, as we did in the previous bill and as we did at the deadlock conference.

The Hon. P. HOLLOWAY: Of course the Hon. Mr Wade would do that. His contribution shows his detest of the Attorney-General. His personal bias has come through into the opposition. How unfit this man is to be a shadow minister! What a tragedy it would be for this state if all he can see is this issue. He will not debate it on its merits. All he does is let us know his personal hatred of the Attorney-General. His comments said it all. It is a trait which Mr Wade has shown before. He lets his personal feelings interfere—

The Hon. C.V. Schaefer interjecting:

The Hon. P. HOLLOWAY: That is what happened; read what he said. Obviously, you were not listening. Why can he not debate it on the merits or substance of the clause? Why does he have to make it personal? The Hon. Caroline Schaefer should not accuse me. What the Hon. Mr Wade said was a personal attack on the Attorney-General—and he will not get away with it. Every time he does it I will remind him of it.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes, it really will. This is how members opposite operate. It is all personal abuse and never debate on the merits or substance of the argument. Section 44A(1) of Mr Darley's amendment provides:

> If—
>
> (a) a court intends to—
>
> (i) impose a sentence of community service on a person in respect of an offence; or
>
> (ii) include a condition requiring the performance of community service in a bond…

What we are talking about is 'if a court intends to impose a sentence of community service'.

The point I was trying to make earlier is that this provision will distort, I believe, the use of community service as a sanction. Community service is an important part of the corrections system, but if it becomes impractical to apply then the use of community service will decline in

favour of other penalties, mainly to overcome the issue of not being able to contact the victim of the offender. I believe that is the unfortunate side effect of this amendment. I think the honourable member is still the shadow corrections minister and it is something on which he should reflect.

The Hon. S.G. WADE: I want to clarify my comments. It certainly was not a personal attack on the Attorney-General, so perhaps I could sketch the relevance. I presume that the minister is representing the Attorney-General in this place and, because it is his bill, presumably the arguments he is putting in support of the bill to this committee are endorsed by the Attorney-General.

The minister tonight told us that the amendments proposed by the government support the principle of restorative justice. I have been told by a number of people that the Attorney-General has advised a public meeting, I think in February this year, that he does not believe in restorative justice. Therefore, why would the committee give any credence to assurances from the minister that restorative justice is a value that is being reflected in this bill and therefore the government bill should be supported? I do not expect the minister to confirm whether the Attorney-General said that, but I have heard it time and again.

The Hon. P. HOLLOWAY: What Mr Wade is using is a second-hand reflection of a comment made at a public meeting. In what context was the Attorney-General speaking? In any case, even if it was a throw-away line, so what? The fact is, if he did say it—

The Hon. S.G. Wade: I didn't say it was a throw-away line.

The Hon. P. HOLLOWAY: Well, you do not know in what context the Attorney did say it. Regardless of that, the issue before us is whether this particular clause, if passed, will have a positive impact on the administration of justice. The point that really needs to be addressed is this question of the impact that it will have on the use of community services as a sanction because, as I think I pointed out in my earlier comments, there are a number of problems that would befall our busy Magistrates Court if one was to give effect to this amendment, if it were to be passed into law, in terms of determining a victim's wishes in relation to community service.

The Hon. M. PARNELL: To assist in determining the will of the committee, I will say now that I do not support this amendment. I think that the role of sentencing and all its discretions is most appropriately left to our judges and magistrates. That includes community service. I think there can still be creativity in the choice of community service projects. It does not necessarily require the input of the victim, and I think that, whilst we are debating in this bill the appropriate role for victims in the criminal justice system, there are limits to that role. Without detaining the committee too long, I have often thought that, if it was someone who was close to me who was the victim of a crime, I would very much prefer the sentencing to be in the hands of someone other than me, because I know that I would not be able to approach it in the sort of impartial way that is needed to do justice.

So, whilst I accept what the Hon. John Darley's amendment is trying to do, that is, to increase the role of victims to give them an extra opportunity to have input into the appropriate sentence, especially as it relates to community service orders, I do not believe that it is an amendment that is so useful that it warrants the administrative difficulties that it would cause, and they are those difficulties that the minister has set out.

The Hon. DAVID WINDERLICH: I also oppose the amendment, primarily because I think it is a camel. The idea of victims having input into the sentencing I think comes from the broader notions about bringing home the personal impact of the crime or the offence to the offender. Those ideas do come out of restorative justice, but the point of restorative justice is the skilfully mediated coming together of the victim and the offender in a non-court setting, partly to avoid getting to court and partly because that can be seen as the best way of achieving both redress and rehabilitation.

This brings that idea from restorative justice and puts it in a court setting after people have already been through the adversarial court system, and I do not see what you get out of that. I think there are only two possible motives for this sort of approach. One is some sort of vengeful payback, which I am sure is not the intent of the mover, and the other is to have the best effect by bringing the offender face-to-face with the personal consequences of their actions and, as I said, that idea comes from restorative justice. It works in a non-court setting. It relies on skilful mediation and a sort of coming together of victim and offender, and you have to choose the sorts of offences for which that happens and the sorts of people and circumstances.

I do not think you can take a very good idea from restorative justice, which is part of a broader approach, and drop half of it into a court setting. I do not think that will work. So, although well intentioned, I think the amendment is a camel and I will be opposing it.

The Hon. D.G.E. HOOD: The last time this amendment was put to the committee I outlined the reasons why Family First would be supporting it, and our position has not changed.

