# HOUSE OF ASSEMBLY

**Wednesday 21 July 2004**

**The SPEAKER (Hon. I.P. Lewis)** took the chair at 2 p.m. and read prayers.

## CONSTITUTIONAL CONVENTION

A petition signed by 105 residents of South Australia, requesting the house to pass the recommended legislation coming from the Constitutional Convention and provide for a referendum, at the next election, to adopt or reject each of the convention's proposals, was presented by Mr Hanna.

Petition received.

## STATE SWIMMING CENTRE

A petition signed by 99 residents of South Australia, requesting the house to take action to establish a review to identify the most suitable location for the State Swimming Centre that will allow equal access to all South Australian residents including those north and north-east of the city of Adelaide, was presented by the Hon. M.R. Buckby.

Petition received.

## QUESTIONS

**The SPEAKER:** I direct that the written answers to questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*.

### YOUTH, SECOND STORY

In reply to **Mr HAMILTON-SMITH** (3 June).

**The Hon. L. STEVENS:** Child and Youth Health, including the Second Story Health Service, has a complaints process which documents all complaints and actions.

I am advised that a review of Child and Youth Health records indicates that there have been no complaints received from any community members regarding concerns that their children or young people are involved in programs that put them in contact with older paedophiles. This includes families in all of the programs run by Second Story.

### EVERY CHANCE FOR EVERY CHILD

In reply to **Mrs REDMOND** (26 May).

**The Hon. L. STEVENS:** The honourable member requested information on arrangements for sharing information and reporting between Child and Youth Health (CYH), including staff involved in the recently established Every Chance for Every Child Program and Family and Youth Services (FAYS). I can assure you that there is a long history of information sharing and reporting that relates to procedures and relationships at the interface between the two agencies. This long relationship has maintained a commitment to continuous service improvement, not only between FAYS and CYH, but all health agencies. CYH frequently provides information following requests from FAYS on issues such as parenting, attachment and general child wellbeing. All front line staff at CYH, including nurses and social workers, are trained as mandatory notifiers with refresher courses completed every two to three years as required by the program. As CYH rolls out home visiting across the regions, it will make any necessary adjustments to incorporate changes that may be necessary and to progress the opportunities for combining training and information sessions.

The baby in question was visited as part of Child and Youth Health's Universal Home Visiting program at Elizabeth on 11 February 2004 and all recommended health checks were undertaken. At the time of the CYH visit, the sustained home visiting program had not yet been rolled out in Elizabeth but I can advise the Member for Heysen that it now has been. However, I can confirm that a notification was made to FAYS.

## PAPERS TABLED

The following papers were laid on the table:

By the Speaker—

Barunga West, District Council of—Report 2002-03
Coorong District Council—Report 2002-03
Port Pirie Regional Council—Report 2002-03.

## GLENSIDE HOSPITAL, ESCAPEE

**The Hon. L. STEVENS (Minister for Health):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. L. STEVENS:** Yesterday, the deputy leader asked me why, after seven hours, a public warning had not been issued about a patient who had escaped from Glenside. This person absconded from the psychiatric care facility at Glenside, where he was being treated for schizophrenic illness, at 5.45 p.m. on 19 July 2004. Yesterday, I informed the house that protocols are in place between Glenside and South Australia Police with respect to warnings and that I would seek further advice from the Director of Mental Health and report to the house. A protocol has been developed between the Department of Health, Mental Health Services Branch, SAPOL, Glenside Hospital and the Royal Adelaide Hospital which sets out a joint responsibility to alert the public if a person missing from Glenside poses any threat to themselves or to the community.

In the case mentioned yesterday, I am informed by the Director of Mental Health, Dr Jonathan Phillips, that he determined on clinical mental health grounds that the missing person posed no threat to the community and that no alert was necessary. He further advised that the South Australian police did not perceive the need to issue a public warning in this matter.

After asking the question as to why no alert had been issued, and before receiving advice of the decision by the Director of Mental Health and SAPOL, the Deputy Leader of the Opposition claimed in the media:

> Seven hours after the escape there still had not been any warning issued to the public. The government has clearly failed in its obligations to protect the public.

The deputy leader clearly does not understand how the protocol works, and I offer him a briefing by the Director of Mental Health so that he is informed on these matters and does not make such inaccurate statements in the media in the future. A sentinel event review is being undertaken and the Director of Mental Health has advised that further advice is to be sought on the recently upgraded security fence.

In a second question yesterday the deputy leader asked me if any people had been transferred from Glenside to reside at Strathmont Centre. My advice from the manager of Glenside is that she has been unable to find any records of mental health patients being sent from Glenside to reside at Strathmont in the past 12 months, and long term staff are unable to recall any movements in the last five years. The Strathmont Centre has confirmed this advice but indicated that residents on occasion attend Glenside for treatment.

## TOXIC WASTE

**The Hon. J.D. HILL (Minister for Environment and Conservation):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. J.D. HILL:** Earlier this week, the Leader of the Opposition raised questions about the development of a so-called toxic waste dump at Nowingi in Victoria near the South Australian border. I undertook to the house that I would get some information and bring it back to the chamber. I can inform the house that today my office has discussed this matter with the offices of the Victorian Deputy Premier and Environment Minister, the Hon. John Thwaites, and the Victorian Minister for Major Projects, the Hon. Peter Batchelor. I have been advised by the Victorians of the following. Firstly, the containment facility will not house any toxic waste but will receive only solid, dry industrial waste. Secondly, the site will be fully and independently investigated as part of an environmental effects statement process. I am also advised that both Victorian premier Bracks and environment minister Thwaites gave public undertakings when this was announced in May that if this EIS process does raise any serious doubts about the environment impact—

*Members interjecting:*

**The Hon. J.D. HILL:** They still want the nuclear waste dump here in South Australia.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. J.D. HILL:** They protest too much.

**The Hon. I.F. Evans:** We want one standard, John.

**The Hon. J.D. HILL:** We have one standard: each state should look after its own waste. We are looking after South Australian's waste. All you are concerned about is what the Victorians are doing.

*The Hon. I.F. Evans interjecting:*

**The SPEAKER:** Order!

**The Hon. J.D. HILL:** If the EIS process does raise any serious concerns or doubts about the environmental impact on the Murray Darling System, the project will not proceed. In addition, officers from my department are investigating the proposal and are in dialogue with their Victorian counterparts, and I will inform the house of their findings when they come to hand. I can assure honourable members that this government does take the issue of fighting against dumps and fighting for the interests of all South Australians very seriously. The recent victory by the Rann government over prime minister Howard's plans to force a national radioactive waste dump on South Australia is the clearest evidence of that of all.

## QUESTION TIME

### DISABLED, POST-SCHOOL OPTIONS

**Mrs REDMOND (Heysen):** My question is to the Premier. Does the Premier now acknowledge that there is a funding shortfall for post-school options for young adults with a disability and, if so, what immediate action will he take to address this? Today a large group of disabled young adults and their carers, and other concerned citizens, marched to Parliament House to protest the inadequate funding to provide appropriate options for young disabled adults after their schooling.

**Dr McFetridge:** Where was Jay? Where were you, Jay?

**The SPEAKER:** Order!

**The Hon. J.W. WEATHERILL (Minister for Disability):** I am glad to take this question as Minister for Disability. I am also glad to take responsibility for dealing with a problem that has not been grappled with by those opposite, although they are pleased to be commentators on what is wrong with our system of social services. After eight years in government, where they presided over this program, we are treated to glimpses of opposition spokespeople, usually on the weekend, often a Sunday, casually attired, where they commentate on what is wrong with our system of social services—usually a snap from Victor Harbor or some other area of the state. It usually involves—

*Mr Williams interjecting:*

**The SPEAKER:** Order, the member for MacKillop!

**The Hon. J.W. WEATHERILL:** —poring over the wreckage of our system of social services in this state, and this is an example of another program that has not received attention over the past decade. As we go about—

*Mr Brokenshire interjecting:*

**The SPEAKER:** Order, the member for Mawson!

*Members interjecting:*

**The Hon. J.W. WEATHERILL:** Well, it in fact hasn't. As we go about rebuilding our system of social services, this particular program (and I must say that this is a program of around $7 million or $8 million in a disability budget of $210 million, so it is one program within a large budget allocation in this area) is a very important one, and it is indeed an area that requires our attention. I complement the organisers of the rally. They have brought a large number of parents and their advocates together and, indeed, I had the opportunity just before coming into question time to meet with a number of those parents and their advocates, and they have given me a greater understanding of the issues involved here.

I say at the outset that it is important that these parents and their advocates are aware that this government understands the extent of the pressure that these families are experiencing. We understand the situation facing many of these families: I think the figure quoted was that 88 per cent of families with disabled children are single parents, which is a regrettable issue. That means that the burden tends to fall very much on one set of shoulders. Often there are work balances to look at, and often there are elderly parents who may need to be cared for. So, it is not just the disabled child within the family who needs to be cared for but, indeed, it involves much broader responsibilities. Many of these parents fear that if something was to happen to them the whole of their family would fall apart.

We understand that problem. We also understand that, should these children become the care and responsibility of the state, even further expenses would be borne by the state. So, there is a need to address this program. We put 18 per cent additional resources into this particular subprogram in the last budget. There is still additional need, and we will address those matters. A number of things which we discussed today are worth giving consideration to.

The Options program involves specialised tailored programs; this is a group of young people who are about to leave school; they are often about 20 years of age; and they are not able to go to supported employment options. They are coming from a situation where they have had activities in their lives for five days a week, and now they come to a situation where they are not in employment. It may be that they need some other developmental option and, of course, there is the element of respite for the parents.

So, we are now giving consideration to a number of issues. There is, of course, the need for additional resources but there is also a need to look at what we offer, and whether we have the most cost-effective way of providing these after-school

options. All those things will be worked through with the parents and their advocates. I have invited them to continue working with me in that process, and I hope that we can encourage them to have faith in the government that it will address this important issue.

## DENTAL WAITING LISTS

**Ms RANKINE (Wright):** My question is to the Minister for Health. What strategies are being used to manage the dental waiting lists that increased after the Howard government cancelled the Commonwealth Dental Scheme in 1996; and what are the current waiting times for dental care?

**The Hon. L. STEVENS (Minister for Health):** I thank the honourable member for Wright for this question, because this is of significant concern to many people in our community. This year the state government allocated an extra $4.5 million over four years to tackle the dental waiting lists, and this funding is on top of the $8 million over four years allocated in our first budget in 2002. As a result of the cancellation of the Commonwealth Dental Scheme in 1996 the waiting lists in South Australia increased to over 100 000 people and the average waiting time for restorative work went from 10 months in 1995-96 to 49 months in 2001-02. The average waiting time for dentures went from 23 months in 1995-96 to 44 months in 2001-02.

As a result of increased state funding and strategies to transfer clinical effort from emergency pain relief to prevention care, the average waiting times for both restorative and denture work has fallen to 35 months. While this is a significant improvement, there is still a long way to go. I believe that the commonwealth has a responsibility to restore federal funding for dental services, and I am pleased that this has been recognised, at least by federal Labor. The federal shadow health minister has announced $420 million over four years for a new program, Australian Dental Care.

*Mr Brokenshire interjecting:*

**The Hon. L. STEVENS:** Well let's see what John Howard will do, because he has not done anything yet. South Australia's share of that funding would treat about 100 000 people; in other words, it would wipe out our waiting list with a little to spare. I congratulate federal Labor on this initiative. It is another strong point of difference between Labor and Liberal on health care.

## MOVING ON PROGRAM

**Mrs REDMOND (Heysen):** My question is to the Treasurer. Is the Treasurer prepared to release additional funding to address the shortfall in the Moving On program which provides options for profoundly disabled young adults? By way of explanation I simply quote the response of the minister to the previous question, 'We understand the problem.'

**The Hon. J.W. WEATHERILL (Minister for Disability):** I will provide just some elementary information to the house about where the resources come from: it all actually comes from taxpayer funds, which are divvied up in a budget. When one has the starting point that we had in the system of social services that we are dealing with, it becomes a question of making choices about what we address first. We have made choices around addressing the extraordinary need within the health system; we have made choices about addressing the extraordinary need within our system of child protection; and we have focused on other specific areas such as homelessness, and the appalling situation that exists in the APY lands. We have made those choices, but that is not to say that there are not other areas of high need; but they will receive our attention.

## CLIMATE CHANGE

**Mr CAICA (Colton):** My question is to the Minister for Environment and Conservation. What are the implications for South Australia of climate change, and what national solutions will the government support?

**The Hon. J.D. HILL (Minister for Environment and Conservation):** I am amazed that those opposite express humour at such an important question raised by the member for Colton. This will be the most serious environmental issue facing our nation over the next century, and I thank the member for Colton for his question. He is a member who acts locally and thinks globally and he is, indeed, a very strong advocate on the issue of climate change.

According to the 2003 CSIRO report, annual average temperatures in South Australia could increase by up to 6 degrees centigrade by 2070. That could mean a bigger change to our climate than the last Ice Age, when the global mean temperature was just 4° centigrade lower than we experienced today. Just imagine what would happen if temperatures increased by as much as 6° centigrade: inland, our continent would be a scorched dust bowl.

According to Dr Tim Flannery, an average increase of just 1° centigrade could be enough to kill up to 70 per cent of species in some plant groups in South Australia, and just 2° could destroy Kakadu and the Great Barrier Reef. Those are very concerning considerations. Coastal electorates, such as Colton, could expect more violent and frequent tidal storms and floods. Certainly, the Rann government has policies to—

*Members interjecting:*

**The Hon. J.D. HILL:** It is interesting that they mock this; they do not seem to understand that it is a serious issue. Certainly, the Rann government has policies to work at a local level to curb greenhouse emissions, but what is needed is a national strategy to declare war on greenhouse gas emissions. Unfortunately, the federal Liberal Howard government has refused to produce a greenhouse strategy, and its recent energy policy was just a sop to the local coal industry.

I am pleased to inform the house that there is an alternative. Under the leadership of Mark Latham, the federal Labor Party has announced that it will sign the Kyoto Protocol and more than double the mandatory renewable energy target (MRET) to 5 per cent—and I know Ms Susan Jeanes is very pleased about that—which will be very good for both the environment—

*Mr Brokenshire interjecting:*

**The Hon. J.D. HILL:** The only sludge over there is you, old boy—and the economy, sparking new investment in green energy technologies, such as wind farms. This is exactly the decisive national plan that Australia needs in order to avert a total disaster.

## OPTIONS PROGRAM

**Mrs REDMOND (Heysen):** How does the Minister for Families and Communities intend to ensure that the inadequate level of funding in the post-school options program is applied equitably to all those families in need of post-

school options? On the government's own figures, the level of funding currently provided is not sufficient to provide care for five days a week for all those who need it. Parents have reported to me that they can obtain no adequate explanation as to how the assessment is made of who will get five days, four days, three days and so on.

**The Hon. J.W. WEATHERILL (Minister for Families and Communities):** I am happy to explain to the house how we will ensure that equity will be maintained in this program—that is, to ensure that there continues to be a Labor government in this state, because the only hope that people on this program have is a government that is committed to rebuilding the social services of this state.

*Mr Brokenshire interjecting:*

**The SPEAKER:** Order! The member for Mawson can still draw breath, but it is not a good idea to draw guns.

## REGIONAL FESTIVALS

**Ms BREUER (Giles):** My question is to the Minister for Tourism. What regional festivals and events are being supported by the government under this year's South Australian Tourism Commission regional festivals and events program?

**The Hon. J.D. LOMAX-SMITH (Minister for Tourism):** I thank the member for Giles for her question, because I know that she, more than anyone, realises the importance of regional festivals and events to economies such as her own, where employment and wealth are spread through communities by these activities. This year, we are boosting the state's tourism yield and the numbers of available activities and keeping at record levels our investment in funding for regional festivals and events, retaining it at more than $600 000. We have received more applications for funds under this program than ever before, but have chosen those festivals around the state that will make a significant difference to local economies.

The funds are allocated to those events or festivals that will generate tourism activity in regional areas and lift the profile of the state's regions in a way that will boost our reputation as a festival state. All funding is granted on the basis that it is used towards event promotions, media and marketing activities, with events supported working closely with regional marketing committees to ensure that the event leverages the region's marketing plans and brand attributes. Whilst many large-scale events are based in Adelaide, there are regional events and festivals across the state almost every weekend of the year. A year-round program of successful events will position South Australia as a place where any time is a good time to visit because something is always happening.

Events supported through the Regional Events and Festivals Program also offered in-kind support from the South Australian Tourism Commission, including promotion in SATC publications. Some of the events funded this year include: the Whyalla Fishy Fringe Festival, which will please the member for Giles; the Outback Fringe Festival at Roxby Downs; the Southern Flinders Live Music Festival; Tastes of the Outback; the Wild Boar Weekend at Stone Hut; the Meadows Country Fair; the Barossa Band Festival; Spring in the Clare Valley; the Strathalbyn Collectors, Hobbies and Antiques Fair; the Gawler Fly-in Golf Classic; the Limestone Coast Children's Expo; the Australian International Pedal Prix; and Kernewek Lowender, which I am sure will please the member for Goyder.

This program continues to add strength to the South Australian Tourism Plan 2003-08 by supporting one of its main objectives (objective 1.4), which is to develop a balanced program of events and festivals. This is another example of this government's investment in tourism in the regional economy.

## JUSTICE DEPARTMENT, CEO

**Ms CHAPMAN (Bragg):** My question is to the Attorney-General. Is it correct that Mr Mark Johns was not on the short list of three candidates for the position of CEO of the Department of Justice, as recommended by the panel originally established to recommend an appointee, and what were the criteria for the appointment to the position? The opposition has received information that Mr Johns was not the preferred candidate and that there was political interference in the appointment process.

**The Hon. M.J. ATKINSON (Attorney-General):** It was a short list of five, and Mr Johns was on it.

## WORKPLACE SAFETY

**Mr SNELLING (Playford):** Will the Minister for Industrial Relations advise how WorkCover's grants scheme is assisting Vietnamese and Cambodian members of our community to make workplaces safer?

**The Hon. M.J. WRIGHT (Minister for Administrative Services):** I have been advised that the grants scheme has been in place for more than 10 years and provides funding for projects and research that will assist employers and employees to make their workplaces safer and improve injury management outcomes. In considering submissions for funding, the grants committee, which is made up of a variety of stakeholders in the occupational health, safety and welfare and workers' compensation system, gives priority to projects that can demonstrate a clear need and an ability to impact positively on the working community.

WorkCover has funded a project for Vietnamese and Cambodian farm workers which has been developed and implemented for the Virginia Horticulture Centre. This project, which commenced last year after contracts were signed in January 2003, is due for completion at the end of July 2004. It aims to provide practical assistance to the growing number of Vietnamese and Cambodian market gardeners in the Virginia area who, I am advised, now make up approximately half of the growers in that region. Among these market gardeners, real opportunities were identified to improve their level of knowledge of occupational health and safety issues and responsibilities under the legislation, including, for example, a need for better education about the changes associated with some of the equipment and chemicals they use.

I am advised that the Virginia Horticulture Centre used WorkCover grants funding of approximately $78 000 to identify community needs, establish communication channels, and provide occupational health, safety and welfare information in a culturally appropriate manner to the Vietnamese and Cambodian farming community in the Salisbury and Playford council areas, and to conduct a trial with the Vietnamese and Cambodian communities to create a best practice model which would be transferable to other farm workers from non-English-speaking backgrounds.

Using interpreters as project officers, the Virginia Horticulture Centre was able to establish strong relationships

with these two communities and engage them in learning more about how to make their properties safer, as well as being more efficient and effective in the process. Growers have been provided with information and resources in their own language, and the centre now has a model for working with groups from different linguistic backgrounds in the future. This project is an example of how the government is committed to safer workplaces for all South Australians and demonstrates the value of a practical approach to meeting industry and work force needs.