New clause inserted.

Clause 9 passed.

New clause 9A.

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

Page 6, after line 39—After clause 9 insert:

9A—Report to Legislative Review Committee in relation to section 7A of Criminal Law (Sentencing) Act 1988

(1) The minister must, at the end of two years from the commencement of section 6, appoint a person to conduct an inquiry into—

(a) the operation of section 7A of the Criminal Law (Sentencing) Act 1988 as amended by section 6; and

(b) the likely impacts (including the costs) of extending the definition of 'prescribed summary offence' in that section to include a broader range of summary offences.

(2) A report on the inquiry must be prepared and laid before the Legislative Review Committee of the parliament.

This provides for an inquiry into the operation of the right of victims to present their impact statements for indictable and summary offences causing death or total incapacity and also the impact of extending these rights to victims of crimes resulting in serious harm.

Previously, when I moved unsuccessfully an amendment to extend the rights of victims to deliver impact statements, the government argued that extending the circumstances in which a victim could deliver a victim impact statement would result in further delays and increase case loads in the Magistrates Court and clog up the court system in general.

I do not believe that the impact on courts will be as severe as the government has suggested; the benefits to victims will far outweigh that. Furthermore, the number of victims who would choose to take up this option for summary offences would be low and would not, in my opinion, significantly hold up the courts.

This amendment provides for a person appointed by the minister to conduct an inquiry into the amendments on the second anniversary of their commencement. I think that a suitable person would be independent and in a position to conduct a robust inquiry—for example, a judicial or former judicial officer. This amendment will provide a good opportunity to review the effectiveness of these very important changes.

The Hon. P. HOLLOWAY: I move:

Amendment of amendment No. 1 [Darley-1]—

Proposed new clause 9A(2)—Delete 'prepared and laid before the Legislative Review Committee of the Parliament' and substitute:

provided to the minister and the minister must cause a copy of the report to be laid before each house of parliament as soon as practicable after receipt of the report.

Mr Darley's amendment requires the minister to appoint a person to conduct an inquiry into section 7A of the Criminal Law (Sentencing) Act 1988 as amended by section 6, that is, the inclusion of 'prescribed summary offence' and the impacts of extending that definition to include a broader range of summary offences.

The amendment further requires a report to be prepared on the inquiry conducted and laid before the Legislative Review Committee of the parliament. All of this is required of the minister at the end of two years from the commencement of section 6. The Hon. Mr Darley recently moved a motion, during private members' business, as follows:

That the Legislative Review Committee inquire into and report on:

1. The effects on the court system and its participants of extending the right for victims to deliver a victim impact statement in any court to cases where the defendant has been convicted of a summary offence that has caused serious harm...

2. The current effects and consequences for the court system and its participants of allowing a victim to submit a victim impact statement in the court for an indictable offence.

3. The types of systems, facilities and services that should be in place to aid and assist victims involved in the criminal justice system.

4. Any other relevant matters.

The justification for the inquiry, as stated by the Hon. Mr Darley, was that he did not accept the government's reasoning in not supporting his amendment to extend the definition of 'prescribed summary offence' to include serious harm.

I note the debate on the motion to seek an inquiry from the Legislative Review Committee on these matters has been adjourned. Upon consulting with the Victims of Crime Commissioner, the government does consider that there is merit in reviewing the operation of section 7A as amended under the Criminal Law (Sentencing) Act 1935 and the impacts of extending the definition of 'prescribed summary offence'.

However, the government does not support the aspect of this amendment which requires provision of the report by the minister directly to the Legislative Review Committee of the parliament. In the spirit of compromise, and in an attempt to ensure that the bill is passed, the government has filed an amendment, which alters the Hon. Mr Darley's proposed new clause in a minor way. Specifically, the government seeks to alter the Hon. Mr Darley's proposed new clause 9A(2) by requiring a copy of the report on the inquiry to be laid before each house of parliament as soon as practical after receipt of the report by the minister. This is consistent with the approach taken in other statutes, where there is a legislative requirement for a report to be produced after a period of time has passed. I urge members to support the government's amendment to the Hon. Mr Darley's proposed new clause 9A(2).

The CHAIRMAN: I ask the minister to move his other amendments as I intend to put them first.

New clauses 9A to 9D.

The Hon. P. HOLLOWAY: I move:

Page 6, after line 39—After clause 9 insert:

9A—Amendment of section 64—Arrangements may be made as to manner and time of payment

Section 64(1)—After 'pecuniary sum' insert:

(other than a VIC levy)

9B—Amendment of section 70I—Court may remit or reduce pecuniary sum or make substitute orders

Section 70I(3)—After paragraph (a) insert:

(ab) defer payment of the pecuniary sum in whole or part until such time as the Court thinks fit, being a period not more than 2 years after the date on which the Court reconsiders the matter under this section; or

9C—Repeal of Part 9, Division 3, Subdivision 5

Part 9, Division 3, Subdivision 5—delete Subdivision 5

9D—Amendment of section 70L—Community service orders

Section 70L—After 'pecuniary sum' insert:

(other than any part of the pecuniary sum that is comprised of a VIC levy)

These amendments correct the anomaly I referred to earlier in my comments on clause 1.

New clauses 9A to 9D inserted.

The CHAIRMAN: We now have the Hon. Mr Darley's proposed new clause 9A before us and the minister's amendment.