## PAROLE BOARD

**Ms CHAPMAN (Bragg):** My question again is to the Attorney-General. To the Attorney's knowledge, does the Premier have confidence in the Parole Board? Last week, the Deputy Presiding Officer, Mr Philip Scales, wrote to the Minister for Correctional Services advising that he would not seek reappointment at the end of his term and criticising the government, saying that without additional parole officers and more appropriate treatment for prisoners in rehabilitation the community would suffer. Today—

*Members interjecting:*

**The SPEAKER:** Order!

**Ms CHAPMAN:** Today, the Presiding Officer, Frances Nelson QC, has stated, 'The community is at risk because the government will not put enough into mental health resources in relation to children who do offend,' that the government is 'being dishonest' with the public and that the Premier is 'pathetic and uninformed' about mental health issues and crime prevention.

**The Hon. M.D. RANN (Premier):** Can I just say this.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN:** Do you want to hear? If you did not have Frances Nelson, you would have to invent her. I know that there are senior figures in the legal community who did not like the fact that we intervened on the Nemer case and who did not like the fact that we intervened in the public interest on the issue of McBride, Watson and Ellis. I think I know what is going on. I think there is a bit of speculation that tomorrow I might be making a statement on parole matters.

I am aware of what the Liberal Party is doing in the upper house. We have legislation before this parliament which is about changing the Parole Board to include an ex-police officer and a representative of victims of crime. We want to make the Parole Board more accountable for the victims of crime and their families and for community safety. If the Liberal Party and some of the softies in the legal community do not like the fact that we intervened on Nemer, do not like the fact that we are taking on the bikies, do not like the fact that we locked up McBride, Watson and Ellis, I will not lose any sleep.

*Members interjecting:*

**The SPEAKER:** Order, the honourable member for Mawson, for the fifth time!

## COMPUTER GAMES

**Mr KOUTSANTONIS (West Torrens):** My question is to the Minister for Employment, Training and Further Education. What action has been taken to develop the interactive computer games industry in South Australia?

**The Hon. S.W. KEY (Minister for Employment, Training and Further Education):** I thank the member for West Torrens for his question and note his advocacy in the electorate. Australians are now spending over $2 million a day on interactive computer games. This exceeds the amount they spend at movie box offices. The industry has grown rapidly in Australia as part of a worldwide boom but it is hard to source many of the skilled staff it needs, and most of these come from overseas.

The government is working to ensure that South Australians can take advantage of this growing demand for staff. Companies will soon be able to recruit skilled staff from South Australia because TAFE SA has developed a specialised computer game art course focusing on the much needed skills in art and design in this area. The training will be offered through TAFE SA at the Tea Tree Gully campus from next month. Selected graduates will also have the opportunity to work in an incubator company at the TAFE campus and learn how to set up their own computer gaming businesses. This will help see the development of more creative industry clusters in South Australia.

Last week, I had a look at some of the outstanding work being done by the local computer company Ratbag. Ratbag is one of the companies, along with R3 Interactive and Kukan Studio, which TAFE SA has consulted in designing the course to ensure that it is relevant to the needs of the South Australian industry. These companies tell me that a lot more overseas people than local people apply for positions and that the local computing and games design industry needs to be able to employ young South Australians to give the industry the opportunity to become competitive with game designers world wide.

They also say that the demand for skills is a nationwide one, with growth in the industry expected within the next three to five years, with the next generation of consoles with Playstation 3 and Xbox 2 being developed also. South Australian graduates will be in demand, with significant growth occurring in the computer game industry in Australia and world wide. These are the comments of the people in the industry.

Enrolments are now open for 19 students to study Certificate IV in Game Art at TAFE SA's Tea Tree Gully campus. Students will learn 3D design and animation skills, produce backgrounds and textures for games and produce concepts for character development. Certificate IV will enable students to develop a portfolio to assist them in gaining entry into more advanced courses or to gain employment as junior artists in the game industry. A diploma course will be offered from August 2005, and an advanced diploma from 2006.

The University of South Australia is planning to introduce a graduate diploma course in game art in 2005 for students with a computer programming background. Students from TAFE and UniSA will have an opportunity to collaborate on projects and gain team experience in game design.

I must say that I am very impressed with the way in which South Australia's TAFE system and the industry have had the foresight to work together to ensure that the courses which are developed reflect the industry skill that is necessary. I also take this opportunity to say that it is quite inspiring to see that local young people who are running their own businesses in this area are quite committed to ensuring that other young people from South Australia have the opportunity to come along behind them to learn these skills and have meaningful employment in this area.

## ROFE, Mr P.

**The Hon. R.G. KERIN (Leader of the Opposition):** Will the Attorney-General release the response that the former DPP, Paul Rofe, made in relation to criticisms that the Solicitor-General, Chris Kourakis QC, made about Mr Rofe's handling of the Nemer case and, if not, why not? The government has made public the criticisms that the Solicitor-General, Chris Kourakis QC, made about the handling by the former DPP (Paul Rofe) of the Nemer case. The newly appointed CEO of the Justice Department has refused to make public the response that Paul Rofe made to these criticisms on 25 March this year.

**The Hon. M.J. ATKINSON (Attorney-General):** No; the response was an internal working document in preparation for a report. I am sure that the Office of the Director of Public Prosecutions would not want it released and neither, I think, would the Solicitor-General. It was never intended for public release; it is an internal working document.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.J. ATKINSON:** What was released was the Solicitor-General's report, which was always intended to be released publicly. I know that the Liberal Party will continue to champion the case of Nemer against the public interest, but I can assure members oppose that, under all ordinary freedom of information principles, this working document will not be released.

## MORTGAGE BROKERS

**Mr RAU (Enfield):** My question is to the Minister for Consumer Affairs. Is the state government prepared to regulate the activities of mortgage brokers and, if not, why not?

**The Hon. M.J. ATKINSON (Minister for Consumer Affairs):** The member for Enfield is on the ball, as always, coming up with his own probing questions. I thank him for his interest in consumer affairs.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.J. ATKINSON:** Mortgage and finance brokers act as intermediaries between people seeking finance and credit providers. They are usually paid by commission, either by the consumer or by the credit provider. It has been estimated that there have been as many as 10 000 people working as mortgage and finance brokers in Australia, and this number is increasing. In March 2003 the Australian Securities and Investment Commission released a report on mortgage broking. The report identified a need for regulation and recommended uniform national regulation of finance and mortgage brokers. Since the activities of mortgage and finance brokers are unregulated, consumers risk relying on the recommendation of a broker who is receiving commission for recommending particular products to consumers and under no obligation to disclose this to the consumer. Entering into a contract with a mortgage broker that charges the consumer high fees limits the ability of the consumer or, indeed, the mortgage broker to shop around and get the best deal for the consumer.

Although the Howard federal Liberal government has responsibility for regulating financial advisers and planners, it has been reluctant to regulate, saying that the regulation of consumer credit has traditionally been a state responsibility. The Howard government has said that it does not intend to introduce legislation to control the activities of finance brokers. The Adelaide's Magistrate's Court has seen many cases dealing with complaints about mortgage brokers. A magistrate hearing one case commented:

> It is extraordinary that this sort of work should be the subject of a charge out or flat brokerage fee that possibly translates into an hourly work rate in excess of what one would expect from a fully qualified neurosurgeon.

As a consequence of the Howard federal Liberal government's reluctance to tackle this national problem, state Labor governments are working on a national proposal to regulate finance brokers. A discussion paper proposing nationally consistent legislation to regulate finance brokers is expected to be released in the next few months.

*The Hon. I.F. Evans interjecting:*

**The Hon. M.J. ATKINSON:** The interjection of the member for Davenport is most apposite, and I thank him for it. $13.5 million has just been paid out of our Agents Indemnity Fund, or about to be, because of the misconduct of a mortgage broker. The member for Davenport, more than anyone else, makes the case for uniform national regulation. It should have been commonwealth regulation but it will be state regulation.

## MENTAL HEALTH FUNDING

**The Hon. R.G. KERIN (Leader of the Opposition):** My question is to the Minister for Health. Given the recent escapes from Glenside Hospital and comments this morning by the head of the Parole Board, Frances Nelson QC, regarding mental health funding, will the minister concede that the state government has failed in the promise to redevelop Glenside Hospital as a rehabilitation centre with national standards? In relation to the escaped detainee from Glenside, Frances Nelson QC was reported in the media this morning as saying that the government is:

> . . . actually not doing anything. . . the community is at risk because the government will not put enough into mental health resources. . . If anything, they're starving areas of resources. . .

**The Hon. L. STEVENS (Minister for Health):** I just cannot believe that the Leader of the Opposition has the gall to stand up in this house and suggest that this government does not have a commitment to mental health, when in fact under the previous government all through the 1990s we saw a dereliction of duty which was absolutely beyond belief.

**The Hon. R.G. KERIN:** On a point of order, Mr Speaker. I specifically asked about this state government fulfilling a promise. I did not ask for a commentary on what has happened in recent history.

**The Hon. L. STEVENS:** I am very happy to give the answer, but it is really important to realise the hypocrisy of the other side. However, when we came to government we stated very clearly that health was a priority and, within health, mental health was certainly a priority. Just let me say what this government has done in relation to mental health funding, in order to get on with a job that had been so severely underfunded and undercommitted during the previous government's term. Since we have assumed government millions of dollars have been assigned to mental health. There was about $80 million in capital works in order to build facilities in our local—

*The Hon. Dean Brown interjecting:*

**The Hon. L. STEVENS:** Sir, I would ask for your protection.

**The SPEAKER:** Yes. The deputy leader will come to order.

**The Hon. L. STEVENS:** If I might be able to explain some of the capital programs. We started with funding the Margaret Tobin Centre at Flinders Medical Centre. People would probably remember that that had been on the capital works program of the deputy leader for the last two or so years of the previous government's term and remained on the list unfunded, unplanned for, and unstarted. That is on its way. There is a mental health facility at the Repatriation Hospital about to commence. There are upgrades planned in the forwards estimates and, most importantly, funded, because on this side of the house when we announce programs they are actually funded, which is quite a significant departure from what happened in the past.

In terms of the capital works programs for mental health over the coming years we have plans in place and money set aside, announced in the last budget, for works at Noarlunga, the Queen Elizabeth, the Royal Adelaide, the Lyell McEwen, and the Women's and Children's. So, there are extensive capital works right across the metropolitan area in terms of mental health facilities. This is also backed up by additional federal funding, which we were able to secure from the federal government, in relation to the building of two specialist rehabilitation facilities. One will be placed in the northern suburbs and one will be placed in the southern suburbs.

Mental health reform nationally has been on the agenda for 10 years now, and a very important part of that agenda is to move away from standalone institutional care and to build facilities closer to where people live. That particular objective was reinforced in the Generational Health Review, which spoke about that as being an important objective, not just for mental health but for all health services.

In terms of the mental health plan, that has been outlined and announced in, generally, five year blocks, and in South Australia's case when the second five year block was announced we had not even finished the first set, courtesy of the previous government. Also, the government has put aside money for recurrent funds. We announced about $9.5 million immediately on coming to government for mental health recurrent services, and a further $4 million last year. Recently I announced that $2 million of funding for programs has been released, and I am very pleased to tell the house that that $2 million has gone to a range of activities that include grants to non-government organisations, which play a vital role in providing services at the grassroots level for people with a mental illness.

To outline where that $2 million that I have just allocated has gone: $700 000 went to a range of rehabilitation and recovery packages in the community; $497 000 was a one-off payment of 20 per cent of annual funding to each mental health sector NGO—something that the previous government was never able to achieve; $115 000 for the employment of a project coordinator to increase integration of services to establish links between the NGO sector and key partners, and to reshape the services to reflect current models of care. There is a further $110 000 for training and development for non-government organisations in the mental health care sector in the community; $60 000 for a review of mental health legislation to ensure that it supports the direction of reform and provides an example of best practice legislation to other states; $58 000 for the Mental Health Coalition—

**The Hon. R.G. KERIN:** I rise on a point of order. This is all very interesting but I cannot see that it has got much at all to do with Glenside, which was the purpose of the question.

**The SPEAKER:** Order! The honourable leader asked a question about the government's commitment to mental health funding, and the minister is elaborating on those projects upon which funds are being expended and which are relevant in the context of providing services.

**The Hon. R.G. KERIN:** Just for clarification, sir, the question was about the promise to redevelop Glenside Hospital.

**The SPEAKER:** I apologise to the honourable leader. The question was about Glenside Hospital.

**The Hon. L. STEVENS:** The issue in relation to Glenside is absolutely bound up with that of all the other services. You cannot take them in isolation. That is the whole point of mental health policy and funding, and that has been the problem. Although in South Australia the amount of money put aside for mental health has been higher per capita, the problem has been that it has all been tied up in the single institution at Glenside and, therefore, it has not been able to meet the needs of everyone who requires it. That is what the national mental health plan is about and that is what I have outlined to you.

I was in the process of telling you about the money I have just released, and I would like to finish that. There is also $58 000 for the Mental Health Coalition to provide peak body best advice to the government and leadership in the non-government sector; $80 000 to develop a strategy for carers that will improve information and support and increase the recognition of carers and the vital role that they play in supporting family members with a mental illness; $300 000 to develop policies and procedures to help integrate mental health consumers within local communities; $150 000 for human resources planning and management at Glenside campus; and, finally, $40 000 additional funding for mental health, drug and alcohol projects at Catherine House.

Unlike the previous government, this government has a strong commitment to mental health. There is a big job to do and a long way to go, but we have the plan, we have the vision, we have the community, and we are getting on with it.

## CITY WATCH-HOUSE

**Mrs HALL (Morialta):** Can the Premier take action to ensure that the treatment of convicted female prisoners held in the City Watch-house will at all times meet proper and internationally recognised standards for correctional facilities? My colleague in another place, the Hon. Angus Redford, has reported the case of a woman who was convicted, sentenced and placed in the City Watch-house due to overcrowding in the Women's Prison. The woman remained in the City Watch-house for 13 days, despite the fact that it is a police facility designed to hold people for no longer than 48 hours. Eleven female prisoners, two of whom had hepatitis C, had to share toothbrushes and one toilet, which was blocked for long periods. No showering was permitted for three or four days, clean clothes were not provided, access to water was refused except at meal times—

**The Hon. K.O. Foley:** Well, they shouldn't—

**Mrs HALL:** —and a woman who was menstruating was not provided with sanitary products. The Minister for Correctional Services in another place refuses to give an assurance that it will not happen again.

**The Hon. DEAN BROWN:** I rise on a point of order. I heard an interjection from the Deputy Premier, who said that these people should not have committed the crime and then they would not face conditions like that. Does that reflect what the government is willing to impose on prisoners in any detention centre here in South Australia?

**The SPEAKER:** Order! There is no point of order.

**The Hon. K.O. FOLEY (Minister for Police):** Absolutely I said that. I will seek a report from the Police Commissioner as it relates to the City Watch-house. I make this observation: if people do not commit a crime, they will not be in the City Watch-house.

**Mrs HALL:** I have a supplementary question, sir. Given what the Minister for Police has just said, will he inform the house what protocols are in place within South Australian police operations specifically for the detention of convicted and sentenced female prisoners in the City Watch-house?

**The Hon. K.O. FOLEY:** This is an alleged incident. I will seek a report. I would be interested to know how long ago this occurred. My colleague indicated that she had heard—

**Mrs Hall:** Last year.

**The Hon. K.O. FOLEY:** So, it is a year ago. I am being asked about something that happened a year ago. The member for Morialta asked me to give an assurance that it will not happen again. I do not know whether it happened in the first place.

**The Hon. Dean Brown:** You said it was acceptable.

**The Hon. K.O. FOLEY:** I did not say it was acceptable, and I did not say it will not happen again. What I said was this: if people do not commit a crime, they need not be worried about spending time in the City Watch-house. As it relates to the allegation, like so many allegations from members opposite, I will seek a report from the Police Commissioner to provide me and the member with the facts, and I will bring back that report. I cannot do much more than that. I will not say that I will give an assurance that something will not happen if I do not know whether it even happened in the first place.

**Mrs Hall:** And the protocols.

**The Hon. K.O. FOLEY:** I am happy to provide protocols. Do you know the best protocol? Do not commit crime in this state, and you will not serve time.

## PAROLE OFFICERS

**The Hon. R.G. KERIN (Leader of the Opposition):** Will the Attorney-General reassure the South Australian public that there is enough supervision for parolees to comply with their conditions of release? The Productivity Commission reports that one parole officer supervises 42.6 parolees in South Australia, yet in Victoria there are only 22 parolees to each parole supervisor. Further, the recent letter from Mr Philip Scales, the Deputy Presiding Member of the South Australian Parole Board, states:

> The board must set appropriate conditions for their release on parole, but knows that many of them will not be observed. It is apparent there are insufficient numbers of parole officers. A dramatic increase is required if they are to be able to perform their work at an acceptable level.

**The Hon. J.D. HILL (Minister for Environment and Conservation):** I reply on behalf of my colleague in the other place. I will refer this question to him, and I am sure he will reply shortly.

## POLICE, GOLDEN GROVE

**The SPEAKER:** I call the member for Mawson. He is very lucky to be seen, as my eyesight is fairly short today!

**Mr BROKENSHIRE (Mawson):** In the light of recent events, will the Minister for Police advise the house what action the government is taking to address the urgent need for an increased police presence in the Golden Grove area? I am advised that the Royal District Nursing Service may be forced to abandon its north-eastern suburbs home nursing base due to constant vandalism and break-ins, which, I am advised, have resulted in a damage bill of approximately $100 000 in just the past 12 months. Further, the Tea Tree Gully mayor, Mrs Lesley Purdom, claimed that 'the need for a patrol base was clearly demonstrated', and that there was concern that no money had been allocated in this year's budget.

**The Hon. K.O. FOLEY (Minister for Police):** I tell you what—this lot, fair dinkum—they're lucky they've got *The Advertiser*, because I think every single question has come from *The Advertiser*. I might be wrong, but it was most of them. They are a lazy opposition.

**Mr BROKENSHIRE:** I rise on a point of order, Mr Speaker, under standing order 98. My question was not about *The Advertiser*; it was about police resources for the people of Golden Grove.

**The SPEAKER:** Order! I uphold the point of order.

**The Hon. K.O. FOLEY:** I need to make a significant public announcement. It is clearly obvious that Her Majesty's opposition is now officially *The Advertiser* newspaper, not the Liberal Party. I am not suggesting anything other than the fact that at least *The Advertiser* does scrutinise matters of public importance.

**The Hon. DEAN BROWN:** On a point of order, Mr Speaker, the Deputy Premier is not even attempting to answer the question.

**The SPEAKER:** And it is a very poor attempt at debate, I note also.

**The Hon. DEAN BROWN:** The question is quite specific and under standing order 98 he should provide an answer.

**The SPEAKER:** Order! The Deputy Leader of the Opposition makes an interesting observation under standing order 98. The difficulty is that the Deputy Premier is not even attempting to debate the matter. I urge him to address the substance of the question.

**The Hon. K.O. FOLEY:** Thank you, Mr Speaker, I will come to it. I am pleased that at least some institutions in our state (if not the Liberal Party) are scrutinising public policy. At least we have media in this state doing this work. This is a former police minister who never provided a patrol base in Golden Grove, but I think he got an ambulance station for his electorate, from memory.

*An honourable member interjecting:*

**The Hon. K.O. FOLEY:** I'm wrong, am I? I thought that as a former emergency services minister he might have arranged for a facility of some sort for his electorate, but perhaps he did not; we will wait and see. Let's see what the Auditor-General says about that. What I will say again is that under this Labor government we have new police stations in Victor Harbor, Gawler and Port Lincoln.

*Members interjecting:*

**The Hon. K.O. FOLEY:** My colleagues ask when they are going to get a police station. They can ask but—

*Members interjecting:*

**The Hon. K.O. FOLEY:** Sorry?—no new police stations. We are building them everywhere. This government has brought in some of toughest laws that this state has ever seen and began a major increase in police resources with 200 more police—200 more police.