The Hon. S.G. WADE: I will comment on behalf of the opposition. I do not agree with the minister's description of the amendment being a minor change. To say that a report that was previously intended for a parliamentary committee is now to go back to a minister and be tabled in parliament is not a minor but a fundamental change. The opposition is attracted to the Hon. Mr

Darley's proposed new clause, because you have to ask yourself: if the minister appointed the inquirer, which both proposals envisage—the minister regards that person as an appropriate person to undertake an inquiry and the report has been completed—would it not be better for the report to go to a committee that represents cross party members who can give broader consideration to a matter than any one individual might be able to?

It also gives the committee an opportunity to consult with stakeholders. It may well be that a victims' support service or organisation involved in the criminal justice system or prisoner support—a range of people—might want to make comments to the Legislative Review Committee. The opposition, faced with the alternatives, prefers the proposal of the Hon. John Darley. The opposition welcomes the government's willingness, at least on this occasion, to look at a workable solution. After all, we now have the government supporting a review. We were told, 'Don't worry about it; we know that the floodgates will open and the Magistrates Court will collapse.' Now the government is supporting a review, and we acknowledge that.

The Hon. P. HOLLOWAY: The report is in two years. It is extraordinary that the opposition is saying that this report should go to a committee of the parliament but not be laid before both houses of parliament. If the government's amendment to this is not carried, we will not support the rest of the Hon. Mr Darley's proposed new clause.

The committee divided on the Hon. P. Holloway's amendment:

AYES (12)

Bressington, A.	Brokenshire, R.L.	Finnigan, B.V.
Gago, G.E.	Gazzola, J.M.	Holloway, P. (teller)
Hood, D.G.E.	Hunter, I.K.	Parnell, M.
Winderlich, D.N.	Wortley, R.P.	Zollo, C.

NOES (9)

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

Majority of 3 for the ayes.

The Hon. P. Holloway's amendment thus carried; new clause as amended inserted.

Clauses 10 to 12 passed.

Clause 13.

The Hon. M. PARNELL: I move:

Page 8, lines 17 to 20—delete clause 13 and substitute:

13—Amendment of Schedule 2—Exempt agencies

Schedule 2—after paragraph (k) insert:

(ka) the Commissioner for Victims' Rights, in respect of functions involving the provision of assistance to particular victims (but not functions involving the provision of assistance to victims generally or any other functions);

This is a very straightforward amendment. It seeks to modify the government's insertion of the Commissioner for Victims' Rights into the list of exempt agencies under the Freedom of Information Act. To briefly explain, members would be aware that under the Freedom of Information Act the default position is that we are entitled to see documents. Section 12 of the act provides:

A person has a legally enforceable right to be given access to an agency's documents in accordance with this act.

That is the starting position. The act then provides that there are exempt documents and there are exempt agencies. When it comes to exempt documents, we are very familiar (especially those of us on the cross benches and opposition benches) with cabinet documents being restricted—we never get to see those—and there are other documents that require consultation. However, when it comes to exempt agencies, the inclusion of an agency in this list basically means that every single document it holds is exempt and we cannot get it under freedom of information.

I do not think that is appropriate for every document held by an agency. In fact, if you go to schedule 2 of the Freedom of Information Act, Exempt Agencies, you will find that even agencies such as the police are not absolutely exempt; only certain of their functions are exempt, such as Special Branch, the Operations, Planning and Intelligence Unit, and the Anti-Corruption Branch. We cannot see the documents for certain areas of their work, and I believe that the same approach should apply when it comes to the Commissioner for Victims' Rights.

In other words, let us determine what documents the commissioner holds that ought properly be protected. We should not have access to those. My amendment provides that those documents are ones that involve the provision of assistance to particular victims. So, we do not need to see individual victims' files, but there are documents held by the commissioner that are genuinely in the public interest, and we should be able to access them under the Freedom of Information Act.

I mentioned in my second reading contribution that I have, in fact, lodged a freedom of information application, and, as I understand it, the commissioner had to go to some length to satisfy my request because there were many hundreds of individual victim files that had to be gone through. I do not think we need to put the commissioner to that trouble; nevertheless, there are important documents—relating to law reform, for example—that we should be able to access.

My amendment is very simple. Basically, it accepts that the Commissioner for Victims' Rights can be added to the list of exempt agencies but only in respect of functions involving the provision of assistance to particular victims, not functions involving the provision of assistance to victims generally, or any other functions. In other words, my amendment proposes to keep confidential—secret, if you like—documents that relate to individuals, but allows any member of the community to apply, under the Freedom of Information Act, for access to other documents.

The Hon. P. HOLLOWAY: The Hon. Mr Parnell has filed an amendment that grants the Commissioner for Victims' Rights the status of exempt agency under the Freedom of Information Act in accordance with the government measure, but seeks to place unworkable and ambiguous limitations upon that exemption. This amendment should be opposed for a number of reasons.

A person can currently make an application for access to documents held by the Office of the Commissioner for Victims' Rights, as it constitutes an agency as defined under section 4 of the Freedom of Information Act. Under such an application documents of any type are able to be accessed by an applicant unless the said documents fall under section 20 of the Freedom of Information Act, whereupon access can be refused by the agency—in this case, the commissioner's office.