**Honourable members:** 200 more police; 200 more police!

**The Hon. K.O. FOLEY:** That was good, wasn't it; we should have rehearsed that a bit better. We are keeping the streets of Adelaide and South Australia safer because we are putting more police on the beat. We are putting more police on patrol and we are building new police stations. We are providing new equipment and we are bringing in new laws; we are doing much more than the former Liberal government ever did. I simply say to the former police minister: you had your chance, Sunshine, and you blew it.

## INFANT HOMICIDE

**Mrs REDMOND (Heysen):** Will the Minister for Families and Communities advise the house what action was taken by FAYS officers when they received notification from child and youth health officers regarding the baby at Victor Harbor who subsequently was found to have died? The house may recall that some time ago I asked the Minister for Health questions about this particular issue. I have now received advice from the minister confirming that a notification in respect of this baby was made to FAYS. My question is: what action was taken by FAYS officers when they received that advice about a baby who should have been the subject of a special watch?

**The Hon. J.W. WEATHERILL (Minister for Families and Communities):** I will take that question on notice and bring back an answer to the house.

## POLICE, HOLDEN HILL

**The SPEAKER:** I call the member for Mawson.

*Members interjecting:*

**Mr BROKENSHIRE (Mawson):** My question is to the Minister for Police.

*Members interjecting:*

**The SPEAKER:** Order! When it becomes necessary for the chair to call for order, each occasion the word is used indicates that at least one breach of standing orders has occurred. May I remind the Minister for Agriculture, Food and Fisheries that interjections are not only out of order, but that they are also especially disorderly from other than in his place. The honourable member for Mawson.

**Mr BROKENSHIRE:** My question is again to the Minister for Police. Will the minister advise what action the government is taking to address the concerns that are being raised by the patrol officers and detectives in the Holden Hill local service area regarding the lack of police numbers servicing the region? The South Australian President of the Police Association, Mr Peter Alexander, has stated that 'on a regular basis patrol officers and detectives complain about lack of numbers they have to patrol the area and perform the duties that are required of them'. Acting Commissioner of the Northern Operations Service, Tom Osborne, has also stated, 'Holden Hill was short 23 staff at the end of May.'

**The Hon. K.O. FOLEY (Minister for Police):** I stand to be corrected but I think that we have now gone from *The Advertiser* to the Messenger.

**Mr Koutsantonis:** The *Police Journal*.

**The Hon. K.O. FOLEY:** Or the *Police Journal*. I do not know. I will ask the Police Commissioner for a response because, as I have told this house many, many times, that is an operational matter. It is for the Police Commissioner to provide me with his considered advice on these issues. I am more than happy, as I always am, to take up this matter with the Police Commissioner. I am also quite relaxed should the member for Mawson (who is about to jump out of his seat—he is getting excited lately, little Robbie; his face is all bright and red and glowing; he is going to blow a gasket one day, our Robbie)—

**The SPEAKER:** Order!

**The Hon. DEAN BROWN:** On a point of order, we know that members have to be named by their electorate and not their name, and quite clearly the Deputy Premier does this in flagrant breach of the standing orders and to thumb his nose at the rest of the house.

**The SPEAKER:** Order! I found the reflection particularly distasteful as it relates to standing orders. Because the member for Mawson has not taken offence at this point, it is not within the domain of the chair to require the Deputy Premier to withdraw. However, I invite him to address the subject rather than the visage.

*Members interjecting:*

**The SPEAKER:** Order! The Deputy Premier is out of order. He ought not to try to tame the lions.

**The Hon. K.O. FOLEY:** I withdraw and humbly apologise. The member for Mawson has a bright red face, is jumping out of his seat and is about to blow a gasket.

**The Hon. W.A. Matthew:** Your face is redder than his is.

**The Hon. K.O. FOLEY:** Yes, I am answering questions. I am under enormous pressure from members opposite! I am struggling! I will get a report from the Police Commissioner and provide it to the house.

**Mr BROKENSHIRE:** I have a supplementary question. Can the minister advise the house which section of the Police Act states that the number of police officers provided to the South Australian community is an operational matter?

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. K.O. FOLEY:** As a former police minister he would know.

*Members interjecting:*

**The SPEAKER:** Order! I invite the member for West Torrens to be quiet. I am more than certain that the minister is capable of answering in his own right. He needs no coaching. The minister.

**The Hon. K.O. FOLEY:** I might operate a little differently from the former minister for police. I do not go around wanting to interfere in the operations of the police department. I see my role as providing policy and resources and, under this government, there will be 200 more police officers than when we came to office.

*Mr Brokenshire interjecting:*

**The SPEAKER:** Order! The member for Mawson has had his go.

**The Hon. K.O. FOLEY:** Apparently I am not responsible for the extra 200 police officers. Apparently the member for Mawson is. I am not quite sure how you work that one out from opposition.

**Ms Rankine:** He didn't do it when he was in government.

**The Hon. K.O. FOLEY:** Exactly. He had the chance to do it in government and he didn't.

*Mr Brokenshire interjecting:*

**The Hon. K.O. FOLEY:** You are such an effective opposition spokesman on police: long may you stay there!

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## GREEN PHONE INCORPORATED

**The Hon. M.J. ATKINSON (Attorney-General):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. M.J. ATKINSON:** I rise to make a ministerial statement about advice and information I have received from the Corporate Affairs Commission about Green Phone Incorporated. Green Phone Incorporated was a communications service provider, which was set up in June 2000 under the former Olsen state Liberal government with the aim of reducing telecommunication costs and improving services across western Victoria and south-eastern South Australia. This meant setting up access points to link together to form a network aimed at providing cheaper local calls, faster and more reliable internet access and direct communication links to Adelaide and Melbourne. The main participant was the Greater Green Triangle Region Association (GGTRA), made up of 18 South Australian and Victorian municipalities.

The GGTRA held an ownership interest in Green Phone through a unit trust. The association applied to the Corporate Affairs Commission and was granted incorporation in June 2000, and operations began in late 2000. Various allocations of government funding were provided to enable the association to buy infrastructure. This included $110 000 from the former Olsen state Liberal government, $100 000 from the Victorian state government and $2.31 million from the Howard Liberal federal government's Department for Communications, Information Technology and the Arts.

Late in 2000, as the operations of the association became more public, the commission decided that the association was not eligible to be incorporate and, in fact, never should have been. Although the association stated that its main purpose was to promote the interests of a community, the venture was inherently commercial because Green Phone was competing with major national telecommunications providers. Green Phone then agreed to transfer its assets and liabilities to a different legal structure and agreed to the association's being deregistered.

However, as the deregistration process was under way, the association was wound up. The organisation was effectively in operation for one year in total and, during the year of its existence, South Australia was ruled by the Olsen state Liberal government. There is no reason to believe that incorporation as an association affected the viability of Green Phone Incorporated in any way. However, it became a relevant factor when the commission came to consider whether the association had breached the Associations Incorporation Act 1985. I shall discuss that in more detail later.

On 25 October 2001, Green Phone appointed a voluntary administrator and, on 21 November of the same year, creditors resolved that the association be wound up. The debts amounted to about $4.3 million, and there are few significant assets for distribution. Those who had invested money into Green Phone were left wondering what had gone wrong. As well as the government investors, there were a hundred or so trade and personal creditors, as well as the public of the South-East, who had been promised so much and delivered nothing.

I now turn to the investigations into Green Phone's conduct. On 15 May 2002, the Economic and Finance Committee established terms of reference and resolved that it should take evidence from the major players to try to get to the bottom of the matter. The committee held public hearings and produced a preliminary report on 20 November 2002. It has since been awaiting the liquidator's report before issuing a final report. The committee will undoubtedly be interested to learn of the commission's decision not to prosecute Green Phone or its officers, of which I am informing the house today.

There were attempts to scrutinise Green Phone from the moment it was established. Investigations were ultimately thwarted by the short lifespan of the association. The liquidator is obliged to file with the Corporate Affairs Commission a report required by section 533 of the Corporations Act 2001 and imported into the Associations Incorporation Act 1985. In the report, the liquidator is required to report on, among other things, whether it appears that an officer of the association may have been guilty of an offence or negligence. The liquidator lodged documents in accordance with the Corporations Act 2001, setting out the financial status of the association. No report appeared forthcoming, owing to a lack of funding for the liquidator, who usually recovers fees incurred from the realisation of assets. As I said earlier, there were few assets to realise. The report was eventually lodged on 18 February 2004. It contains little of importance about the matter of possible breaches of the legislation.

Before this, in July 2003, the commonwealth and state governments, in a joint endeavour to get to the bottom of the Green Phone saga, hired KPMG to investigate the solvency of Green Phone Incorporated. The arrangement benefited the state government because we were hoping that the investigation might shed light about whether or not any basis existed to prosecute the association or its directors for insolvent trading, a notoriously difficult charge to prove. The benefit to the commonwealth was that the same information might be used, with the consent of the South Australian government, to establish whether funding allocated to Green Phone by the commonwealth had been misapplied.

I now turn to the matter of poor financial records. One of the primary findings of the KPMG investigation was that the association kept poor financial records and this prevented stakeholders from having access to important information about the viability of the association. Green Phone did not achieve market credibility and penetration in its early days and began almost immediately to incur losses. It never recovered from this position. There were only two cash flow statements produced during the life of the association. It was impossible for investigators to reconstruct cash flow statements from the general ledger because that had been inadequately kept. There were variances between monthly receivables and payables reports and the general ledger. Correspondence from creditors was not kept and documents were not properly filed. The KPMG report indicates that the association's working capital position was negative from June 2001. None of the options available to Green Phone to become viable again was feasible. The liquidator's report to creditors subsequently recommended that creditors wind up the association.

I now turn to the question, 'What did the management of the association know?' The association made a loss of more than $100 000 in April 2001 and again in May 2001. The financial reporting to the board was woeful, incomplete and inaccurate, although there is no evidence that it was deliberately doctored. In any event, there is no evidence that those inadequate reports were considered in any detail at the board meetings. There are several management reports in the Green Phone files. Certainly things were looking grim for Green Phone in July 2001 when the CEO's report to the board noted that: 'The poor performance in signing up new customers has impacted significantly on the cash position.' This is probably the time at which it can be concluded, on balance, that the board knew things were turning sour. A strategic plan was developed to turn things around. It was decided that a big advertising campaign was needed to raise the profile of the service. This was dependent on securing extra external funding to pay for the campaign.

I am advised that by August 2001 the board minutes record a catalogue of problems. The finance manager had been dismissed, auditors were having difficulty obtaining information from him, cash flow supported only two weeks of expenditure projections, and sales were required to grow at 350 per cent to create a positive return. Two board members resigned. The association requested further funding from the commonwealth government but this was refused. At the time the administrator was appointed, creditors were owed $1.1 million. Just over a third of this debt was incurred after June 2001. The liquidator's report estimated that creditors' claims were likely to exceed $4 million. At the beginning of 2004, the Crown Solicitor was asked to assess the available material and advise on the prospects of a conviction of any of the committee members for insolvent trading during the life of the association.

I now turn to the question of what action can be taken. The matter has now been closely investigated by different independent bodies. The liquidator, KPMG and the Crown Solicitor have all reached the same conclusion: that much further work, at great cost to the taxpayer, would have to be done to mount a case against the association and its committee members that breaches of the Associations Incorporation Act 1985 had occurred. Even if that work were done the prospects of a conviction would be low. The evidence is insufficient to meet the criminal standard of proof required for a conviction for insolvent trading.

*An honourable member interjecting:*

**The SPEAKER:** Order!

**The Hon. M.J. ATKINSON:** At a high level analysis, it is possible to say that Green Phone was most likely insolvent from June 2001. However, much work would need to be done to establish this for the purposes of a criminal prosecution. The Crown Solicitor has advised the commission that the fact that the association was probably never eligible to be incorporated clouds the question of whether the commission could successfully prosecute the association under the Associations Incorporation Act, 1985. In any event, this overshadowed by the evidentiary difficulties. Although this is a frustrating conclusion to have reached, it is the raw truth of the matter.

Another legal obstacle is the passage of time. Prosecutions must be brought within three years of the events that gave rise to them. If any offences occurred, they probably occurred in mid 2001. Although I can extend the time within which a prosecution can be brought, and I certainly would if I were advised that it might bring this organisation to justice, the association and its officers may have to be given an opportunity to be heard in opposition to such a request. This would be another expensive and time consuming process that would have to be done even before any consideration could be given to the merits of the matter. The affairs of Green Phone have been exhaustively examined.

*Mr Williams interjecting:*

**The SPEAKER:** Order, the member for MacKillop!

**The Hon. M.J. ATKINSON:** I just wish that the member for Bright would not display his invincible ignorance. The Commonwealth Department of Communications, Information Technology and the Arts commissioned a report into Green Phone's operations. The liquidator has reported on Green Phone. The Federal Police has examined the misuse of Commonwealth funds. A select committee is looking into the operations of Green Phone. The Crown Solicitor has trawled through all these documents. No-one takes a contrary view, except the member for Bright. The association kept woeful records, it was probably insolvent from about June 2001, and there is little prospect either of obtaining redress from the board or criminally prosecuting anyone.

The Corporate Affairs Commission has the responsibility for instituting proceedings under the Associations Incorporation Act 1985. The commission has advised me that it does not intend to pursue further investigations of Green Phone Incorporated as to do so would not be in the public interest, balancing the cost of such investigations against the prospects of a conviction. On this matter I will take the advice of the Corporate Affairs Commission—and not that of the member for Bright, whose knowledge of Green Phone would fill a postage stamp. It would not be appropriate for me to intervene in that process. It has not been suggested to me that there has been any fraud by a particular person or persons; instead, it seems to me that this ambitious project was poorly run and totally undercapitalised.

**Mr Williams:** Poorly conceived.

**The Hon. M.J. ATKINSON:** Money was spent hand over fist, and the income was never generated in the way that it needed to be to make it sustainable, and I welcome the interjection from the member for MacKillop that the whole project was poorly conceived. It is, on a large-scale, what happens to many failed small businesses.

I have made this detailed statement because I am aware that many people are keen to have answers to questions that have remained unanswered for too long. I cannot say whether the reports to which I have referred in this ministerial statement will be made public. The documents are in the hands of the commission, the commonwealth and the liquidator. To the extent that they do not infringe valid confidentiality agreements and the protections for individuals conferred by the Freedom of Information Act 1991, I would welcome their release. These are issues to be resolved by the agencies and persons who prepared them. By this statement I hope to have answered for the house and for the people of the South-East. The Green Phone story is a sorry tale for the people of the South-East: they thought they would have the benefit of a new, cheaper telecommunications service. Their wishes came to nothing.

**The SPEAKER:** As the member for Hammond, can I invite the honourable minister, after having made that statement, to outline what attempts are being made to ensure that the officers who allowed the registration of the association in the first place are properly dealt with?

# GRIEVANCE DEBATE

## PAROLE BOARD

**The Hon. W.A. MATTHEW (Bright):** I rise in this place today to pass comment on what has become the government's Parole Board crisis. Yet again, we see another public slanging match involving government members, principally the Premier, with some amazing attacks on members of the Parole Board who have served our state in a very difficult task. Today in this house we yet again heard the Premier in a further attack on the Chair of the Parole Board, Frances Nelson, when he said, in his usual sarcastic and sneering way, that if you did not have Frances Nelson you would have to invent her. I was alarmed to hear of the way that the development was unfolding this morning, and I was alarmed to hear Frances Nelson indicating publicly through the media that she was, perhaps, close to resignation from her position on the Parole Board in sheer frustration over this government's unwillingness to act, their appalling mismanagement and their appalling handling and under-resourcing of matters relating to the necessary counselling for prisoners who have mental conditions that need professional assistance. The Premier's response in the media has been to imply that the Chair of the Parole Board is somehow associated with the Liberal Party.

I think it is time to put on the record very clearly and firmly some facts in relation to the original appointment of Ms Nelson as the Presiding Member of the Parole Board. When the Liberal Party came to office in 1993, the Presiding Member of the Parole Board was Frances Nelson. Her five-year term on that board—and I repeat that it was a five-year term—was to expire on 17 December 1993, just after the Liberal government came to office. She was almost completing that five-year term, having been appointed by a Labor government, having served as the Presiding Member of the Parole Board under a Labor government and having followed the policy directives of a Labor government—a Labor government with a cabinet amongst which sat the current Premier.

As the then correctional services minister, I was concerned that Ms Nelson might not be able to carry through the policies of a Liberal government. I was concerned that the revolving door release policy of a Labor government may not be ended if she stayed in that position because of her very close association with that Labor government. Being particularly cautious as a new minister, I recommended to Her Excellency that Frances Nelson be appointed for just three months more, while the new government had time to assess who should be on its Parole Board. At that time, as the three-month expiry period neared, the government was drawing up truth in sentencing legislation, which I introduced to this place. I again requested Her Excellency to extend Ms Nelson's term for a further three-months, which took her to March 2004.

I had a number of meetings with Ms Nelson about the new government's policy. I stressed to her that we were not satisfied with the way that the Labor government had been using home detention as an early release mechanism. I stressed that we were not happy with the way the Labor government around the cabinet table (at which sat the current Premier) was releasing prisoners on home detention. Violent criminals, prisoners who had been involved in robbery and assault and who had committed heinous crimes such as rape, were all being released early under Labor's early release or revolving door system. I was heartened that Ms Nelson agreed, and it was for that reason that I was pleased, ultimately, after the expiration of those two temporary three-month periods, to recommend that she continue as Presiding Member of the Parole Board, and we brought other people to that board, including a respected and retired police officer, Jan Steinert, who served on that board for at least five years. Today, the Premier would have us believe that the inclusion of a police officer is novel and new. That is not so. We have been there and done that before—and effectively so.

This government must tackle the issues. When the Premier is confronted with problems, he cannot turn his back on that problem and resort to derogatory abuse of those who criticise him publicly. Ms Nelson has raised matters that must be addressed, and she should not receive abuse from the Premier. If Economic Development Board members criticise the government, will the Premier resort to derogatory abuse of them also? This problem must be rectified.

**The SPEAKER:** Before calling the member for Wright, I invite the member for Bright to clarify the remark he made that, as the then minister, on the second occasion he extended the term of Ms Frances Nelson QC, it took her term to March 2004. I recall that the honourable member said 2004. I do not want him to have to come back to correct that statement, or be derided for it later. Did he mean earlier?

**The Hon. W.A. MATTHEW:** Indeed, sir, I meant 1994, and I thank you for pointing out that error to me.

## POLICE, GOLDEN GROVE

**Ms RANKINE (Wright):** I cannot allow the gross misrepresentations put to this house by the member for Newland yesterday to go unanswered or unchallenged. The member is not present in the chamber today, but I am sure she is tuned in. In order for ease of referral, I will address the inaccuracies and misrepresentations put by the member in sequential order. I apologise to Hansard for the speed of my delivering this address, but the member got a lot wrong and I have only a short time in which to make these remarks. I would like to make the point that either she cannot read, has been ill advised or is simply mischievous, and I will leave it to others to make a judgment about that.

First, the member for Newland stated that an interesting ongoing debate has been taking place throughout her electorate and the electorates of Wright and Florey in relation to policing resources. That is the only thing she said yesterday that was factually correct. That debate has been ongoing since her government seven years ago removed the Tea Tree Gully patrol base to a location outside the area that it services. They promised to replace it and they did not. At the last election all we got from the Liberals was another lame promise. Let me make the point strongly that the member for Newland was never part of that debate. Not once can I recall her making any statement about her concern in relation to this issue while she was in government or while she was a minister of the previous government.

She said that I told radio commentators that I had lobbied the previous Liberal government for a shopfront police presence at Golden Grove. Again she got it wrong. I lobbied the previous government to honour its promise to provide a police patrol base. She claims I had the opportunity last year for this to happen but that instead I opted for a 'you beaut', dynamic, huge office for myself. She knows how dishonest is this claim: it really says much more about the member for Newland than it does me, and it is quite contemptuous. They had a go during the last campaign when they implied that my

electorate office was inaccessible, the very same office which their Liberal counterpart had occupied. I moved to ensure that the office was more visible and accessible, and they criticised me again.

That move was not brought about so as to provide me with a 'you beaut' office or more space; it was done to allow a staff member who had been working from a kitchen table for more than 12 months in my personal office to have space in which to work. It was done to provide constituents somewhere private to discuss confidential issues without being in full view and hearing of the public or anyone else in the office, including community groups. It she thinks for one minute that that causes me any embarrassment, she has got another think coming. The response I had the last time she had a go about this really highlighted that once again she had missed the mark.

The member for Newland then went on to accuse me of having crossed the boundaries of common decency and all natural justice protocols, of using my newsletter to vilify, humiliate and embarrass councillors Francis and Winter, and of launching a vitriolic attack on them. On that last point, I do waiver a little, and perhaps I will defer to the member for Newland, because she is without doubt the in-house expert on vitriol. I have used my newsletter to convey nothing more than the positions taken by local council representatives. I have not used my words in this, I have used theirs, and in the mildest terms I have conveyed the difficulties this poses. I merely want to know why they have changed their minds and why they gave as a reason something that is incorrect. They had better be glad that it was not the member for Newland reporting on them because they would know what vitriol was all about.

They claim that Modbury is smack bang in the centre of the city, an incorrect assertion which the member for Newland repeated in a letter to the editor of the Messenger press. You would think that a member of parliament or the local council could read a map. Modbury is neither the geographical centre nor the demographic centre of the patrol service area. This area has two major commercial hubs: Golden Grove and Modbury (that is, Tea Tree Plaza). They have differing needs which need to be taken into account, not ignored. These councillors have not supported council motions, as claimed by the member for Newland, they have either moved them or seconded them. They are the catalyst in trying to get the base located at Modbury. They are the prime movers. I will expose their change of attitude, I will expose their mistaken beliefs, and I will expose the incorrect assertions they make. Would any elector in Wright want me to do differently? I doubt it.

I have not taken this course lightly. I have spoken to some of the councillors about these matters before raising them. I have written to all councillors who cover the Golden Grove area and I have received a reply from only one of them, and that was not from either councillor Winter or councillor Francis. The member for Newland valiantly comes in here to give them a voice. She is their guardian angel. Give me a break! What about the ratepayer funded advertisement placed in the Messenger press as a result of their motion, which again was an attempt to justify their change of heart?

Let us get down to the difference between the member for Newland and the member for Wright. I pushed hard—as hard as I could—to have the former government honour its promise of a new patrol base for the Tea Tree Gully area. In government, I have continued that push. I have not resiled from my commitment to the residents of my electorate to fight for a police facility at Golden Grove. I am sure the Minister for Police would be more than willing to testify that I have continued to advocate strongly for my electorate.

Time expired.

## MOVING ON PROGRAM

**Dr McFETRIDGE (Morphett):** Today the member for Flinders and I marched from Victoria Square to Parliament House with about 250 members of the public—friends, families and young adults—who are involved in the Moving On program. For those who do not know, this program was initiated by the former Liberal government, and well funded by it, to provide funding for parents of severely disabled young adults to continue their care after they left school.

The state government has reduced the funding significantly and, as a new member of this place, I ask for that funding to be reinstated to the level it should be to adequately care for not just a portion of these young adults who are disabled but all of them. It was good to see that members of the Labor Party, members of the Democrats, the member for Hartley and the Hon. Andrew Evans from the upper house were present to support these parents, families and friends in their efforts to get some just funding for the Moving On program.

I will read from the letter that was used to advise the government of the problems faced every day, 24 hours a day, seven days a week, 365 days a year by parents of young adults involved in the Moving On program. This was written by Mr David Holst. David does not mind my using his name and talking about his daughter Kim, a wonderful 20-year old who is severely disabled. David and his family look after Kim to the best of their ability. They are some of the lucky ones because they have some financial wherewithal, but many people do not.

Along with 150 other people, I attended a public meeting about the Moving On program in April. When I asked how many people there had considered murdering their children and committing suicide, nearly a third of them put up their hands. I am not blaming this government or the former Liberal government. I am saying that we should learn from the past and move on. Approximately $3 million in property taxes is coming into this government each and every day. Let us give the people of South Australia something back. A triple A credit rating is important, but caring, compassion and comfort for our children is very important as well. David states in his letter:

> I speak today as a parent of a disabled child—of the emotions involved in being such a parent and the Moving On program. The minister of disability recently claimed on radio that he did not understand the levels of emotion relating to the day options issue. Comments like this show how isolated the government is from the reality of the stress and emotion the disabled and their families face every day. To this government, the disabled are a budget exercise.
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> The emotion, the anger and the hostility we feel as parents was very much on show on 4th April at the public meeting that launched this campaign. We are all very rightly offended by the lack of support and compassion by the government; offended by the cold-hearted nature of the government, who lack genuine compassion for our disabled children; offended by the advice we should be grateful for what we get; offended by the government only partially funding our severely disabled children.
>
> I could talk about the emotion and anger we feel when the government believes that this issue is about money and budgets, not very needy children. My emotions tell me this issue is about disabled people who cannot defend themselves, cannot speak for themselves, cannot look after themselves. Minister Weatherill is new in his portfolio. He needs to address Moving On now. We hope he shows the vision that great politicians should have. This issue needs a visionary response. Comments suggesting that funding to homeless

youth constitutes support for the disabled, as the minister was explaining on the ABC last Friday, are ill-informed and show a lack of understanding and empathy. This issue is serious and emotional.

I could talk about the issues in our home: the illnesses; the doctors; the 24-hour, seven-day care regardless; the stress; the strain; the torment; the tears; the grief; the anguish. I could talk about the loss of the dreams for your child of trying to plan the future, of the monetary cost, the continual costs, the personal costs, the need for support for family and friends, and the challenge to survive.

Mr Holst goes on:

I could talk about the emotional fear of the future. What happens when we are gone? Who will care? How will my child have her needs met?

Time expired.

**Ms BEDFORD (Florey):** I, too, attended the disability rally today, along with the member for Reynell, as well as other parliamentary colleagues from both houses, as mentioned by my colleague the member for Morphett. The protesters had moved so fast from Victoria Square that they had already arrived at the steps of Parliament House before I was able to march up to Victoria Square to meet them. Unfortunately, minister Weatherill was unable to attend. I happen to know that he was attending a longstanding appointment at the Modbury office of FAYS, which is in my electorate, to discuss issues around that office's work. I also know that he made himself available for a meeting with rally representatives as soon as he arrived at Parliament House.

That said, I am sorry that he was unable to be back in time to address the parents, family and carers of the young disabled adults, who flexed their democratic muscles today. Their action reminds me of a time, some years ago, under the former government, when funding was cut to the subsidy for the drugs required to manage cystic fibrosis, a condition where I understand lungs become like glue, rendering them incapable of functioning. Even when taking the drug, the children (and I say 'children' because few reach adulthood) often have long stays in hospital. At the time, the then minister lasted about a week before funding was reinstated. Those parents organised action and came to this place with several of their children, with the media in tow, and the embarrassment became far too great.

Similarly, in my time as the member for Florey, funding was needed for Elizabeth Bowey Lodge, a facility that provides respite care for parents of disabled children. Those parents lobbied the then minister for disabilities and their needs were eventually addressed with funding, although there wasn't enough to see things right through.

Today, one of the parents made a very special plea when she addressed the rally, that is, that this issue not be treated as a political football, because it is far too important. Even though an additional $1.2 million has been allocated by this government in the current budget, an additional $2 million is needed to cater for the under-servicing that exists because of rationing, as well as to address the needs of the extra people requiring services after they graduate from school. That right of passage, which is something I see each year as I present gifts to students who graduate from the Modbury Special School, does not always herald the beginning of an exciting new phase in their life, such as further education or a job, to which able-bodied children can look forward.

Without programs for these young adults, they are confined to home detention, as one of the placards cited today. That lack of options also becomes a sentence for the parents and carers, as well as their siblings. I understand that situation, because when my own son had a stroke at the age of eight—although, fortunately, he was totally disabled and dependent for about six months only—my daughter told me some years later just how sad she had felt about being left out and not being looked after. You can multiply my experience a thousand fold, and the reality of the situation today's demonstrators face begins to become apparent.

A society is judged by the way in which it treats its disadvantaged. Minorities often have no voice, or the time or energy to voice their concerns. They are not greedy; they do not ask for more than a 'fair go'. They ask for the chance to have, along with those parents with able-bodied children, time to shop, clean and pay bills, or to enjoy some time on their own. This group worries about the future when they are too old or tired to care for their children, when their children will become the full responsibility of the state. The money these people save us now must be recognised by the allocation of adequate funding, not rationing of services. The good work of this government so far must be backed up as quickly as possible by additional funding so urgently needed by these people. I know the minister, a new father himself, will do all he can to make this happen.

## HEMMERLING, Mr J.

**The Hon. M.R. BUCKBY (Light):** I rise today to bring to the notice of the chamber a problem faced by one of my constituents, Mr Gordon Hemmerling of 55 Gawler River Road. It is a problem which has gone on now for some six months but which should have been solved a long time ago. I am pleased that the minister is present in the chamber. It relates to the removal of trees on Transport SA land on Gawler River Road in December last year, long before the current minister took over the portfolio. The removal of the trees has created a severe dust problem for my constituent. We wrote a letter to the CEO of Transport SA on 6 January, asking whether Transport SA would replace those trees with some shrubs to create a windbreak to protect my constituent's house from the dust coming across the road.

On 17 February, we telephoned regarding those issues because we had not received any further information. The minister's office said it would look into the matter, and then came back to tell us that the matter was the responsibility of the Mallala council. We questioned the constituent, because we felt that he was not in the Mallala council. He advised that, in fact, he paid his rates to the Gawler council. I then wrote to the Gawler council to ask whether it was its responsibility. I received a reply from Mr Jeff McEachen on 10 June advising me that it was not his responsibility but was the responsibility of the Department of Transport. I have a copy of a letter written to the current minister on 1 April, advising the minister that it was not the responsibility of the Town of Gawler but the responsibility of the department.

On 8 July, I wrote a letter to the current minister asking, as this dispute had been going on for some six months, whether it could be sorted out who exactly was responsible for this matter. It is now getting to the ridiculous stage. The minister's office has written to me advising that they will look into Mr Hemmerling's concerns, which I am pleased to hear.

It just shows that, where an action is undertaken by a department, we as local members raise an issue with the department. I am not criticising the current minister, because this issue came up before she took over the portfolio. We raised this issue with the department, and it is basically being shoved between the department and local government. The

department says it is the council's responsibility and local government says it is the department's responsibility. Obviously, it is someone's responsibility, so I wish someone would make up their mind as to whose responsibility it is.

The Town of Gawler has advised me that the trees were on Transport SA land. If that is the case, I believe that it is the responsibility of Transport SA. I understand that there were good reasons for removing the trees in the first place, but as a result of that it has created a significant problem, and obviously not at this time of the year but back in the summertime it created a significant problem for my constituent. I am hopeful that minister White will act on this fairly quickly to sort out exactly what is happening, and ask for a report, and see whether or not there can be some sort of buffer placed on the land, which might not be trees but perhaps shrubs that can, in time, screen my constituent, Mr Hemmerling, from the dust he is having to put up with during the summertime.

## WATER RECYCLING AND REUSE

**Mr CAICA (Colton):** Today I wish to talk about water recycling and water reuse and relate it to the actions and the attitudes of several councils in the city area, in particular the Charles Sturt Council, Port Adelaide Enfield Council and the Salisbury Council. Mr Speaker, you understand as well as anyone in this house that for the Waterproofing Adelaide initiatives to succeed they require the support and commitment of all levels of government, of the community and of industry. In part of my electorate referred to as the old Ray Street dump site at Findon there is a remediation program being undertaken via council and a private developer to remediate that old dump site for medium and high density urban redevelopment. Earlier there were some problems with that remediation. I thank the minister for his intervention at that stage, but that is a different story.

The Ray Street site is a good project, it is going to benefit the community and the western suburbs and, as I said, it is an arrangement between the City of Charles Sturt and a private developer. It is interesting that the City of Charles Sturt's motto used to be 'The switched on city', but with respect to this particular site and the lost opportunity in regard to water reuse it seems that if the lights are still on there is no-one home. What are the inadequacies in regard to the Ray Street site? It does not incorporate wetlands and the 12.5 per cent of the land there that is required under legislation to be designated as open space under new redevelopments is not being used for that particular purpose. The council itself has decided that the maintenance costs required for an aquifer storage reuse scheme are too high. They are not looking at the long term picture with respect to these things and they would prefer, it seems, that water to go straight out to sea.

The development plans that council has adopted were agreed to with the developer prior to the planning and there is no way to increase that level of open space. That is the agreement that has been struck. The initial agreement, with respect to that open space, as I said, was only at the minimum designated area of 12.5 per cent of the redevelopment. On the other side of the coin, we have the Port Adelaide Enfield Council at the Northgate project, and that is an improved situation but still inadequate in the strictest sense. They are going to collect the water, filter it through sand and take it to an underground retention basin in order to reduce the peak flows at times of high rainfall, but they are not going to reuse the water, and to me that it not going the full hog.

They should be looking at ways in which they could reuse that water, because there are local schools, cemeteries and other industries there that they could sell that water to, if they were so inclined. The council relaxed the rules with respect to designated open space in redevelopment to allow water sensitive urban development initiatives to proceed but, as I said, have not gone the full distance. Compare that with the City of Salisbury, which is a completely outstanding council when it comes to water reuse and water recycling and, in fact, it is at the cutting edge with respect to councils in this state and has set up a process by which it re-sells the water on to both industry and other people who want that. They are doing an exceptional job and are at the opposite end of the spectrum with respect to the two councils that I mentioned in particular.

Why is the Port Adelaide Enfield Council not taking the same attitude? It might be, perhaps, that under the Water Works Act 1932 the council is provided with $1 million of free water on an annual basis and perhaps there is not the incentive to adopt such water saving initiatives as are being undertaken by the Salisbury Council. With respect to the City of Charles Sturt it seems that they do not have any progressive thinkers there who are going to adopt those particular attitudes and are being driven by their hip pocket. So, we have got three different approaches from three different councils with respect to water reuse and water recycling.

So, what in the broader sense are the impediments to the implementation of best practice measures in regard to water reuse and water recycling? I would argue that councils are hamstrung by their own development plans. Where councils are willing to implement water sensitive urban development measures they may be unable to do so because of unsupportive development plans. Changes to development plans we know take time and change happens slowly. I am arguing that we need to change things more quickly than what is the case in local councils. The Development Act delegates most responsibility regarding development approval to the development plans, which differ across varying councils. There is no standard across councils. Stormwater reuse is an issue that is consistent across the state so potentially we would benefit in legislating, through the Development Act, requirements regarding water use and run-off that could be similar to that designated for open space.

In relation to councils upstream, this of course is another impediment, as they are not so concerned about the reuse of water because the pressure on their stormwater infrastructure is not as considerable as it is on downstream councils. Perhaps we need an overarching body to coordinate this. Potentially SA Water could do it, but one might argue that its ability and desire to sell water is a conflict of interest when encouraging water use. To finish up, often the most innovative projects at both councils and schools are driven by individuals within an organisation, and I will touch on this matter again later.

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## ROAD TRAFFIC (DRUG TESTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 February. Page 1444.)

**The Hon. P.L. WHITE (Minister for Transport):** I rise to oppose this bill for very good reason. I understand that the honourable member for Schubert, in moving the bill, said that his intention was to 'restore to the South Australia Police the power that they lost in 1998'—that is under the former Liberal government—'and that is to request a blood test from a driver whom they suspect is under the influence of a drug other than alcohol'. That is the stated intention and, indeed, I support detection of drugs amongst drivers.

However, the bill does not quite do that in the manner in which the honourable member indicates. In fact, it goes much further than the power that he sought to restore. The state government has a very strong commitment to road safety and ensuring that South Australia achieves the national road safety target that has been set for 2010, and we are interested in drug testing of drivers. We recognise that this is a growing road safety issue, which diminishes a motorist's ability to drive safely. However, the manner in which the honourable member has moved this bill has a lot of problems associated with it.

The way in which the honourable member has incorporated this power into the current piece of legislation before the house is simply to add 'drugs' everywhere that the word 'alcohol' appears. It has been done in a very unconsidered way, with consequences. It does not address many of the issues that need to be addressed if you are doing this. This bill gives powers to the police, on pulling up drivers, not only to test for alcohol but also to test for drugs; and it is a mandatory direction to take blood to test for drugs, not just when the police pull them up but for anybody who is stopped at a random breath testing station. Under this bill there would be power to direct the taking of blood from those people. That is quite a step of difference from what existed before in legislation, and it is quite a step to take.

As I said before, this government is interested in drug testing of drivers and is making progress in the investigation down that track. Members may be aware that there is about to be the world's first test of some alternative technologies, namely, mouth swabbing of drivers in Victoria. This is the nation's first test, and the South Australian government is very interested in that technology. It is a much less intrusive technology, as a first step at least, than taking—

**Mr Venning:** That is simply not correct.

**The Hon. P.L. WHITE:** It is correct, and the Victorian government is to trial that technology later this year. We are interested in that trial. My department has been talking with VicRoads, the Victorian transport department, regarding Victoria's saliva drug testing, and the option of gaining access to the data and the experience that they gather in that test. This government will be moving further down this path. In fact, we are currently looking at that particular technology, and others, in order to address this point. However, it is the position of the South Australian government that we will move forward in a considered way rather than jumping into random detection by blood testing our citizens as a first point. We need a more considered approach than this.

Our commitment to addressing the road safety issue is demonstrated partly by the introduction of a number of measures in the government's road safety reform package. In addition, the Road Safety Advisory Council has presented to the government a further package of initiatives—one of reform recommendations—and the government has indicated to the council that we will consider those recommendations.

One of those recommendations is to reintroduce blood testing for drugs. That recommendation of the council was based on research indicating that the use of certain drugs, both licit and illicit, can reduce a driver's performance, or increase the likelihood that the driver will engage in risky behaviour. The Road Safety Advisory Council noted that legislative changes to the Summary Offences Act 1953 were effectively removed by the former government in 1999, taking away what had been a police power to require blood tests from people who were suspected of driving under the influence of a drug or drugs other than alcohol. The Road Safety Advisory Council recommendation does not deal with the mechanics of blood testing. This is something that requires very careful consideration, I would put to members, through consultation with road safety experts, and the people involved in administering the testing, that is, the South Australia Police—with whom my department are currently in consultation over this issue—and the medical and the nursing professions as well.

While it is important that we address the drug driving problem as soon as possible, it is also important that we move forward with best practice provision. We need to distinguish what testing, and under what circumstances, and there need to be adequate safeguards, checks and balances. The type of testing is important. There is a wide range of drugs, and there will not be one simple way of testing them.

Roadside testing, which is advocated in this member's bill, will require a test that is able to be done quickly and safely, and without inappropriate intrusion on a person's dignity at that place. Most Australian states and territories are currently considering the feasibility of random drug testing. However, I am advised that none has yet implemented a random drug testing program (as I said earlier, the Victorian government will be launching a trial later in the year), nor is there any such program in any other country. The Victorian trial will be a world first, I understand.

Last year the former minister discussed drugs and driving with officers of the US federal department of transportation, who confirmed that they have the same concerns and that they are engaged in the same search for practical drug testing technologies. Indeed, had we now been debating a motion that the honourable member was intending to move in terms of the investigation of technologies, the government would have supported that sentiment.

While the government supports drug testing for drivers, the bill currently before us amends the Road Traffic Act simply by adding drug testing provisions straight onto each of the existing drink drive provisions. Specifically, there are measures in this bill for a blood sample to be provided on the direction of any police officer, even one of very junior rank, without the guidance of a set of criteria, reasonable grounds or the audit of the decision by a senior officer. It also allows for drug testing by blood sample in the same circumstances that apply for random breath testing and mobile random breath testing. This means the extension of the existing power—power to require the provision of a breath test which is a relatively unobtrusive alcotest—to the mandatory provision of a blood sample, which is extremely intrusive if done in that particular way.