Under the current provisions of the Freedom of Information Act 1991, the commissioner could not refuse access with respect to the bulk of documents in his possession, and this has caused the Commissioner for Victims' Rights significant alarm, enough for him to lobby for exempt agency status under schedule 2 of the Freedom of Information Act. There is good reason for this: that is, to ensure that victims of crime in South Australia and persons generally can have confidence that the documents received, generated and possessed by the Commissioner for Victims' Rights, in accordance with his prescribed functions under section 16 of the Victims of Crime Act 2001, are not at risk of disclosure to a third party.

Much of the information held by the commissioner is of a highly sensitive and personal nature. Victims of crime—and indeed the public of South Australia—need to have confidence that their interactions, communications and matters generally raised with the commissioner's office will not be released to an applicant under the Freedom of Information Act. Classifying the Office of the Commissioner for Victims' Rights as an exempt agency pursuant to schedule 1 of the act as proposed in this bill is the only means by which this can be achieved.

This amendment only affords exemption to the commissioner under the Freedom of Information Act 1991 for functions involving the provision of assistance to particular victims, but not functions involving the provision of assistance to victims generally, or any other functions. Therefore, under this amendment, documents that relate to specific and identifiable persons who are victims of crime in the possession of the commissioner will be protected, but those who do not currently fall within the exemptions of the act will not be. The task will therefore fall upon the commissioner to plough through each and every document to determine whether each constitutes an exempt document or relates to a particular victim.

What is not considered by this amendment is where the case of a particular victim forms the basis for a law reform measure or is referred to in correspondence to other justice department

stakeholders for the purpose of the commissioner advocating on his or her behalf. Such correspondence is originally based on the case of a particular victim, but will often culminate into content regarding policy decisions and internal practices of an organisation. This is most suitably demonstrated by a reference to an agreed victim who has been advised by the Office of the Director of Public Prosecutions that there is no reasonable prospect of conviction on a case. That is not the only reason this amendment should be opposed.

Of most concern is that functions involving the provision of assistance to victims generally, or any other functions, will not be exempted under this amendment. It appears that the intended purpose of this distinction is to permit access to documents where victims are discussed generally as opposed to individually. Applying in practice such a distinction would undoubtedly be a difficult task given that, more than often, practice or procedural changes in the criminal justice system arise from an individual circumstance or case. Equally, one document could contain aspects of both, that is, discussion about victims generally and specific individuals.

The use of the phrase 'provision of assistance' is to be criticised in that it is difficult to establish specifically what this means. Does it relate to written correspondence or communications to a victim, or does it also extend to minutes to various stakeholders? Most functions performed by the Commissioner of Victims' Rights prescribed under section 16 of the Victims of Crime Act could be considered as providing assistance in one form or another.

Examples of the types of correspondence or documents generated or received by the commissioner include letters or telephone calls from victims and applications to the Attorney-General for ex gratia payments. Minutes are also prepared by the commissioner to the Attorney-General in relation to legislative amendments and/or complaints about public officers from other government agencies. Much of the information is of a sensitive nature and, at times, remains uncorroborated or unsubstantiated until further investigations are carried out. The amendment is not workable and creates more ambiguities than it solves. For this reason, the amendment should be opposed.

The Hon. M. PARNELL: Just in response to what the minister has said, in earlier debate on this bill, various members recounted their dealings with the Commissioner for Victims' Rights. The minister has basically just told the committee that, as a result of the difficulty of having to go through lots of files, the commissioner sought some protection. I think I am at liberty to say that I have had discussions with the commissioner as well, because I do not want to put the commissioner and his fairly small staff in a difficult position with an onerous workload. It is certainly my understanding from those communications that the commissioner is very comfortable with the type of approach that I am taking, because it does not involve him having to go through individual client files, if we can call them that.

The other types of information that the minister referred to, such as law reform submissions, complaints about the judiciary, and things like that, are genuine public interest documents that I think members of parliament, in particular, have a right to know about, because we are ultimately responsible for all of these organs of the state and their proper functioning. So, there is nothing in my amendment that I believe is unworkable. I think that it strikes the right balance between making sure that individuals can communicate with the commissioner with confidence and that their information will be treated confidentially, and there are other provisions in the legislation that relate to that. However, when it comes to the right of citizens to access documents held by government agencies, I do not believe that it is appropriate to have a blanket prohibition which basically says, 'Any document held by this agency is not to be disclosed under freedom of information.' I do not believe the amendment is unworkable. I think it actually strikes the right balance, and I urge all members to support it.

The Hon. DAVID WINDERLICH: Will the minister advise what other agencies are exempt in this way? For example, is the Department for Families and Communities and its child protection functions exempt in the way being proposed?

The Hon. P. HOLLOWAY: The following are exempt agencies: all royal commissions; the Motor Accident Commission in respect of any matter relating to a claim or action under part 4 of the Motor Vehicles Act; the Essential Services Commission in relation to various information; the Auditor-General; the Attorney-General in respect of functions related to the enforcement of criminal law; the Parole Board; the Solicitor-General; the Crown Solicitor; the Director of Public Prosecutions; the Ombudsman; the Police Complaints Authority; the Public Trustee in respect of functions exercised as executor, administrator or trustee; SAFA; the Local Government Financing Authority; the South Australian Superannuation Fund Investment Trust; a minister of the Crown in

respect of the administration of the former South Australian Development Fund or the Industry Investment Attraction Fund or a fund substituted for the Industry Investment Attraction Fund; South Australia Police in relation to information compiled by the former Special Branch, the former Operation, Planning and Intelligence Unit or the Operations Intelligence Section or a body substituted for the Operations Intelligence Section or the Anti-Corruption Branch; and the Local Government Association.