The way in which the honourable member's bill has been drafted means that the drug testing provisions have simply been added onto each of the existing drink drive provisions. I suggest to members that submitting to an alcotest or a breath analysis at a random breath testing station is quite different from being directed at a random breath testing station to give a blood sample, but the requirement is not separated out in this bill so that the practical differences can be dealt with.

It is the government's intention to move forward with a more considered approach, and that will most likely involve legislation. While I understand the honourable member's intention and passion, and I equally share the passion for ensuring that we tackle drivers who are using drugs, police do currently prosecute for driving under the influence of drugs—

**Mr Venning:** How? That is not true.

**The Hon. P.L. WHITE:** It is true.

**Mr Venning:** Only if they have an accident.

**The Hon. P.L. WHITE:** Currently, there is compulsory drug testing if they have an accident, but I have been advised that they also prosecute. I mention that not as a particularly strong argument against this bill but to say that the government will be moving forward, as we have already indicated. We will be doing it in a considered way, and we believe that this bill—in its unconsidered manner—introduces powers that perhaps have consequences unintended by the honourable member. Perhaps he can confirm whether it is his intention to go about the targeting of people at breath stations and mobile random breath testing.

*Mr Venning interjecting:*

**The Hon. P.L. WHITE:** I am saying that some less intrusive technologies are available, and I think we should at least have a look at those before launching into the direction of mandatory blood testing. There is quite a difference between what happens now when people driving along the road are pulled over and asked to submit to an alcotest—that is one thing. However, it is quite another step for our community to do what the honourable member is asking, and have those people submit to blood tests.

There are a number of considerations which are not in this bill and which I suggest are best treated by considered appraisal of the technologies available, and that is currently going on. We are appraising the technologies that the Victorians will be using in their roadside testing—

*Mr Venning interjecting:*

**The Hon. P.L. WHITE:** Indeed, we have bought some machines to test the technology. We are progressing this issue, and the government intends to come forward with considered legislation at a more appropriate time.

**Mr VENNING (Schubert):** I was quite disappointed in the response from the minister because this has been on the *Notice Paper* since 3 December 2003. I am quite disappointed that it has taken so long. I was looking forward to the minister's response. I was quite shattered to be told that my bill goes further than just restoring the powers the police used to have. All I intended to do (and this is what I told parliamentary counsel to draft) was a bill that did just that. There was no intention on my behalf to do anything other than restore the powers that the police had prior to 1998. If that is the case, why did the minister not move an amendment to remove things I left in inadvertently?

*The Hon. P.L. White interjecting:*

**Mr VENNING:** Can we get to the third reading and look at it then? But I want this be dealt with today. I thought the government would have been a little cleverer by moving an amendment and claiming ownership of the bill, and then it could have progressed. All I ever intended to do was restore to the police the powers they used to have. I have never tried to con anyone, and there is nothing of that kind in this bill.

I was concerned to hear the minister say that other technologies are available, and that is on the record. Other technologies are being tried, but none is as sure and as perfect as taking a blood test. Swab testing is still being trialled. The Victorians have bought machines, as have the governments of New South Wales and Tasmania, and I was not aware that we had bought them. I spoke to the police only this morning, and I am very pleased with the cooperation we have had from them.

I first raised this very subject two years ago in a grievance debate speech, when two police officers came to my office and raised this issue with me, saying that they wanted this power back. What message are we sending to young people? There is no disincentive at all. In fact, some young people, and others not so young, are saying, 'Ha, ha. You can't touch me.' The minister says that you can convict people, but you cannot. You cannot test people for drugs unless the person is in an accident, injured or, even worse, dead. That is the only way that these people can be drug tested. If a person is pulled over for reckless driving, or whatever, and an alcotest is done and they test zero, they are unable to test that person for drugs. Some of these young people just laugh at the police officer, saying, 'You can't touch me.' What sort of message is that to our young people?

We see serious accidents reported in the newspaper two or three times a week, and I often wonder whether those accidents were drug related. In fact, on the record, irrespective of the decision today, I intend to ask the Commissioner for the facts and figures in relation to the fatalities in South Australia. We know what they are in Victoria (30 per cent), and 30 per cent of the people in accidents in New South Wales are affected by a drug other than alcohol.

I am pleased for the house to support this bill into the second reading. If the member for Enfield or anybody else thinks that I am trying to do anything than just restore the powers that the police used to have, they are wrong. After all, this measure puts the trust back into the hands of our police, in whom I have confidence to do this job, and I support them 100 per cent.

I cannot believe that a government whose rhetoric is so strong on drugs, drug control, drug papers and drug conferences allows this matter to go on and on. I am pleased with the response I have received from members on both sides of the house. The minister had the opportunity to amend this bill, but she has not done so. If she is fair dinkum, she will look at the second reading and make a couple of changes, and then she can own it—that does not worry me. In two years' time, everyone will think she owns it, anyway, so what is she carrying on about?

I am annoyed at how this has happened, because this is not the first time this issue has been raised. Of course, there was a private member's motion about the swab machine, which we should obtain and, in so doing, join with the other states. I thank all members and the police for their cooperation. I also thank the minister for her cooperation, and I wish she would change her mind.

The house divided on the second reading:

AYES (17)

| | |
|---|---|
| Brindal, M. K. | Brokenshire, R. L. |
| Buckby, M. R. | Chapman, V. A. |
| Evans, I. F. | Goldsworthy, R. M. |
| Hall, J. L. | Hamilton-Smith, M. L. J. |
| Kotz, D. C. | Matthew, W. A. |
| Meier, E. J. | Penfold, E. M. |
| Redmond, I. M. | Scalzi, G. |
| Such, R. B. | Venning, I. H. (teller) |
| Williams, M. R. | |

NOES (21)

| | |
|---|---|
| Atkinson, M. J. | Bedford, F. E. |

NOES (cont.)

| | |
|---|---|
| Breuer, L. R. | Caica, P. |
| Ciccarello, V. | Foley, K. O. |
| Hanna, K. | Key, S. W. |
| Koutsantonis, T. | Lomax-Smith, J. D. |
| Maywald, K. A. | McEwen, R. J. |
| Rankine, J. M. | Rann, M. D. |
| Rau, J. R. | Snelling, J. J. |
| Stevens, L. | Thompson, M. G. |
| Weatherill, J. W. | White, P. L. (teller) |
| Wright, M. J. | |

PAIR(S)

| | |
|---|---|
| Brown, D. C. | Conlon, P. F. |
| Gunn, G.M. | Geraghty, R. K. |
| Kerin, R.G. | Hill, J. D. |
| McFetridge, D. | O'Brien, M. F. |

Majority of 4 for the noes.

Second reading thus negatived.

## OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION COMMITTEE: WORKCOVER LEGISLATION

Adjourned debate on motion of Mr Caica:

That the sixth report of the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation entitled the Statutes Amendment (WorkCover Governance Reform) Bill, be noted.

(Continued from 26 May. Page 2223.)

Motion carried.

## CRIMINAL CASES REVIEW COMMISSION

Adjourned debate on motion of Hon. D.C. Kotz:

That this house calls on the Legislative Review Committee to examine and report upon the establishment in South Australia of a Criminal Cases Review Commission to examine suspected wrongful convictions, miscarriages of justice and other issues in the criminal justice system and, in particular, make recommendations on the following—

(a) the commission's terms of reference;
(b) the relationship of the commission to the Supreme Court and executive government;
(c) the powers of the commission and its membership;
(d) the criteria for cases to be examined by the commission;
(e) whether the commission should be empowered to examine and make recommendations in relation to crimes in respect of which there was no prosecution or conviction;
(f) resourcing issues; and
(g) any other relevant matter.

(Continued from 26 May. Page 2224.)

**Mr SNELLING (Playford):** The government does not think that a Criminal Cases Review Commission is necessary, for reasons that I will outline shortly. However, the government will not stand in the way of the possibility of establishing such a commission and what, if any, form it should take. However, as I said, the government does not consider that a commission is necessary. There are already mechanisms in place in this state to review criminal cases.

The member for Newland stated in her speech to this motion that 'there is no formal mechanism for examining alleged miscarriages of justice outside of the formal criminal appeal process.'As a member of parliament of many years standing and a former minister, the member would, I should have thought, be aware of section 369 of the Criminal Law Consolidation Act 1935 and the prerogative of mercy. The exercise of the prerogative of mercy enables the Governor, on the advice of Executive Council, to grant a free pardon to a person convicted of an offence. Such a pardon eliminates the punishment or penalty arising from the conviction but not the conviction itself. Similarly, the Governor can grant a remission, which reduces the sentence or penalty imposed by a court. The convicted person submits a petition of mercy to the Governor, which is sent to the Attorney-General to provide advice to the Executive Council.

In addition to the exercise of the prerogative of mercy by the Governor, section 369 of the Criminal Law Consolidation Act 1935 provides that the Attorney-General, on the consideration of any petition for the exercise of Her Majesty's mercy, may either refer the whole case to the full bench of the Supreme court to be heard and determined as an appeal by a person convicted or seek the assistance of the judges of the Supreme Court on any point arising in the case for their opinion.

If the whole petition is referred to the Supreme Court, it has the power of an appeal court and may quash the conviction or order a retrial. Where the court considers that a retrial is justified and the whole sentence has already been served, it may order an acquittal. In exercising its functions on a referral, the court is acting judicially and an appeal lies to the High Court. If the court is merely asked to express its opinion, it cannot give a judicial determination setting aside or affirming the conviction but an opinion to be used to assist in the exercise of the prerogative of mercy.

The Attorney-General can, and has on occasion, asked the Solicitor-General to review criminal cases and provide an opinion about any alleged miscarriage. I note that neither the member for Newland nor the Hon. Robert Lawson mentioned the Innocence Panel established in New South Wales for reviewing applications by prisoners who claimed that DNA evidence established their innocence. This panel was suspended for having insufficient checks and balances. A review was conducted of the panel, including consideration of the membership, functions, privacy provisions, referral of matters to the Court of Criminal Appeal and eligibility to make application.

The United Kingdom has a Criminal Cases Review Commission, which has been widely referred to by the member for Newland and others. Both members discussed the merit of the UK Criminal Cases Review Commission. The United Kingdom commission is an independent body responsible for investigating suspected miscarriages of criminal justice in England, Wales and Northern Ireland. The commission's principal role is to review the convictions of those who believe they have been wrongly found guilty of a criminal offence, or wrongly sentenced. To make an application to the commission, the person convicted must have appealed the conviction or sentence or sought leave to appeal.

The commission can seek further information relating to a case and carry out its own investigations, or arrange for others to do so. Once the investigations have been completed to the commission's satisfaction, it decides whether or not to refer the case to the appropriate appeal court. That is, the matter is ultimately referred back to and determined by a court of the criminal justice system.

The commission was set up as a result of a recommendation of the royal commission established to investigate miscarriages of justice after the overturning of convictions of the Guildford Four and the Birmingham Six. The latter case saw the quashing of convictions of people accused of the 1974 pub bombings by the Court of Appeal after an investiga-

tion in which the notorious West Midlands Serious Crime Squad played an important part. Indeed, the activities of the squad have been associated with more than 40 convictions that have been overturned as a result of allegations of, among other things, detectives fabricating evidence and torturing suspects. The establishment of the commission in the United Kingdom was in response to an identified problem that can be associated with serious misconduct, including criminal activity by police and other public officials. Interestingly, as such improprieties have been corrected, there has been a corresponding decline in the number of appeals upheld and convictions quashed as a result of referral by the commission.

The Hon. Robert Lawson and the member for Newland provided no evidence of the need for a criminal justice commission, and they did not think it necessary during eight years of Liberal government. As the member for Newland has told us, between 31 March 1997 and 30 April 2004, the commission received 6 724 applications, of which it has completed 6 095 cases. The commission has referred 228 cases, of which 177 have been determined by the Court of Appeal. Of those 177 cases, 121 were quashed, 55 were upheld and one was reserved. That is, of the 6 095 cases assessed by the commission, only 3.7 per cent were referred back to the courts. Of that 3.7 per cent, 45 per cent were upheld by the Court of Appeal.

The number of criminal cases in South Australia, let alone the number of cases that would be suitable and eligible to apply to such a commission, is tiny when compared to the number of cases in the United Kingdom. The correlating number of cases referred back to the courts would presumably be even smaller again. The government does not think it sensible to establish and sustain a commission that would, in all likelihood, review a few cases when mechanisms already exist for such alleged miscarriages of justice to be considered.

**Mr GOLDSWORTHY (Kavel):** I move:

That the debate be now adjourned.

**Mr ACTING SPEAKER (Mr Caica):** I put the question. All those in favour say aye, against, no. I believe the noes have it.

Motion negatived.

**Ms CHAPMAN (Bragg):** This is an important matter which is before the house for consideration. Unlike the inattention displayed by a number of other members in the chamber, I listened carefully to the very important contribution made by the member, which outlined significant new arguments in relation to the viability of such a commission. He referred to an enormous amount of material in relation to the operation, application and effectiveness of the commission that operates in the United Kingdom, and I appreciate that contribution. He also raised some other forums which we need to consider.

Therefore, I think it is appropriate in those circumstances and necessary for the house to properly consider this matter for the debate to be adjourned. We will undertake to thoroughly look into the matters raised by the member for Playford, which he has so eruditely outlined to the house, and we can give that due consideration during the break. For those reasons I ask the house to support the motion to adjourn.

**The ACTING SPEAKER:** For the benefit of the house and the member for Bragg, we have already moved on the adjournment of this matter, and that was defeated. So, the member can either continue her remarks or we will deal with the matter.

*Members interjecting:*

**The ACTING SPEAKER:** Order! The question now is that the motion be agreed to. All those in favour say aye, against, no. I believe the noes have it.

Motion negatived.

## CONSTITUTION (OATH OF ALLEGIANCE) AMENDMENT BILL

Third reading.

**Mr HANNA (Mitchell):** I move:

That this bill be now read a third time.

I thank honourable members for their contribution. I appreciate the work done by the Minister for Education and Children's Services. With her amendment the bill is improved, and I look forward to its passage through this place.

**Ms CHAPMAN (Bragg):** What has occurred on this occasion is that the member has introduced a constitutional oath of allegiance to replace any allegiance to the Crown. The government successfully moved an amendment to say that it would facilitate this matter, having recognised the merits of the member's seeking that parliamentary members in this house should make a contribution to the state, that is, a commitment to the people of South Australia and therefore offered in its amendment that there be an alternate. In other words, members can make a commitment to the Crown, as currently exists, or they can make a commitment to the people of South Australia. Our amendment, which failed, also acknowledged the merits of making a commitment to the state but insisted that it was important to recognise the existence of the Crown. We do not have a republic; we have a constitutional monarchy, which applies to this state and to this country. In those circumstances, for as long as that prevails, notwithstanding the ardent republican that I am, and I have said so before, it is appropriate that we continue to make that commitment.

Almost every other profession and organisation which is required to take an oath or make an allegiance in relation to a commitment they undertake in a profession or charitable organisation does so, and we should not be an exception. It is a complete constitutional nonsense to say that we should exclude the monarch from our oath. Unfortunately, our amendment was not successful. However, I commend the member for bringing this matter to the house as a private member's bill; it makes us address this issue again. I suppose we will see what happens in another place. But I am pleased to have had the debate, because it has brought to the attention of the house not only the importance of making a commitment, at least for a little longer, to the Crown but also the merit of incorporating making a commitment to the people of South Australia and undertaking to represent them fairly and honestly and with due diligence.

**The ACTING SPEAKER (Mr Koutsantonis):** Before the bill is read a third time, I refer to standing order 242. This bill amends the South Australian Constitution Act and therefore requires that at all stages it be passed by a majority of the whole house, which is 24 members. So accordingly, under standing order 242, I order that the bells be rung.

*A quorum having been formed:*

**The SPEAKER:** Order of the Day No. 1 is the question before the chair. It is debatable that this provision is one that would need an absolute majority of the whole number of members of the house to pass at the second reading stage to satisfy section 8 of the Constitution. So, probably, and out of an abundance of caution to meet that provision, as maybe the case or not, as is set out in Standing Order 242, a quorum has been called so that all honourable members know; in which case, I count the house and there being an absolute majority of the house present, I therefore put the proposition that the bill be read a third time.

The house divided on the third reading:

AYES (26)

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|---|---|
| Atkinson, M. J. | Bedford, F. E. |
| Breuer, L. R. | Brindal, M. K. |
| Caica, P. | Ciccarello, V. |
| Conlon, P. F. | Foley, K. O. |
| Hanna, K. (teller) | Hill, J. D. |
| Key, S. W. | Koutsantonis, T. |
| Lomax-Smith, J. D. | Maywald, K. A. |
| McEwen, R. J. | Rankine, J. M. |
| Rann, M. D. | Rau, J. R. |
| Redmond, I. M. | Snelling, J. J. |
| Stevens, L. | Such, R. B. |
| Thompson, M. G. | Weatherill, J. W. |
| White, P. L. | Wright, M. J. |

NOES (16)

| | |
|---|---|
| Brokenshire, R. L. | Buckby, M. R. |
| Chapman, V. A. (teller) | Evans, I. F. |
| Goldsworthy, R. M. | Gunn, G. M. |
| Hall, J. L. | Hamilton-Smith, M. L. J. |
| Kotz, D. C. | Matthew, W. A. |
| McFetridge, D. | Meier, E. J. |
| Penfold, E. M. | Scalzi, G. |
| Venning, I. H. | Williams, M. R. |

PAIR(S)

| | |
|---|---|
| O'Brien, M. F. | Kerin, R. G. |
| Geraghty, R. K. | Brown, D. C. |

Majority of 10 for the ayes.

Third reading thus carried.

## SOCIAL DEVELOPMENT COMMITTEE: OBESITY

Adjourned debate on motion of Mr Snelling:

That the 19th report of the Social Development Committee, entitled Inquiry into Obesity, be noted.

(Continued from 2 June. Page 2402.)

**Mr SCALZI (Hartley):** I rise to make a brief contribution on this report, which was tabled on 5 May. In doing so, I note that there has been much talk about this important issue, apart from the report. The terms of reference were moved on a motion by the Hon. Mike Elliott MLC, then Leader of the Australian Democrats, on 6 June 2002. That is over two years ago, and the committee has been hearing evidence for over a year. This report has been presented to parliament for the people of South Australia to consider and for the government to take note of the report and, of course, the 51 recommendations.

It is important to note that since the report has been handed down there has been much talk about the problem of obesity, not only with regard to children but also adult obesity, and this is a serious problem. It is also important to note that on 5 May, when the report was handed down and noted in this place, it made the front page of *The Advertiser*, and there was an editorial on the same day as well. So that shows the importance of this report. It was good to see on that day that the state Minister for Health, the Hon. Lea Stevens, said that the government regarded the issue of obesity as 'extremely serious' and was looking at which recommendations to adopt from the inquiry. She said:

> This report is the latest piece of evidence that obesity is actually one of the single biggest threats to South Australians of all ages in terms of their personal health and to our state economy in terms of the potential health costs. Unless we act now as a population we will have an epidemic of obesity-related hospitalisations.

This report is about the fact that we have the problem and that we have to put preventive measures in place to make sure that our health improves. Obesity is not just about being overweight, and it is not just about fads: it is a serious health problem. Time and again we have heard that diabetes is on the increase.

Debate adjourned.

## INTERNATIONAL EDUCATION

**Ms RANKINE (Wright):** I move:

That this house calls on the Social Development Committee to inquire into the impact of international education activities in South Australia, including—

(a) all formal education and training courses made available to overseas students studying in South Australia or offered offshore and through the school, further and higher education and training sectors;
(b) courses offered by both public and private providers;
(c) other student exchange programs; and, in particular—
(d) the positive and negative impact of the international education industry to the state and its community and student and staff interactions involved;
(e) potential measures to enhance the attractiveness of the state to the international education market;
(f) 'pastoral care', accommodation and other needs of overseas students residing in South Australia;
(g) potential lessons derived from existing practices in selected interstate and overseas jurisdictions;
(h) the ongoing capacity of the education and other systems to absorb increasing numbers of overseas students;
(i) the oversight and monitoring of home-stay arrangements for minors;
(j) ancillary or collateral benefits in areas such as tourism and cultural exchange;
(k) community development or other initiatives to maximise this appreciation;
(l) support for overseas students in local communities; and
(m) any other relevant matter.

This motion very deliberately gives this committee a wide brief. This industry is of great importance to South Australia. Indeed, reference is made to this issue in the State Strategic Plan, with a target set of doubling South Australia's share of overseas students within 10 years. It is proposed that this inquiry is referable also to other student exchange programs, and that is relevant in relation to recent media coverage of the issue of the Rotary exchange students. In this state, we have a real responsibility to protect not only our children but also those we take into our care and our educational institutions from other areas.

This motion allows all or any dimensions or concerns to be raised before the committee, and it acknowledges the importance of this sector to the South Australian community and economy, and this needs to be promoted. We need to ensure that visiting students are treated with respect and that their needs and aspirations are met. Coincidentally, in today's *Australian* there is an article about overseas students written

by Samantha Maiden. Its headline is 'Foreigners treated as "cash cows"', and it states:

> Overseas students have warned universities must offer greater support to students struggling with fee hikes, accommodation costs and exploitation in the work force. Complaining that they were being treated as 'cash cows' by universities increasingly reliant on revenue generated by their fees, international students also called for greater consumer protection to force institutions to justify fee increases.

In South Australia, we have some excellent examples of our universities leading the nation in their accommodation of students, and I use that word to cover a whole range of areas. Certainly, yesterday in this house the Minister for Employment, Training and Further Education told us that she was at a function to mark the turning of the first sod at a site for new accommodation for students in this city. That accommodation will set a world standard for university accommodation and is really important for us in South Australia.

This motion is also about ensuring that the system works well for the students here. Some years ago, I was contacted by organisations that assisted in hosting students and making their stay much easier. We can only imagine what it must be like to come here, obviously keen to embark on education, but away from family, friends and the support that we all take for granted. We need to be clear about what the state could and should do to guarantee a safe and secure environment for the youngest students. We need to continue to build on South Australia's reputation and profile overseas, through having a strong international education centre. This promotes tourism and the benefits of social and economic contact within this state.

I think approximately 13 000 students are enrolled currently in South Australia, and that number has been increasing over the past couple of years, with a growth rate in the order of 22 per cent since 2002. South Australia is one of only three states to increase its market share last year, and the school sector achieved a 31 per cent increase in students, with the higher education sector jumping by 27.8 per cent, while vocational education improved by 18.7 per cent. Those are very impressive figures.

So we need to ensure that this continues, particularly if we want to meet the targets set out in our State Strategic Plan. As I said, we also need to make sure that students are given appropriate accommodation and cared for properly while they are here. Overseas students provide a positive contribution to our schools, to the students they mix with, the staff who teach them, the families who provide them with accommodation, and the community generally, and obviously they are very important in an economic sense. I think our institutions are at the cutting edge. South Australia is a destination of choice, and if the Social Development Committee looks into this issue I think that will ensure that that situation continues.

**Ms CHAPMAN (Bragg):** The opposition supports this motion to refer these terms of reference to the Social Development Committee to enable it to conduct an investigation and of course report back to the house. As has been indicated, the education of overseas students is a substantial industry for this state, a substantial revenue earner. It should not be overlooked that our tertiary institutions also provide education services for thousands of students who reside overseas. Instead of just bringing overseas students to South Australia, we also take our education services to the world. We have been a pioneer in this field, the University of South Australia is flourishing in China, and hundreds of graduates each year are actually based overseas.

Education is a major provider of industry and we can be proud of our high standard in this state, especially our universities, which continue to attract increasing enrolments. All credit to them. TAFE and private further education institutions provide training and other courses, but clearly some attention needs to be given to TAFE, because it seems that TAFE, as the public provider of training in this area, is lagging a bit behind. There have been a few hiccups, and TAFE is being restructured by the government, but clearly there is a preference by those who purchase education services at that level for private providers. That may be because they deliver a better service or because TAFE has not got its act together sufficiently to provide the standard of service that they are looking for. In any event, this matter clearly needs to be addressed.

Independent secondary schools continue to attract the most students at that level. Marryatville, Norwood Morialta, Glenunga International and Brighton high schools attract a very large share of the public secondary school student market. What is not commonly known is that if a student attends an independent school here they pay fees amounting to $9 000, $10 000, $12 000 or $13 000. If they attend one of our public schools, a few of which I just mentioned, they also pay good money. Something like $10 000 a year per student is paid to the Department of Education and Children's Services, because as a provider of an education service it is fully paid for the cost of providing that service to international students. Its services are not provided gratuitously: students pay for it.

Commonly, international university students pay $30 000 or $40 000 a year. There is a new era in relation to international school students, and that may well be because of the consideration this matter has been given at commonwealth level. Immigration minister Amanda Vanstone has allowed the carers of students who live in Australia to obtain a visa, and there are a number who live in my electorate. Carers come with the children, they reside here and they pay the fees for these international students to attend a local primary or secondary school or tertiary institution. A parent, usually the mother, resides with the student and provides the accommodation, so not all the services referred to by the former speaker of safe and secure accommodation and pastoral care, etc., are necessarily required. These students comprise a new category which I think is constantly increasing and one which we need to accommodate and welcome to the community.

Senator Amanda Vanstone's announcement last year that students who complete their tertiary studies and who are skilled in an area that will benefit this state will be eligible to apply for permanent residency. They will not be required to return to their country of origin to make that application. That is a significant advance for South Australia, and it is coupled with her announcement last year that South Australia will be required to achieve a lower point threshold (similar to Tasmania as a regional part of Australia) to be eligible for consideration for permanent residency. Those are very important aspects which complement this opportunity for South Australia's educational institutions to market their products to the international community.

Education Adelaide is an important organisation which was established some years ago, and it is jointly funded by the state government and the Adelaide City Council. It was established by the former government, and I am pleased to see that it has been continued by this government. It has a $2 million a year budget, about $1.5 million of which is

provided by the state government, and the Adelaide City Council provides about $500 000 a year.

There are, however, some aspects in relation to the operation of Education Adelaide which I think need consideration. Whilst it has provided some successes in the education area, we need to look seriously at the resource application by Education Adelaide and the other institutions on their own, that is, the private independent school market, the universities and the private and public training facilities, which are all still spending quite significant budgets, I have observed over the last year. Education Adelaide alone spends something like $300 000 a year on travel for the purposes of promotion, etc.

At the moment, we know that we have significant numbers of source countries for our international students. Leading the charge is China, then we have Hong Kong, Indonesia, Japan, South Korea, Malaysia, Singapore, Taiwan, Thailand and the United States, in that order. That is the sort of thing that we must look at. It appears that, in the last 12 months, while there has been a temporary jump in our total market share, we are coming off a very low base, and I know that other members will speak in relation to that. There are encouraging signs, pleasing signs, but let us not get too unrealistic about the low base that we are coming from.

The opposition has been very supportive of the education industry and it is one that we must encourage. We need also to look at other areas. It appears that India is now a significant source, at least in the last couple of years. We need to look at that both for skill shortages in this state for employment purposes and also for the higher education opportunities that we have referred to today. We must look at the consolidation of resources.

The future accommodation of international students in a safe and secure environment is important. I note the proposed 400-bed facility in Grote Street, which has been on the drawing board for some time but which, in the life of this government, is coming to fruition. I am pleased to see that. Apparently it will be concluded by early 2006. That is very important because, again, I am personally familiar with the significant shortage of secure and reasonable accommodation for international tertiary students in South Australia. A very significant development opened recently in my electorate in Bragg just off Fullarton Road. It is fully operational, fully occupied and is proceeding well.

The safety of students who are resident in home arrangements with host families is an issue that has a number of factors, not the least of which is child protection. It is important that, when we consider our own students, we also consider the safety of any international student who is here, who is not just paying good money to be here but who is entitled to a safe environment in which they may study and advance. Hopefully they will remember South Australia in a favourable light so that they and their family are keen to visit or stay in the future.

I suggest caution on one important issue. As we advance the competitive cost of education, particularly at the secondary level, we could see develop what we have seen historically in the universities, and that is this idea that international students are taking the places of our children. This is something that we have to be honest about and we need to be thinking about how we will manage it. I, for one, favour the benefits, not just at a financial level but a cultural level, of introducing international students into our universities. They do not take up spaces and I do not want that debate, which inevitably it will come to, and we need to be clear about what direction we are going to take it.

It will be suggested that the children at international level who are coming to our better public schools—I hate using that word, but perhaps schools that are providing and achieving at a higher level at present, such as some of the schools that I have named—are taking up spaces in those public schools. They pay full tote odds to be there and, yes, they are taking up a place, but the reality is that their enrolment in those schools is a very small percentage. We are talking less than 5 per cent, so I hope that no alarmist argument develops in the debate. Otherwise I indicate to the member for Wright that the opposition supports the motion.

**The Hon. R.B. SUCH (Fisher):** I support this measure. There is little point in canvassing the issues because presumably the inquiry will do that. I have always been interested in and strongly committed to matters involving education, and I look forward to the committee's inquiry and ultimately its report. I commend the member for Wright for bringing this matter to the house.

**Mr SCALZI (Hartley):** I wish to make a brief contribution to this motion and commend the member for bringing it to the attention of the house so that it can be referred to the Social Development Committee. Education plays a very important role in our community. The member for Fisher would be very aware that, when he was minister, this matter gained a lot of attention under the previous government. I recall that, as a member of the University of South Australia Council, I became aware of the growth in that area, not only of overseas students but, as the member for Bragg has said, of offshore education.

When we talk about education, we often forget that this is an important industry and, apart from the economic benefits, the relationships that are promoted with our neighbours also must be considered. I was fortunate in 1996 to represent the Hon. Dean Brown in Yantie in Shandong province, where we had the first graduation of nurses in an offshore institution. There has been a tremendous growth in that area and, as I have said, the University of South Australia has led that growth.

However, there is still a long way to go. True, there was a 30 per cent increase last year. However, as the member for Bragg said, we must remember from what base we are talking about, because there is still room for growth. South Australia has 5 per cent of all international students, yet we have 8 per cent of the population. So, we still have to make up ground in this area. It seems that, as in the area of immigration, our percentage is less than our population growth, so we must concentrate on that issue.

In relation to some of the figures on international students in South Australia, the enrolments this year in state schools were secondary schools 720 and primary schools 41, making a total of 761. As I have said, there has been a 30 per cent increase over the last year. The estimated income for all full fee paying international students this year is $215 million, and enrolments in independent schools is 733. If we look at the study tours and offshore enrolments, we see that they will generate a further $24 million, not counting earnings from visits by students' families, and so on. Roughly two-thirds of the students come from China and Japan, with the majority of the rest coming from Korea, Hong Kong, Germany and Brazil.

I know that Norwood Morialta, a school in my electorate, has very strong ties with offshore institutions, and has agreements in China and Japan. I am working to have a sister

relationship with a school in Italy. We have also been involved in trying to get further agreements with universities not only in the areas I have just mentioned but also to increase where we have relationships with communities in South Australia. When we are talking about this sector, it is important to note that it involves the universities and TAFE, and also includes private providers, as well as secondary and primary schools, including the private sector.

As the member for Bragg said, Education Adelaide plays a very important part in all this. We have to look at this sector to ensure that adequate supports are provided for our international students and to dismiss myths, which are often unfounded, that are sometimes generated by the community.

I also commend the Multicultural Communities Council of South Australia for some of its programs, which provide links with overseas students to make them feel at home. It is an important area, and it is time that we looked at all aspects of the education of overseas students, for example, as the member for Bragg said, child protection and, indeed, protection for these students, as well as insurance questions. Prior to this reference, I made representations to the minister on behalf of overseas exchange students because there are concerns in this respect.

I commend the member for moving this motion. As a member of the Social Development Committee, I look forward to looking at this important area further and to increasing the numbers of overseas students compared to the other states. As I have said, it concerns me that we have only 5 per cent of the overseas students but 8 per cent of the population; there is a shortfall that has to be addressed. Given its advantages in comparison with the eastern states, Adelaide should be a preferred destination for overseas students. With the accommodation aspects being addressed, it will help this important industry to grow even further.

**The Hon. M.R. BUCKBY (Light):** I rise to make a contribution on this motion, and I commend the member for Wright for moving it. For some time we in South Australia have known that we are behind in gaining our share of international students. In fact, South Australia has something like 4 or 5 per cent of the total international students who come into Australia, yet, as the member for Hartley just said, we have 8 per cent of the population. The previous government set up Education Adelaide to address this very issue. Rick Allert was the first chair of Education Adelaide to try to get the three universities and the other educational facilities to work together as one voice rather than working as individual voices, therefore ensuring that Education Adelaide became the message, with prospective students not hearing, 'Come to University of South Australia,' 'Come to Flinders,' or 'Come to University of Adelaide'. In the past, that has been successful to some degree. However, the universities and the private and public schools are, in fact, still doing their own work.

While I can understand that, I think it is a little disappointing that this has not produced the results that we would have liked. There is certainly some huge advantages in attracting international students here. When I was minister I seconded the Hon. John Dawkins, the previous federal labor minister for education, to undertake a consultancy for me looking at this issue as to where we should be directing our energies to attract more students to South Australia, and he came up with a very good report. I would commend the current Minister for Education to have a look at that report because what the honourable John Dawkins suggested was that we should be looking at year 11 students, because the competition for undergraduates is extremely intense, both for them to go to places like America and Canada, as well as in other Australian states.

So, that report identified that perhaps we should be looking at an earlier age to be able to get the students into South Australia, guarantee them a position within a university, as long as they achieve the TER score that is required to get entry to the course of their desire, and that way we might be able to get a larger share of the market. Similarly, every state was, at that stage, and I am sure still is, seeing places like Singapore, Hong Kong, China and Japan as the most potential customers for students to come here to South Australia. That is true, there is quite a capacity there of parents wanting to send their students to Australia to study.

I did not hear all of the member for Bragg's speech but one of the areas that I think she covered is India, that we should be looking at as a potential for international students. I say that because when I was minister one of my friends travelled to India and was quite friendly with one of the royal families over there, and identified an area where there was a particularly wealthy sector of India and came back to me and said, 'Do you realise that there are over 50 million Indians who earn well over $100 000 a year and often send their children to England or to the United States for their education?' He believed that this was an area in which we should be doing some work to attract students particularly because we have similar interests. The Indian education system is particularly strong in mathematics and there is a very strong engineering side to their universities.

**Ms Chapman:** And cricket.

**The Hon. M.R. BUCKBY:** And cricket, of course, as the member for Bragg says. However, there were certainly some similarities there where he felt we could do some work. It has been shown that when you get an overseas student here they spend about $30 000 a year. It is almost 100 per cent sure that a parent will come out and visit their student once a year as well, and so you get the additional spending of the parents that come out here. Often they will come and live here with the students for a period of time, and so we gain in our economy from those international students coming here and their relatives visiting.

Just to give you some idea as to the sort of effort that overseas parents will go to, and how they value education, when I was in Vietnam and we delivered, on behalf of the Douglas Mawson TAFE, IT courses in both Ho Chi Minh City and in Hanoi, and went there for the launch of those courses in those two cities at Industry College No. 4, the driver of the Australian Ambassador there said that he was sending his son to the University of South Australia. I said, 'That must be quite a significant cost for you,' and he said that nine families supported this one son to come to South Australia to undertake a degree. I found it absolutely incredible that they were prepared to put that sort of commitment into their child to make sure that he got an education that would enable him to get a very good job when he returned to Vietnam.

So, I think that the Social Development Committee, in investigating this should not be narrow—and the terms of reference here I think are very good—and should look into all areas of this as to where potential lies, not only the traditional areas but look to other areas that might be potential markets. Perhaps it might be worth taking some evidence from the Hon. John Dawkins in the committee's deliberations

as well, given his experience both at the national level and also from the study that he did for me.

I commend the member for Wright for raising this. It is an area, I believe, where significant numbers of students can be gained. As the member for Bragg said, it is not taking student positions away from other South Australians. In fact, because our population share of Australia is diminishing, because of the low growth of population here in South Australia, the universities are in danger of losing places to other states and as a result of that need to fill those places with full fee paying students from overseas, to ensure their viability as well. I look forward to the study of the Social Development Committee and to its findings on this issue. I think it is one that is very relevant and that they should turn up some particularly interesting information.

Motion carried.

**Mr WILLIAMS:** Mr Acting Speaker, I draw your attention to the state of the house.

*A quorum having been formed:*

## ESTIMATES COMMITTEES: LEGISLATIVE COUNCIL PARTICIPATION

**The Hon. R.B. SUCH (Fisher):** I move:

That the Standing Orders Committee consider and report on measures to enable the participation of members of the Legislative Council on the estimates committees and if necessary meet with the Legislative Council Standing Orders Committee to draft Joint Standing Orders for their conduct.

I have been interested in this issue for a while. Members are aware that we can barely get enough people from this house to sit on estimates committees and, when you take out ministers and yourself, sir, not many are left to service all those committees. I do not believe that the argument sometimes put forward that this would compromise our longstanding traditions in terms of money matters is valid, because if members from another place were allowed to sit on the estimates committees they would not vote on the bill or the legislation: they would simply be there to ask questions. It would certainly add to the pool of talent available to question and it could contribute to an increase in such a pool to participate in the committees. As members know, it falls upon a small number of members from this house to spend a lot of time on these committees, while members in another place could (and I believe would want to) usefully contribute.

This motion refers this issue to the Standing Orders Committee for consideration and a report, and it does not commit to anything else. I do not think I need to elaborate on this matter further, as the house will need to spend time to consider it.

**Mr SNELLING** secured the adjournment of the debate.

## STANDING ORDERS COMMITTEE: PARLIAMENTARY PROCEDURES AND PRACTICES

**The Hon. R.B. SUCH (Fisher):** I move:

That this house requests the Standing Orders Committee to inquire into—

(a) the interim report of the Select Committee on Parliamentary Procedures and Practices;

(b) any subsequent submission to the Standing Orders Committee;

(c) relevant changes to Parliamentary Procedures and Practices in other jurisdictions; and to report its findings by 18 August 2004.

For quite a while, I have been mindful that our parliament has been somewhat slow in seeking to vigorously consider its standing orders. I am also mindful that in recent times other parliaments have moved quite significantly in this area. The Victorian parliament, which I visited last week, has adopted a new set of standing orders (copies of which I have), and I believe that this motion will help to accelerate its consideration here. Several years ago, a select committee looked at this matter. It did some very good work, and I think that can be built on. Subsequent submissions have been made to the Standing Orders Committee, and I think it would be prudent to look at what other parliaments have done in recent times—hence the particular terms of reference.

Members often say that we need to update and look at how we operate, one of the aspects of which is the processing of legislation before this chamber, where often we have long, drawn-out committee stages, with a large number of amendments being moved at almost the midnight hour, including by ministers. Much of that could be improved and the whole process speeded up so that members can have reasonable sitting hours if matters such as bills, and so on, were taken to what is sometimes called a main committee. This side committee of the house would look at the bill, enable participation by the minister, the shadow minister and anyone else who was interested as a member, together with the expertise of advisers, and so on, being available.

That is just one possible change that could be entertained. There are a whole lot of others, including those canvassed by the select committee, relating to how we conduct question time. An examination of how we conduct our affairs here is long overdue. People outside are amazed that we often sit beyond midnight, and I do not think that is necessary if we get our house in order.

One of the points which has emerged from the Victorian parliament and which I think has merit is that they debated their changes to standing orders in a similar fashion to the way in which we handle a bill. They put all the proposals before the house and examined each proposal as if it was a separate clause. I think that is a good way to operate, and it worked very well in the Victorian parliament. Each proposal was considered separately, specifically and thoroughly, and every member got the opportunity to participate in that review process.

I do not think I need to say any more about this. I commend the motion to the house, and I trust that members will support this reform process to see whether we can be more efficient in the way in which we conduct ourselves in this parliament, because what we do here is very important to the people of this state.