The Hon. R.L. BROKENSHIRE: Family First supports the Hon. Mark Parnell's amendment. I put on the public record that we as a party and I personally have the utmost respect for the way in which the commissioner goes about his work. I worked with the commissioner when I was the police minister, and he is a person with high professional ethics and integrity. However, having said that, whilst we need checks and balances in relation to FOI so that we do not breach the confidentiality of victim's statements and correspondence with the commissioner, I believe the Hon. Mark Parnell has explained adequately that those checks and balances are there.

However, when it comes to general correspondence and processes between, for example, the Attorney-General's Office and the commissioner's office, I think members of parliament in particular should have access to that sort of information. One of the things that is frustrating me at the moment is that, time after time, there is a dumbing down and closing off of opportunity for members of parliament, in their role of representing constituents, to get basic information through the FOI process. That is why we have already flagged in this chamber that we will be moving amendments in relation to that issue. I do not think it is in the best interests of the public to put a blanket ban on any access by members of parliament or others to all documentation relating to the commissioner's office, and that is why we support the amendment.

The Hon. S.G. WADE: In accordance with the concerns expressed in the House of Assembly by the shadow attorney-general and also in this place by myself, the opposition has already indicated that it has concerns about the government's proposal to provide such a blanket exemption. In our view, the government's concerns expressed in the chamber tonight are basically requiring too much of legislation. Legislation always needs to be interpreted. That is why agencies have policy documents and operational manuals. FOI is not always easy. FOI laws, and exemptions under those laws, need to be interpreted, and that is why CSO advice is available.

In fact, I thought the minister, in answer to the question asked by the Hon. Mr Winderlich, highlighted that these provisions are already being interpreted. The minister referenced the Motor Accident Commission, which has an exemption which is limited: it is limited to accept in relation to any claim or matter. I cannot see why the Hon. Mark Parnell's statement involving the provision of assistance to particular victims is any more obtuse or difficult to interpret or understand than the MAC exemption. In that context, I imagine that the Commissioner for Victims' Rights will seek advice from the Crown Solicitor's Office, just as the Motor Accident Commissioner, in the interpretation of responsibilities under the FOI act, also probably sought advice from the Crown Solicitor's Office.

I also indicate that, in that context, if the government had the spirit to do so, considering this amendment was tabled some time ago, it might have come with words to tighten that statement. To expect it to turn into some operational manual, such as the minister's recounting of point by point, is expecting far too much of legislation. It would bog down the parliament and involve us too much in the administration of agencies, and it would not support the principles of FOI. On balance, the opposition will be supporting the amendment of the Hon. Mark Parnell.

The Hon. DAVID WINDERLICH: I will also be supporting the Hon. Mark Parnell's amendments. I think that the default position in a democracy is openness. You need to argue the case every time. I think the default position is openness; anything that departs from that has to be argued on a case-by-case basis.

I notice in the disturbingly long list of exemptions given by the minister that there seem to be three categories: there are commercial entities, such as SAFA or, perhaps the Motor Accident Commission; there were specific functions—limited exemptions—for the Anti-Corruption Branch of SAPOL; and there were absolutely inexplicable ones, such as the Local Government Association. Why it would need an exemption is absolutely beyond me.

One that was not on that list, unless I misheard it, was Families and Community Services. That seems to me to be, in many ways, the closest parallel, when one is talking about dealing with sensitive details of individuals and individual cases. It seems to me that that is the closest comparison to this case in relation to victims of crime.

I really cannot see a good reason why one would give exemption to a whole agency. There are already far too many exemptions; no wonder this is known as the state of suppression. I will be supporting the Hon. Mark Parnell's amendments.

The Hon. P. HOLLOWAY: As I indicated, I think the great regret, if this amendment passes, is that it will create a whole lot of unnecessary confusion in relation to its meaning. Clearly, the list of exempt agencies, in terms of the Motor Accident Commission, provides 'in respect of any matter relating to a claim or action under part 4 of the Motor Vehicles Act'. That is pretty clear. Of course, there has to be some interpretation, but, ultimately, its meaning is fairly clear. I suggest that the same is not so when it comes to the particular amendment moved by the Hon. Mr Parnell, which provides:

> The Commissioner of Victims' Rights, in respect of functions involving the provision of assistance to particular victims (but not functions involving the provision of assistance to victims generally or any other functions);

The fact that it is so qualified is what creates ambiguity in the system. However, the tragedy of this amendment, which clearly will pass because it has the numbers to do so, and if this bill were to go forward (and I think that is unlikely given the amendments that have been moved) it will undermine the confidence of any victims who want to go forward and supply information to the agency if they know that it can be used potentially for political purposes. Let us be blunt. The main use of the Freedom of Information Act in this state is for political purposes. We had a few—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: Well, it is not an attitude, Mr. Lawson; it is plain fact. The principal purpose of the Freedom of Information Act is to gain media traction. Everybody knows that. I am surprised that the Hon. Robert Lawson thinks that it has some purer motive. If a document is obtained under FOI, it almost has some quasi-religious significance as though it is at a higher level. Because it has 'under FOI', it has some—

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: It is not a rarity. Far more documents are released now than there were under the legislation of the Hon. Robert Lawson. I remind the committee that that was extensively amended just after the period he was in government. Far more information has been released under FOI in recent times than there ever was under the previous government. That is a simple statement of fact.