**Mr MEIER (Goyder):** I think there is a lot of sense in this motion. Whilst my party has not officially considered it, I hope that we would be able to support it.

**The Hon. J.W. Weatherill:** Go on. Take a risk, take a punt.

**Mr MEIER:** Do you reckon? In April, I had the privilege to observe the House of Commons for the second time in my parliamentary career. Two things particularly impressed me in my observations. I also had a chat with the Chief Opposition Whip and the Assistant Clerk of the house. The first thing that impressed me was question time. It was fascinating to see the way questions were asked and answered: short,

sharp and shiny on both sides. Members are not allowed to read questions, and they were soon informed of that fact if they tried. This comes with practice; I am not pushing to have it brought in straightaway, but I was amazed at the intensity of the questions and the knowledge that the ministers had—and we are talking about a whole country.

Of course, there is a secret to why the ministers have the answers, and that is that questions have to be given two days notice. I am not suggesting that all questions should be given two days notice, but I suggest that we could at least start on a trial basis with perhaps five questions every day for which prior notice has to be given. Of course, the key question often comes in a supplementary question, which can be asked shortly thereafter. They virtually use a number system.

This is one matter that I think needs to be addressed in this house because often—and it happened in question time today—a question is asked of a minister and it is obvious that the minister has no idea of the answer but does not want to let the house know that, so they start hitting the opposition around the ears and continuing to talk instead of saying that they do not know the answer but will get one.

Under the system that operates in the House of Commons, the minister would at least have a chance to prepare an answer, and the opposition would still have a very good chance of creating a story of which the minister may not be aware by asking a supplementary question. So, let us look into this issue.

The second thing with which I was impressed was the fact that ministerial statements or statements by the Prime Minister could be responded to and questioned. In this house, time and again through a ministerial statement the minister will give the opposition a slap across the face. I know that is against standing orders, but the opposition has no chance of responding. In the House of Commons, the minister has to give only half an hour's notice to the opposition, but the opposition has the chance to respond straight after the minister has given the ministerial statement, and questions can be asked of the minister on that statement. It makes a lot of sense, and it works well.

The third matter to which I refer is reports by chairmen of committees. We have that here, but in the House of Commons questions can be asked of the chairman of the committee.

**The SPEAKER:** You can here.

**Mr MEIER:** As you indicate, sir, that can happen here, but in the British parliament prior notice of I think two days is given, although I stand to be corrected on that. The chairman of the committee has time to do a bit of research and prepare an answer. I saw two examples of chairmen not only giving their reports but also answering questions on them, and I was most impressed. I think they know their subject matter very well.

I hope all these matters will be considered, as well as what the honourable member has said about late night sittings. I am in my 22nd year in this place, and I still find late night sittings hard to come to terms with. I came to the house fresh and reinvigorated and ready to go on Monday, but by Tuesday morning I was looking for the end of the week. It should not be like that. If we were in any other institution, we would probably be put into an institution.

This house is supposed to be making key decisions that are well thought through and well considered, but we are not doing that for half the time. So, I hope the honourable member's motion will be supported.

**Mr SNELLING** secured the adjournment of the debate.

*[Sitting suspended from 6 to 7.30 p.m.]*

## STATUTES AMENDMENT (LEGAL ASSISTANCE COSTS) BILL

**The Hon. J.D. HILL (Minister for Environment and Conservation)** obtained leave and introduced a bill for an act to amend the Criminal Law (Legal Representation) Act 2001 and the Legal Services Commission Act 1977; and to make a related amendment to the Legal Services Commission (Miscellaneous) Amendment Act 2002. Read a first time.

**The Hon. J.D. HILL:** 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 *Statutes Amendment (Legal Assistance Costs) Amendment Bill* amends two Acts that deal with legal aid—the *Criminal Law (Legal Representation) Act 2001* and the *Legal Services Commission Act 1977*. It also repeals a section in an amending Act—the *Legal Services Commission (Miscellaneous) Amendment Act 2002*.

The Bill does two things. It defines legal assistance costs in the same way in the two legal aid Acts, and makes the terminology in these Acts consistent in describing how the Legal Services Commission (the Commission) may recover and apply a contribution towards the costs of providing legal assistance to an assisted person, and consistent also with laws that allow the Commission to use confiscated proceeds of crime to reimburse its costs of providing legal assistance. In doing so, the Bill does not change the obligations or entitlements of assisted persons.

The Bill also clarifies the provision in the *Legal Services Commission Act* that governs the Commission's relationship with the legal practitioners it employs to provide legal assistance and with assisted persons.

I will deal first with the amendments about the recovery of legal assistance costs.

**Recovery of legal assistance costs**

The *Criminal Assets Confiscation Act 1996* allows the property of a person charged with a criminal offence to be restrained from further dealings (pending the trial of the offence) if it has been acquired for the purposes of or used to commit a certain type of offence, or represents the proceeds of such an offence. It allows property restrained in this way to be used by the Legal Services Commission to defray the costs of providing legal assistance to that person.

The *Legal Services Commission Act* and the *Criminal Law (Legal Representation) Act* entitle the Commission to recover a contribution towards the costs of providing legal assistance from an assisted person and to use the money so recovered to pay those costs. At present, the definitions and terminology used in each of these Acts and the *Criminal Assets Confiscation Act* are not consistent and appear to confuse an assisted person's liability to make a contribution towards the Commission's costs of providing legal assistance with the Commission's liability to pay those costs. The Legal Services Commission says this may lead to problems of interpretation.

This Bill will ensure that the cost to the Commission of providing legal assistance to an assisted person is described in the same way, and has the same meaning, whether for the Commission's entitlement to seek reimbursement of it from the Treasurer under the *Criminal Law (Legal Representation) Act* or for the Commission's entitlement to assess and enforce an assisted person's liability to make payments towards it under the *Legal Services Commission Act*.

The Bill does not also amend the *Criminal Assets Confiscation Act*. This is because the Government intends to replace the criminal conviction scheme of asset confiscation in that Act with a civil scheme of asset confiscation, matching what happens in most other parts of Australia. The new legislation will describe the Commission's entitlement to use the proceeds of crime to meet the cost of providing legal assistance in a way that is consistent with the amendments made in this Bill.

I now turn to the amendments that deal with the Commission's responsibility for the work of its employed solicitors.

**Section 29 of the *LSC Act***

Members may remember inserting a new section 29 of the *Legal Services Commission Act* when enacting s11 of the *Legal Services Commission (Miscellaneous) Amendment Act 2002* in October, 2002. The new section allows the Commission to undertake standard case management, supervision and quality assurance of the legal work of its employed legal practitioners (Commission practitioners) by creating an artificial retainer between the Commission and the assisted person.

At the request of the Commission, section 11 of the *Legal Services Commission (Miscellaneous) Amendment Act 2002* (inserting the new section 29) was not proclaimed, with the rest of the Act, to come into effect on 22 December, 2002. The Commission asked for the proclamation of this section to be postponed so that it could reconsider its effect in the light of concerns raised by the Law Society. The Law Society thought the section might be misinterpreted as applying to private practitioners. It also thought the creation of an artificial retainer between the Commission and the assisted person might have unintended consequences.

After thorough consideration and further consultation with the Commission and the Law Society, I have had section 29 re-drafted. Clause 20 of the Bill substitutes a new section 29, and Part 2 of the Schedule repeals section 11 of the *Legal Services Commission (Miscellaneous) Amendment Act 2002*.

The new section 29 overcomes the initial problem identified by the Commission—that the retainer between a Commission practitioner and the assisted person may prevent the Commission, as employer, supervising that practitioner's work and re-allocating files where necessary.

Like the version inserted by section 11 of the *Legal Services Commission (Miscellaneous) Amendment Act*, the new section creates an artificial retainer between the Commission and the assisted person. Unlike the version in section 11, that retainer comes into play only when the Commission assigns work to a legal practitioner employed by the Commission (a Commission practitioner), and then solely for the purpose of the Commission's managing the provision of legal assistance to an assisted person by that Commission practitioner. In all other respects, and specifically in the application of Part 3 of the *Legal Practitioners Act*, the retainer is between the Commission practitioner and the client.

Of course, there may still be room for argument over where the line is to be drawn between the Commission's deemed retainer and a Commission lawyer's actual retainer with the assisted person. That cannot be avoided. The Commission can always safeguard its position further by spelling this out in its contracts of employment and in the conditions of aid for assisted persons.

There is also the possibility that a direct retainer between the Commission and assisted persons, even when confined like this, could place the Commission in a position of conflict of interest in cases of co-accused to whom legal assistance is provided by Commission practitioners. This is just one aspect of the Commission's potential exposure to conflict, a wider problem than can be dealt with in this Bill. I intend to consult further with the Law Society and the Commission to see if there is a need for legislation about this.

In commenting on section 11, the Law Society said that the artificial retainer between the Commission and the assisted person may place the assisted person at risk because the Commission would not be a legal practitioner in any relevant sense. In contrast to a private legal firm, the Commission would have no professional conduct obligations towards an assisted person and no professional indemnity insurance as a legal practitioner.

The Bill overcomes these problems. Like a private legal firm, the Commission may re-allocate files between employees and give directions on the conduct of a client file through its senior practitioners. It is accountable professionally for those actions because the Bill takes it, for precisely that purpose, to be the legal practitioner retained by the client. Equally, the Commission practitioner handling the file is bound to meet the professional standards set by legal professional conduct rules and is subject to the same professional requirements as any other legal practitioner. The Bill specifically says that Commission practitioners are retained by the assisted person for the purposes of Part 3 of the *Legal Practitioners Act*. Although Commission practitioners are exempted from taking out professional indemnity insurance under clause 15(2) of the Legal Practitioners Professional Indemnity Insurance Scheme 1996, they are covered by the Commission's own professional-indemnity insurance, obtained through SAICORP. Claims for legal-professional negligence are presently made against the individual Commission lawyer. If the retainer is between the Commission and the client, the claim may be made against the Commission rather than, or as well as, the Commission practitioner. The claim will be met by the Commission, whether the respondent is the Commission or the Commission lawyer, and from the same professional indemnity insurance fund. The assisted person is fully covered for any claim connected with the provision of legal assistance, whether this be against the Commission or the Commission practitioner.

I commend the Bill to Members.

**EXPLANATION OF CLAUSES**

**Part 1—Preliminary**

**1—Short title**

**2—Commencement**

**3—Amendment provisions**

These clauses are formal.

**Part 2—Amendment of *Criminal Law (Legal Representation) Act 2001***

**4—Amendment of section 4—Interpretation**

This clause inserts a definition of ***legal assistance costs*** consistent with the definition in the *Legal Services Commission Act 1977*.

**5—Amendment of section 6—Entitlement to legal assistance**

This clause makes a minor amendment to the examples in section 6(3) of the principal Act to ensure consistency of terminology when referring to ***legal assistance costs***.

**6—Substitution of heading to Part 5**

**7—Substitution of heading to Part 5 Division 2**

These clauses substitute new headings as a consequence of the amendments made in relation to ensuring consistency of the terms ***contribution*** and ***legal assistance costs***.

**8—Amendment of section 13—Recovery from financially associated persons**

**9—Amendment of section 14—Power to deal with assets**

**10—Amendment of section 17—Periodic accounts and final accounts**

**11—Amendment of section 18—Reimbursement of Commission**

These clauses make minor amendments to ensure consistency of terminology when referring to payment of legal assistance costs by assisted persons and persons financially associated with assisted persons.

**Part 3—Amendment of *Legal Services Commission Act 1977***

**12—Amendment of section 5—Interpretation**

This clause inserts and amends a number of definitions; in particular, it amends the definition of ***legal assistance costs*** to clarify what constitutes those costs for both practitioners employed by the Legal Services Commission (**Commission practitioners**), and private practitioners who provide assistance to an assisted person.

**13—Amendment of section 18—Recovery of legal assistance costs from assisted persons**

This clause makes amendments to ensure consistency of terminology when referring to ***legal assistance costs***. It also makes it clear that the Director may stipulate that a condition imposed on a grant of legal assistance may be that the assisted person indemnify the Commission in full for legal assistance costs.

**14—Amendment of section 18A—Legal assistance costs may be secured by charge on land**

This clause makes amendments to ensure consistency of terminology when referring to ***legal assistance costs***.

**15—Amendment of section 18B—Special provisions relating to property subject to restraining order**

This clause clarifies the position that an assisted person may be liable to the Commission for the whole of his or her legal assistance costs and that the Commission may secure that liability by a charge on property subject to a restraining order.

**16—Insertion of section 18C**

This clause inserts a new section 18C, which provides that the Director of the Legal Services Commission must determine a scale of fees for professional legal work.

**17—Amendment of section 19—Determination and payment of legal assistance costs to legal practitioners (other than Commission practitioners)**

This clause clarifies the situation in respect of payment of legal practitioners (other than Commission practitioners) who provide assistance to assisted persons.

**18—Amendment of section 23—Legal Services Fund**

**19—Amendment of section 26—Commission and trust money**

These clauses make amendments to ensure consistency of terminology when referring to ***legal assistance costs***.

**20—Substitution of section 29**

New section 29 provides that for the purposes of managing the provision of legal assistance to an assisted person by a Commission practitioner, the Commission—

- will be taken to be the legal practitioner retained by the person to act on the person's behalf; and
- may require a Commission practitioner to provide legal assistance to the person; and
- must supervise the provision of legal assistance to the person by the Commission practitioner.

Despite this, for the purposes of Part 3 of the Legal Practitioners Act 1981, the legal practitioner for an assisted person is the Commission practitioner required by the Commission to provide legal assistance to the person.

**Schedule 1—Related amendments**

**Part 1—Amendment provision**

**1—Amendment provision**

This clause is formal.

**Part 2—Amendment of *Legal Services Commission (Miscellaneous) Amendment Act 2002***

**2—Repeal of section 11**

This amendment repeals section 11 of the *Legal Services Commission (Miscellaneous) Amendment Act 2002* (which inserted section 29 into the *Legal Services Commission Act 1977*). This is consequential on clause 20.

**The Hon. I.F. EVANS** secured the adjournment of the debate.

## STATE PROCUREMENT BILL

Consideration in committee of the Legislative Council's message.

(Continued from 19 July. Page 2764.)

**The Hon. M.J. WRIGHT:** I move:

That the Legislative Council's amendments be agreed to.

I want to speak only very briefly on this matter and would like to acknowledge the shadow minister for administrative services, who raised both these issues during the debate of the bill in this place. At that time I said that we were prepared to look at that matter and, in all probability, would move amendments to put his suggestions into effect, as we subsequently did in the other place. We acknowledge the contribution of the shadow minister.

Motion carried.

## MURRAY MOUTH

**The Hon. J.D. HILL (Minister for the River Murray):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. J.D. HILL:** Today I announced that a further $9 million will be allocated for sand dredging to continue until October 2005 to keep the Murray Mouth open. This project has been operating successfully since October 2002 with around the clock dredging that has moved more than 2 million tonnes of sand. In the meantime, boats have been prevented from legally passing from Goolwa to the Coorong via the Mouth on all but one occasion, when the dredging was stopped for maintenance. The Mouth has been made an exclusion zone to ensure public safety and to provide a safe operating environment for the dredging operator and his equipment.

It should be remembered that, before the dredging commenced, extensive sand shoals prevented most boats from crossing the Mouth most of the time, and there would be no passage for boats if the Mouth was left to close. However, I have been approached by commercial boat operators, together with regional development associations, some local business owners and the Alexandrina council seeking to allow boat passage past the Mouth.

**The SPEAKER:** And me.

**The Hon. J.D. HILL:** And the Speaker, of course. In response to this approach, a formal risk assessment was undertaken on the project in March 2004. The risk assessment concluded that the risks to both public safety and to the project were unacceptable to permit passage through the exclusion zone while the plant was operating or while the plant and equipment were in operating position.

There are three options available to allow boat passage. These are to shut down the dredging at specified times, to look at alternative options for passage past the Mouth, or to use the alternative access points into the Coorong. It has been estimated that the cost of shutting down the dredging, moving all plant and equipment out of the way, allowing boat passage and restarting the dredging would cost a minimum of $8 000 each time. The Murray-Darling Basin Commission funding partners have advised that they will not fund the shutdown of the dredging for navigation purposes, nor will they accept any risk associated with a shutdown. Therefore the cost of this would need to be met by the beneficiaries of suspending the sand dredging.

There is also no guarantee that the waters will be sufficiently deep to allow boats to pass, as there are still extensive sand shoals obstructing the Mouth after nearly two years of continuous dredging. The only passage past the Mouth that is outside the exclusion zone is via Scab Creek Channel. It is estimated that it would cost in excess of $1 million to dredge an acceptable channel through Scab Creek. There would also be an annual cost associated with keeping it open which could be very high, as well. Again, this cost would need to be met by beneficiaries.

The third option is for boats to use the upgraded facilities at Mundoo Channel and Tauwitchere Lock to enter the Coorong. This option exists now and meets the needs of most recreational users but does not fully meet the needs of the commercial operators.

I am prepared to consider authorising the occasional shutdown of dredging if the boat owners can meet safety requirements and pay for the costs of suspending the dredging, provided that there is no liability to the state in doing so and there is no serious risk to the health of the Mouth. I understand that this would put commercial difficulties in the way of those operators, but there is an option for them if they can work together to pay the costs and address all of those issues.

**The SPEAKER:** What about the yachties on the third river crossing of the Port River?

**The Hon. J.D. HILL:** That is not part of my ministerial statement, Mr Speaker. I am not sure that Speakers are allowed to interject! Nonetheless, I acknowledge your point, sir. A stakeholders' reference group, including recreational and commercial boat owners, local business interests and the local council, will be established to explore this option. I am keen to work with the boating and business communities to work out the best solution for everyone. However, as long as the low flow persists in the River Murray, there is no cheap or easy solution for access for the larger boats.

## PASTORAL LAND MANAGEMENT AND CONSERVATION (MISCELLANEOUS) AMENDMENT BILL

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

No. 1—Clause 10, page 5, line 37 to page 6, line 2—Delete subclause (5) and substitute:

(5) The Board cannot take any action under this Act as a consequence of an assessment until after the end of the period during which an application for assistance may be lodged under section 25B.

No. 2—Clause 10, page 6, after line 2—Insert:

25A—Establishment of pool of persons for the purposes of section 25B

(1) The Minister must establish a pool of persons for the purposes of section 25B.

(2) The pool will consist of such number of persons (being not less than 2 and not more than 6) as the Minister thinks fit, appointed by the Minister after consultation with the South Australian Farmers Federation and the Conservation Council of South Australia Inc.

(3) A member of the public service is not eligible for appointment as a member of the pool.

(4) A member of the pool will be appointed on terms and conditions determined by the Minister.

(5) Each person appointed under subsection (2) must have qualifications or experience in pastoral land management.

(6) The Minister must maintain a public register containing the name and contact details of each member of the pool.

(7) The public register is to be available for inspection, without fee, during ordinary office hours—

(a) at a public office, or public offices, determined by the Minister; and

(b) at a website determined by the Minister.

(8) The Minister may, by notice in the Gazette, publish guidelines in relation to the provision of assistance under section 25B.

25B—Assistance to lessee

(1) A lessee who has received under section 25(4)—

(a) a copy of an assessment; or

(b) a written report of proposed action,

may, within 60 days after the copy of the assessment or the report is forwarded to the lessee under that section, apply to the Minister for assistance in relation to the lessee's dealings with the Board, or any other person or body, as a consequence of the assessment or in relation to the proposed action.

(2) An application under subsection (1)—

(a) may request that the assistance be provided by a particular member of the pool of persons established under section 25A; and

(b) must identify—

(i) the nature of the assistance sought by the lessee; and

(ii) if the lessee seeks assistance to dispute any part of the assessment, or oppose any proposed action—the grounds for the dispute or opposition; and

(c) must be made in a manner and form determined by the Minister and will not be conditional on the payment of any fee.