In question time recently, the Hon. Mr Brokenshire was complaining that the government actually released information before an FOI was to be given out. It was not about whether or not you released the information; it was about the quasi-religious significance that was given to the label 'FOI'.

To get back to the point in hand here, if the victims are to know that personal information can now be used and used politically—because, make no mistake, that is the implication of this particular clause, that it can be used and released—then I think victims will be much less likely to use the services of the Office of Victims' Rights and I think that will be a tragedy.

Let us have none of this pretend concern that members of the opposition in particular are putting up that they are really concerned about victims' rights. If they were concerned, they would not put the personal details of victims at potential risk of exposure as they will be doing if they support this amendment.

The committee divided on the amendment:

AYES (13)

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

NOES (6)

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

PAIRS (2)

Lucas, R.I. Finnigan, B.V.

Majority of 7 for the ayes.

Amendment thus carried; clause as amended passed.

Clauses 14 and 15 passed.

New clause 15A.

The Hon. P. HOLLOWAY: I move:

Page 9, after line 6—

After clause 15 insert:

15A—Amendment of section 32—Imposition of levy

Section 32(8)—delete subsection (8)

I have gone through the ritual of moving this amendment. I am afraid this bill is now so fatally flawed that it probably has little purpose.

Members interjecting:

The Hon. P. HOLLOWAY: It is a fact. It is not going anywhere, is it? You've killed it.

New clause inserted.

Clause 16 passed.

Title passed.

Bill reported with amendments.

Bill read a third time and passed.

PUBLIC SECTOR BILL

Adjourned debate on second reading.

(Continued from 26 March 2009. Page 1811.)

The Hon. R.L. BROKENSHIRE (22:54): I have already had a fair bit to say on this bill and, given the time of night, I will shorten some of my remarks. Notwithstanding that, I want to reinforce that Family First has some serious concerns about this bill. I note with interest that we have made a couple of amendments in a democratic parliament—and I believe it is still a democratic parliament, although sometimes one would wonder—yet the Leader of Government Business says that the bill may be pulled. If they want to pull a bill, pull this one, because this bill is one of the worst pieces of legislation that I have seen in a long time.

I said to one of my colleagues during a coffee break that, if the government is determined to push this bill through and it is returned to office, I do not believe it will be in office for more than one more term because, once the damage starts to ripple through the opportunity for good public servants to have a decent workplace and work practices, tens of thousands of public servants and their families will be letting all their cousins and neighbours know just how this government has let down fundamental issues when it comes to the rights of decent workers just trying to go about their business on behalf of the government and the community.

I also want to flag to my colleagues that, due to the illness of my adviser, a couple of amendments that we are in the process of preparing are not ready. Given that it was late 2007 when the minister released the draft with some urgency, and it was November 2008 before we saw the tabling of the final bill, I would ask the government to give us a chance to table those amendments and any others that colleagues may have before we reach the committee stage.

I just want to touch on some issues during the second reading, and I will have quite a lot more to say on several of the clauses during the committee stage. I find it interesting to see the fingerprints of two or three Senior Management Council members, one being a Ms Sue Vardon, who I understand had a lot to do with the driving influence of this bill. She has now left the Public

Service with a golden handshake, even though I understand that it was a resignation. The rank and file of the Public Service have not left and are out there trying to do a job in the best interests of Public Service delivery to the community.

I find it amazing that someone like Sue Vardon, who has an interesting record (and I can remember talking to ministers who were dealing with her in a former government and hearing the frustrations around some of her practices back then), has been brought back in by this government when it had an opportunity not to do so. Then there was an interesting situation around the portfolio that she was in charge of, and we see her fingerprints all over this, working against fairness and equity for workers. It is amazing that this government got itself tangled up in this. I understand that maybe Business SA and perhaps a few other people on the economic driving team that the Premier put together also had some input into this bill.

We received a letter from the minister—and, to give credit where it is due, at least when the Hon. Jay Weatherill is putting forward a bill he offers good briefings and personally writes to members and outlines what he is about. He said:

> Providing a new, modern, flexible employment framework for managing the South Australian Public Service is vital for the state's future prosperity.

He went on to say:

> The Government understands the challenges that our state faces, and as a result new ways of working are needed, including approaching these challenges with a whole-of-government perspective and reflecting the move towards a citizen-centred public sector.

I was pondering what the minister was really saying when he talked about a citizen-centred public sector. I thought we already had a citizen-centred public sector. Certainly, whenever I have publicly or privately had to deal with members of the Public Service they have always seemed to be centred on service to citizens. So, I do not see that this draconian legislation has any benefit with respect to assisting a citizen-centred public sector. In fact, I think it is a slap in the face for those people who have been doing that focus work for a great period of time. The letter further stated:

> For the Government to modernise the employment framework and be able to be responsive to employment needs—

I find that interesting: 'responsive to employment needs'—

> the Public Sector Management Act 1995 has been reviewed and new legislation developed to replace it.

Apparently, following extensive public consultation, he says that the bill was finalised and introduced into the parliament. They may have had public consultation, but whether or not it was extensive, I am not sure; and whether it took into account some of the bona fide, genuine and reasonable comments—and I reinforce 'reasonable'—from those who will be most adversely affected by this, I am not sure. I am not sure that they took any notice of the responses to that consultation.

They talk about new public sector principles, greater emphasis on one government. I do not quite understand what they mean by 'greater emphasis on one government'. Is that an indictment that the government has not been united, focused or committed? If it is, then it says to me that government leaders should be looking at themselves in the mirror because they have been here for seven years, not having a go at a Public Service which often tries to work under difficult parameters, because governments come and governments go and changes, directions and great upheavals always occur as a result of the policy and procedure of the government of the day. However, public servants always have to go along with that. Sometimes, when changes are significant, they take a while; for example, the justice portfolio, when many departments were combined into the one. However, to actually say that there is to be a greater emphasis on one government to me says that this government is not focused on its role—if that is what it is saying.

Another aspect is an enhanced role for chief executives. I think that is mainly when it comes to being able to hire and fire, because I am not sure what other enhanced role chief executives need because they have pretty broad parameters within their terms of contract and directives from ministers, anyway. I see an enhanced role for chief executives as being one whereby they have the right to hire and fire. In relation to provisions to facilitate greater mobility of public sector employees across the public sector, if you had the good career pathways and opportunities that used to be in the Public Service then you would have that facility already.

The reason I am highlighting this and want to get it on the public record is that, when I read the minister's letter, it is coded, frankly, and underneath that I see something different. I believe

something like 'provisions to facilitate greater mobility of public sector employees across the public sector' means that, if the government suddenly wants to rationalise, close down or reduce departmental services in rural and regional areas, as we are seeing now, well, too bad. You either come to Adelaide or you go to another department about which you know little or in which you may not have the expertise or experience, relocate your family, or we will see you later alligator, your job has gone. For example, 'We are going to build a new prison at Mobilong.' You may have been working at Yatala for 25 years and all your family and all your assets are located nearby, but I read this as saying, 'Well, you will have no choice but to relocate, because otherwise you will not have a job.'

Finally, streamline robust rights of review. That may be all right if again the checks and balances are there. Only recently, I and some other colleagues attended a rally out the front of Parliament House. It reinforced to me the fact that this bill has gone too far when it comes to the lack of consideration for workers' rights. That rally involved a great number of officers from the Department for Correctional Services saying to the government that, if you are going to relocate the main prisons from your city precinct to Mobilong, well you had better start to think about the ramifications and the impact on those staff.

Clearly, the government has not thought that through properly in terms of Mobilong. This legislation really highlighted to me that the government will end up in some trouble over this, particularly in better times when there are opportunities for these experienced public servants to go into other areas, such as the security industry. For example, how will those who work in correctional services manage the difficult task of a complex high security prison when people choose not to be kicked from pillar to post but rather take up opportunities to withdraw and go into other sectors?

I do not think the government has thought this through enough. I am all for reform for the right reasons, and modernisation of principles, business procedures and directions are fine, and that is the sort of stuff that the government should be doing—innovative business planning. To me this is so similar to the fundamentals behind WorkCover. I want to finish with this, but it is so similar to those fundamentals, that is, do not look at a business plan for the problems and issues with which you must deal because you have an unfunded public liability because you have cut back on the focus on work safe policy, practice and inspection.

Do not have a look at your senior executive management—they are all okay. In fact, you can give them a pay rise if they are prepared to back you on advertisements and things like that which justifies artificially why you are doing something draconian.

Do not have a look at the minister who has been in charge through years of unfunded liability blow-outs. Look at the simplistic solution, that is, have a go at the workers. Kick the worker. Well, it will not work. It will not work with WorkCover, and I say here tonight that, before the next state election, I believe we will see a $2 billion unfunded WorkCover liability. That is how it is going at the moment, and that will be in spite of the rapid redemption base it is putting through at the moment, and I will have more to say about that in the coming weeks.

The bottom line is that simplistic approaches do not work. Modernisation and better practices for everyone? Yes. Again, I reinforce the fact that there is an absolute difference between the public sector and the private sector. You cannot expect to have exactly the same employment conditions for Public Service delivery as you have for private service delivery. In fact, even in these most difficult times we are encountering now, I think that a lot of private sector employers will have more heart for their employees than chief executive officers will potentially have for decent public servants at a time when, first, they will be under enormous pressure to deliver efficiency dividends (and this will give them the opportunity to be more draconian in the way they go about some of their reduction in workforce numbers); and, secondly, the thing which also worries me and which I want to reinforce is the cosy nepotism situation that can occur with a wink, wink, nod, nod from the minister to a CEO who will surround themselves with the people with whom they feel comfortable rather than the people with the expertise, experience and heart for that department for the delivery of those Public Service outcomes.

We will see good and decent people giving up on the Public Service because of this ridiculous amount of draconian and unnecessary impost on workers. We have a good public sector. In fact, I have travelled around and I have spoken to a number of people in other states who have said that, over the years, the people they meet in the Public Service in South Australia are committed and professional and they commend them. I say to the government that these people can walk, and the government will experience brain drain. They will go to other states where there

are other opportunities. The growth in the Northern Territory is an example, and I am starting to see those ads already on weekends.

This is bad legislation, because it will cause unnecessary unrest and it will not deliver the outcomes. At the end of the day, I cannot believe that, after seven years, the government has not realised that, without a Public Service that works with and for and alongside the government of the day for the best intent of the state, it will be the one to lose.

Between the government losing and this legislation, a lot of people will be hurt unnecessarily. I say to the government that the best thing it can do, if it wants to start pulling legislation, is to pull this bill and think it through again. There will be a number of significant amendments and, from what I am hearing, the government will be unhappy because the majority of my colleagues in this council will bring some basic fairness back into the bill which at present is completely unfair to public servants.

The Hon. A. BRESSINGTON (23:10): I rise to speak on the bill. First, I make the point that I have made to the minister's advisers. I am afraid that I do not speak, as does the Hon. Robert Brokenshire, in such glowing terms of the public sector but, then again, I have been not been in the position of once being a minister and working alongside the public sector. I acknowledge that there are many within the public sector who are dedicated and committed to their work but, unfortunately, we often miss out on the good news stories.

In relation to the problems that need to be dealt with, I believe we have two categories of workers. We have public servants who do not do their job. They simply do not meet the competency standards and do not have the passion and the fire in the belly to do their job well. They see it as a bit of a cushy job from which it is difficult to get sacked. By all means, I think it should be easier for departments to be able to get rid of the dead wood, for want of a better term, and replace them with public servants who do have the commitment, knowledge, expertise, training and qualifications to undertake their job in the best interests of the people of this state.

On the other hand, we have public servants who are committed and do want to see their department function well but notice that there is a level of dysfunction, not necessarily caused by incompetence but, rather, a level of nepotism—wink, wink, nudge, nudge, let a few policies and procedures slip by—and fairly soon the rot sets in. They try to approach their supervisors up the line—even the minister—in order to try to identify the practices that are not good for the government department.

Sometimes their supervisors and chief executives are included in their complaint and they are harangued, harassed and bullied to the point of making a WorkCover claim for stress; people are sent to the transit lounge and shifted around the Public Service from one department to another where they can make the least amount of noise until they are forced to take a package, resign or work in an environment that is absolutely intolerable and untenable for them. Along with other members in this place, a number of public servants who have spoken to me fall under the category of whistleblower. Their lives have been an absolute and utter misery as a result of doing nothing more than wanting to improve the performance of their department.

I will be supporting the amendments of the Hon. David Ridgway. I am familiar with those amendments and I indicate that I will be supporting them. I am not as familiar with other members' amendments but I assure members that I will be. I am also moving amendments, along the lines of protecting those public servants who would dare to blow the whistle on the incompetence upstream—call it corruption, if you like—or the plain bad culture that exists within some departments. For any person here to deny that there are some departments that have what I would refer to as a toxic culture I believe would be very politically risky given some of the issues that come before us in our offices that we try to deal with to get the best possible outcome.

It is even at the stage where some public servants will not come or are advised by their superiors to not give evidence to a select committee inquiry because it is seen as a breach of the Public Service act as it stands. I see nothing in the current bill that will make that particular responsibility of a public servant any easier. In fact, it has been indicated to me that there are parts that may make that even more difficult. I believe that if we have a government that wants to continually talk about accountability and transparency it is essential that we have a Public Service sector that is able to identify problems that exist, and that people feel safe that their concerns will be taken seriously and dealt with in an appropriate way and that they will not be subject to certain behaviours that force them out of their particular department and the job that many of them love.

I also make the point that I believe this legislation is coming from the wrong angle altogether. I believe, as I said, that chief executives should be able to dispose of dead wood within their departments through due process, but I also believe that in some of these cases that may be becoming probably a little bit more prevalent—more of them have been brought to my attention, and more often—and there needs to be the protection of a safety net for employees who are being harassed and harangued for merely trying to do their job better. One of the amendments that I believe will be put forward is that the commissioner will be included in the due process at the end.

I also feel that the tone of this piece of legislation is almost making the role of the public sector commissioner defunct, and we have a time now when people are expecting better performance and a greater level of accountability because that is what they have been told they are going to get—and we then take the steps within this legislation to move that power away from the very commissioner who is there to make sure that that accountability and transparency is there.

So I will be, as I said, moving a number of amendments, and I know that I will get criticism from the minister for the amendments because some of them will try to transplant parts of the Whistleblowers Protection Act into this public sector bill so that there is a link. On a number of occasions public servants have come to me as whistleblowers and they have had no idea what the process was to lodge a public interest disclosure statement and to start that process, so they have just gone to their supervisors and lodged a grievance, whereas they should have been seeking protection under the Whistleblowers Protection Act. Then they find that when they do go through that process finally, there are policy changes within the department that relate specifically to the public interest disclosure statement that make the conduct appear to be lawful and a direction to not go and give evidence to an inquiry and to not go to the media when their public interest disclosure statement has not been dealt with. They are told by their supervisors that this is in breach of their Public Sector Management Act, which simply, lawfully, if the Whistleblowers Protection Act had any teeth, would not be the case at all.

I urge members to look at my amendments carefully and to consider the intent behind them, namely, to provide a higher level of protection to public servants who want to expose dysfunctions within government departments and have it enshrined in legislation, other than the Whistleblowers Protection Act, because until we bring that act before us for review, which is well overdue, it means nothing. As I have indicated on previous occasions, a number of legal minds in this place have said that the Whistleblowers Protection Act is not worth the paper it is written on. If that act is not enforceable and cannot provide protection to people who want to see government departments clean up their act, pieces of that legislation must be taken out and inserted in other legislation where it can be applied and enforced and protection given.

I will leave that with members to consider and look forward to the debate that will follow on this legislation. It will be interesting to see whether it is truly the government's intention to do the right thing by the public sector and make their life more manageable or whether this is, as I fear, a rather punitive measure to deal with what it sees as a bit of nuisance behaviour.

Debate adjourned on motion of Hon. C. Zollo.

At 23:23 the council adjourned until Wednesday 29 April 2009 at 14:15.