(3) If an application is made under subsection (1), the Minister must, unless satisfied that application is frivolous or vexatious, appoint a member of the pool to provide assistance to the lessee in accordance with any guidelines published in accordance with section 25A(8) (and if the application requests that the assistance be provided by a particular member of the pool, the Minister must appoint that member unless the Minister is of the opinion that it would be inappropriate for any reason for that member to do so).

(4) A member of the pool must—

(a) inform the Minister in writing of any direct or indirect interest that the person has or acquires that conflicts, or may conflict, with the provision of any assistance that the member is appointed to provide; and

(b) comply with any directions given by the Minister regarding the resolution of the conflict, or potential conflict.

Maximum penalty: $20 000.

(5) Subsection (4) does not apply in relation to an interest that the member has or acquires while the member remains unaware that he or she has an interest in the matter, but in any proceedings against the member the burden will lie on the member to prove that he or she was not, at the material time, aware of his or her interest.

(6) No civil liability attaches to a member of the pool for an act or omission in good faith in the exercise or purported exercise of a function under this section.

(7) The Pastoral Board must give consideration to any comments made to the Board by the lessee relating to the assessment, or the written report of proposed action, referred to in subsection (1).

No. 3—Clause 15, page 10, line 30— After 'native title group' insert:

in relation to pastoral land the subject of the ILUA

No. 4—Clause 16, page 12, line 18—After 'native title group' insert:

in relation to pastoral land the subject of the ILUA

Consideration in committee.

**The Hon. J.D. HILL:** I move:

That the Legislative Council's amendments be agreed to.

The main amendment deals with review of pastoral lease assessments. The amendment follows debate initiated by the member for Stuart in this place, and negotiations occurred between my office and me, the member for Stuart, the opposition spokesperson for primary industries (Hon. Caroline Schaefer), and other interested parties, including the Pastoral Board, the South Australian Farmers Federation and the Conservation Council.

The amendment provides for a pool of persons with experience in pastoral land management to be available to assist pastoral lessees with concerns about the process or results of the regular 14-year assessment of the state of their pastoral lease, including the carrying capacity of the land. The government has accepted the amendment and believes that it will assist in improving the administration of the lease assessment process and the confidence that pastoral lessees and others have in the outcome.

The other amendment is a technical one to clarify that a native title group has powers related to pastoral land where they are party to the relevant ILUA. The issue was raised by the shadow attorney-general, and the government is pleased to adopt the change suggested. The measure, which was moved by the Hon. Caroline Schaefer and supported by the government, I hope addresses the concerns raised by the member for Stuart. The member for Stuart was concerned that pastoralists in some cases, not in all cases, particularly where the pastoralists were individuals rather than parts of pastoral companies, might need assistance in addressing the issues that were raised in assessments of their properties.

By the establishment of this panel I hope that we are giving them the assistance and the confidence that they need to go through those processes in a better way. We are very pleased to accept the amendment, which is really following on from the position put by the member for Stuart in this place.

Motion carried.

**Mr SNELLING:** Mr Speaker, I draw your attention to the state of the house.

*A quorum having been formed:*

## STATUTES AMENDMENT (MISCELLANEOUS SUPERANNUATION MEASURES) BILL

Consideration in committee of the Legislative Council's amendments.

(Continued from 20 July. Page 2818.)

**The Hon. K.O. FOLEY:** I move:

That the Legislative Council's amendments be agreed to.

**The Hon. I.F. EVANS:** These amendments are technical in nature, and the opposition supports them.

Motion carried.

## FIRE AND EMERGENCY SERVICES BILL

Adjourned debate on second reading.

(Continued from 1 July. Page 2692.)

**Ms RANKINE (Wright):** I take this opportunity to make a brief contribution in relation to this bill. To some extent, I was spurred on to do this by the contribution made by the shadow minister. This bill is in response to the findings of a review that commenced back in May last year. The review was conducted by John Dawkins, Richard McKay and Stephen Baker, who is a former member of this house and he was a member of a former Liberal government. The review was significant in examining the extent to which community expectations are being met by emergency services here in South Australia, and that clearly is of critical importance, as the events in Canberra have highlighted. Irrespective of whether the services are provided by paid professionals or volunteers, the community places great store in their expertise and knowledge in times of crisis. The community has great expectations of and places a great deal of trust in our emergency services, which must be met.

The review was significant in assessing the current governance arrangements. Organisations involved have had a very long and proud history of serving South Australians. The demands placed upon them by the community expectations have grown significantly over that period of time, so it was very appropriate for this to be addressed in the review. Importantly, also, the review looked at whether these organisations were receiving the support that they needed, both administratively and in line with best practice policies. The minister has acknowledged on many occasions in this house that the issues affecting volunteer firefighters and State Emergency Services volunteers would not proceed if they were not supported by the volunteers. Consultation with the volunteers has been comprehensive and, in fact, is a great example of both the government and volunteers honouring the commitments given in the Volunteer Partnership signed by the Premier only five days after the establishment of this review. I will refer to just two of those. Under 'Commitments to policy and legislation development', it states:

> The South Australian government committed to consulting with peak volunteer organisations when proposed legislation or policy has a significant impact on volunteering.

They also committed to:

> Provide information and advice and work together with the volunteer sector in relation to the impact of any legislative or policy changes.

We clearly complied with that commitment. Under 'A commitment given by the volunteer sector' they also committed to:

> Encourage the volunteer sector to work cooperatively to avoid unnecessary duplication of services and resources.

This has led to us now dealing with this legislation, which has the support of the Metropolitan Fire Service, the United Firefighters Union, the volunteers of the CFS and the SES. This legislation is a real milestone in the history of these organisations.

I have been involved both personally and at a professional level with the emergency services in a range of areas for longer than I care to admit. They are entering into a new era of cooperation and coordination. I have seen that cooperation at a local level between professional emergency services for many years. They develop great personal bonds. It is true to say, and history shows, I am sure, that there has been some friction between professionals and volunteers, and even between the volunteer organisations themselves. I am very pleased that that is history. The opposition do not want it like that but that is the fact. The services recognise that in order to do their job to the level expected by the South Australian community, that they need to work together, and they need to support one another.

After the very tragic bus/rail crash at Salisbury the local police sergeant told me that the police out there could not have managed that scene, they could not have managed that crisis, were it not for the volunteers of the CFS and SES who played a critical role—and that is just one example. I was delighted recently to attend the opening of the new Salisbury CFS fire station, opened on their 61st birthday. In attendance was not only the CFS chief officer, but also the MFS chief officer and officers from the Salisbury MFS Station, Salisbury police officers, and SES officers—an indication of respect that these services have for one another. It was the same circumstances when the northern SES commissioned their new trucks and celebrated their 40th anniversary some time ago.

The shadow minister came into the chamber making claims that Labor wants to amalgamate these services and this was fearmongering of the worst kind. He raised spurious arguments of no substance dating back many years. They might live in the past, we know that they do, but this government does not. He talked about aggravation between the services. He needs to get up to speed, he needs to get out there and see how they operate now, and see the cooperation that exists. Perhaps the aggravation that he was aware of had something to do with the leadership at the time from the minister down. He came in here talking about leopards never changing their spots and how he objects to governments that con people. Well, let me just say that that really was the pot calling the kettle black. He came in here saying that the consultation process that took place was about conning the services, getting people on side, volunteers on side, that it was a strategy of conning them, that there was a hidden agenda.

He tried to diminish the consultation process, and it was a good lesson for him, if ever he reaches this side of the house again, which I doubt, about what consultation actually means. He berates giving volunteers the opportunity to have input. He talked about the CFS board and the need to retain them, but he also said that the CFS board did not provide the flexibility that was needed for the sharing of resources. He said ESAU had not worked, does not work as was intended, he said changes need to take place. That was really having two bob each way. Whoever contacts him, he will be able to

provide a snippet of his speech and selecting quotes supporting whichever side of the argument is put to him.

I was in the chamber when he delivered his contribution and saw the looks of disgust and amazement on the faces of the CFS and SES volunteers who were in the gallery. Again, a lesson for the shadow minister. He very much diminished himself in front of those volunteers and he diminished his party with his contribution. He did not impress anyone, let alone those he was purporting to protect. He was, in fact, ridiculing their efforts and he was diminishing their ability to understand the proposals put before them. I would have taken his comments to being tantamount to being called a fool. It was offensive in the extreme. These services, these volunteers, know very well the implications of this legislation, and they support it.

The shadow minister even criticised the fact that suggestions put forward by the organisations and adopted, was part of a grand plan to trick them—a ploy he called it. He might think that that is trickery, but I would say that that is listening and acting in response. He then diminishes the correspondence from the presiding member of the CFS board which confirmed the extensive consultation which took place and which, from memory, congratulated the minister. It also confirmed their substantial involvement in the development of the structure and framework of the proposed South Australian Fire and Emergency Services Commission. In his letter he indicated that the views expressed were the unanimous views of the board.

Even this was not enough for the shadow minister. He came in here saying that he smelt a rat (he was really good on his old sayings). Well, I have to say that my mum had one too, and that was that 'A fox smells his own hole first.' The previous government could not be accused of consulting or of being inclusive, so it is not surprising that he does not recognise it when he sees it.

Emergency services in our state do a great job. The shadow minister's arguments are offensive to them all. These people put their lives on the line every day. They put their lives on the line to save our lives, whether it is in a house fire or a bushfire, and they are critical in saving the lives of people in vehicle accidents and search and rescues. This government values their contribution and honours the commitment they make. For many their service is voluntary, but it is nonetheless professional.

I attended the Bushfire 2004 Management Conference in May on behalf of the minister, and the facilitator of that conference, Stuart Ellis (the former chief officer of the CFS), came up to me unsolicited during the evening to say how excited and delighted the firefighters and the people working in the Department of Environment and Heritage were with the commitment to emergency services that this government had given them, and that it was quite unprecedented.

I want to place on record my admiration and support for volunteers, and commend the minister and all those involved in ensuring that this legislation has come before the house.

**The Hon. M.R. BUCKBY (Light):** I rise to speak on this bill. As has been pointed out by other opposition members, there are a few areas where we have some concerns and I am sure that, during the committee stage, the minister will be able to provide us with some explanations as to how and why certain matters are in the bill.

First, though, I would like to say that we recognise the amount of work that our volunteers put in. I have some amazing CFS brigades and SES people in my area, as well as MFS people, and they all work very well together around Gawler, which is really good to see. I would not like to add up the amount of time that the volunteers, particularly, put in; they are extremely dedicated people who go out to protect property without fear for life or limb.

I have a number of major highways running through my electorate, for instance, the Sturt Highway and Main North Road, and I would not like to add up the number of times they are called out to assist ambulance officers and people who have had car accidents.

There are a couple of areas of the legislation that concern me. The first area is division 3 of the bill relating to the composition of the board, comprising six people. I do not see any volunteers on that board. The minister may correct me if I am wrong, but I think it states that the board consists of the CEO of the South Australian Metropolitan Fire Service, the Chief Officer of the South Australian Country Fire Service, the Chief Officer of Emergency Services, and the presiding member. I would like to see volunteers on that board because predominantly volunteer organisations are represented by that board, and also because the level of expertise in our volunteers is such that the advice they would be able to give the minister would, I think, be worth listening to.

I remember some of the fires like the one at Mount Remarkable, where confusion reigned in certain cases. One group (I think it was Environment) were saying one thing and the CFS were saying another thing, and as a result there was a large amount of confusion from time to time in that fire. I think the on-the-ground knowledge that the CFS and SES people have in country fire fighting, in particular, is second to none and I would certainly like to see volunteers represented on that board.

I notice that two of those six members do not have voting rights, and my question is: if they do not have voting rights then would you not just co-opt people onto the board as you need them for various issues that come up, rather than having people sitting there all the time? However, the minister can explain that again when closing the second reading debate or when we question him in committee.

Another area that the opposition is concerned with—and, again, the minister can correct us if we are wrong—is that we believe there is no protection in the bill to ensure that the chief executives of the MFS, the CFS and the SES could not be the same person at the same time. If there are provisions that that cannot happen, that is good, because I do not think it should be the same person; again, the minister might like to outline where the protection is within the bill which ensures that does not happen.

Once again on the matter of the advisory board to the minister, all the advisory boards I have had anything to do with have comprised volunteers or others who have specific expertise to be able to advise the minister and provide recommendations, whether it be on firefighting in the field, on administrative issues or whatever. I know I had them in education, when they were extremely useful bodies to give you advice about certain aspects in the field. I see that the minister has the ability to appoint all these bodies, and I do not have a problem with that. As minister, obviously he needs that sort of discretion but, again, I would like to see volunteers well represented on the advisory board, if not in the majority, so that the minister can be assured that the message is coming through from the field and that he is getting the right sort of information. I think that is a particularly important point.

Another important issue is the abolition of the unit or brigade. I liken brigades or units to schools, which are usually an integral part of a local community, particularly in the country, and everything ticks around the school. If a unit is to close, one way of addressing this might be to undertake the same procedures as were adopted in the last parliament for the closing of a school, namely, there is consultation with the community, and that consultation includes local governments and the people who are involved, and a recommendation comes forward to the minister, who can then table that in the parliament. I say that because there are very passionate people in the CFS and in the SES in the country. We must ensure that a proper consultation process is undertaken, so that if people genuinely believe that there are not sufficient volunteers, or there is no good reason to continue a unit, they are assured that that is the right decision and not the whim of any particular person.

I note that a review of the act will be undertaken after the second anniversary of its commencement, and a report, which is to be submitted to the minister within six months after that second anniversary, must be tabled before both houses of parliament within 12 sitting days after its receipt. There could well be a very good argument to ensure that somebody independent of the units involved and the government undertake that review. Obviously, it has to be somebody who is not only qualified to undertake such a review but also who is seen to be and indeed is independent to ensure that there is no bias in the reporting and that the parliament is given the full facts; and, where changes may need to be made to the act, that can be done with an unbiased report.

That covers the main issues that came to mind when I read this bill. It is important that the volunteers are well represented on any of the boards or advisory boards to the minister, because they are the people on the ground and, from my experience, they have the best knowledge. They are the people upon whom any minister, of whatever persuasion of government, would be reliant to ensure that the directions which he or she gives to the board are given with full knowledge and without bias from any party so that the right decisions can be made, because these are particularly important services. They are called into action usually at a time of emergency but also at a time when the right decisions have to be made quickly and when a structure can be followed to ensure that the minister, when giving directions to the various emergency services, knows that the correct information is coming through to him or her. With those few words, I look forward to the committee stage of the bill, when members on this side of the house can question the minister on some of the aspects of the bill and seek his clarification.

**Mr CAICA (Colton):** I was going to commence my contribution by outlining various aspects of the bill but, in the first instance, I congratulate the member for Wright on her contribution, which was far and away the most considered and sensible made in this debate to date. My major fear in respect of the passage of this bill is that, ultimately, it will be decimated in another place because of the politics of division and the fearmongering being undertaken by the opposition. If that were to occur, that would be one of the saddest days in the history of emergency services in the state. However, it would also be safe to say that that would be true to the track record of the opposition when it was in government, because that is what it did—it played politics of division.

With respect to some of the contributions made by the members of the opposition, I start by commenting briefly on that made by the member for Bright. It was a very fanciful contribution, and it was extremely loose with the truth. It was typical of the time when he was minister, that is, it showed the wedge that he wished to drive between the various emergency services that operate in this state. The truth is that he was not a popular minister with the rank and file, and I can say that from some experience, because I was indeed a rank and file member of the fire service at that time, as well as being the secretary of the union.

I could go into some detail in regard to my background, but I want to comment on a few of the points made by the member for Bright with respect to his views on amalgamation of the various services that, in his view, were to occur at the time of their coming to government. That is one of the biggest nonsenses I have ever heard. It is true to say that I sat on the committees involved in the Bruce report. That report looked at various aspects of coordinating the operations of the CFS and the MFS: in particular, training, enhanced mutual aid, communications and, as has been mentioned previously, collocation of the headquarters. However, there was never any amalgamation intended for the CFS and the MFS.

Unlike the member for Bright, I will be truthful in what I say about my background. It is true to say that at one stage I believed this state would be better served by having a single state fire service. That was my view at that stage. I am truthful, unlike others, in what I say before this house. However, the fact is that it was never going to happen, because at that time the goodwill did not exist even to explore the issue. That fact, accompanied with the introduction of the new government in 1993, tore asunder any plans to look at having those services work more closely together.

In 1993, we had a new government, a new minister, the suggestion that there was to be an amalgamation, and the Bruce report was thrown out the window—and what was the minister's idea for the future of the services? Let's amalgamate the MFS and the SA Ambulance Service. That was a no-brainer, even if we looked at what the advantages of something like that might be, because in some places in the world some of the best fire services actually have an emergency medical role, but it did not work because the member for Bright's Stalinist approach was never going to succeed. He was going to impose from above. He was not going to engage any members of the service to look at this or even the Bruce report to enable it to succeed in any possible way.

If we contrast that with the approach undertaken by this government, which has been inclusive and has allowed the various agencies to move this issue along, we see that they are diametrically opposed. The manner in which we do things is entirely different from the approach of the previous government. I used to think there ought to be a single state fire service, just as in the past I was attracted to the Stalinist approach. I have seen prime examples of how that would work under the previous minister, the member for Bright: it was not successful; it was a no-brainer.

I am not sure who suggested this—it may well have been the member for Bright, the member for Mawson or the member for Morphett, because they were all singing off the same tune sheet—but one of the scaremongering tactics of the opposition was to suggest that the Labor government wishes to replace volunteers with paid personnel. One of the arguments suggested by the opposition was that we wanted to do this because it would enable the UFU to increase its membership and hence get more dues to be able to feed the coffers of the Labor Party. Again, this is another no-brainer argument.

I cite this as an example. Do we need a full-time fire service at Yunta? I think we have 18 000 volunteers. Are we going to suggest that we pay roughly $50 000 per paid volunteer plus 25 per cent in ongoing costs? The member for Bright is probably better than I at maths, but I think that works out at about $900 million. Would it be good value for money to put a full-time fire service at Yunta? Another no-brainer! That is not our policy. Our policy is to make sure that the people of South Australia have at their disposal the best possible emergency services that we can give them. Amalgamation was never going to happen, and it will not happen under this legislation. So, stop the scaremongering and join us in a bipartisan approach to deliver exactly what I have just said.

I am very proud of my involvement with the UFU. I am a life member, one of the few who still pay their fees on a monthly basis, and I will continue to do so. The conspiracy theories being run by the opposition will affect the passage of this bill. They talked for a long time about the abolition of the CFS board. I was a member of the MFS soon after the Metropolitan Fire Brigade's Board was abolished. The reality is that, because of that, we finished up getting a far better service than we have today. I am not casting any aspersions whatsoever on the CFS board, but I am suggesting that this bill is a better way by which to administer emergency services in this state.

One of the things that really annoyed me was the opposition's assertion that the CFS Board was mostly representative of volunteers. I am not saying that is the case, because I do not believe it is completely representative of volunteers. What is representative of volunteers is the Volunteer Fire Brigade Association. I congratulate them for the outstanding job that they have done in consulting with their membership and bringing their membership along. There is still more work to be done by the Volunteer Fire Brigade Association and the UFU in that regard, and it will continue.

I think it is a slight on those organisations and full-time firefighters in this state for the opposition to suggest that they are not representative of their members and, more importantly, that they are pulling the wool over the eyes of their personnel. For goodness sake, give the firefighters and the emergency services personnel credit for having more brains than the opposition.

Again, the opposition is just promoting fear when it suggests that the level of consultation is not what it should be. I cited a prime example of the level of consultation undertaken by the member for Bright in respect of his no-brainer to amalgamate the Ambulance Service and the South Australian Metropolitan Fire Service. I stand to be correct on this, but it was certainly the case that the brigade captain is an elected position.

On my understanding of elected positions, if you do not consult with the people you represent it is at your peril. So, for the member for Bright to say that the group captains and the brigade captains may well have been consulted but that it has not filtered down to the rank and file is another nonsense. That is another aspect of the fear that is being promoted by the opposition. It is just another way in which the opposition wants to delay this bill and blow it out of the water. The opposition should be ashamed for wanting to do that. I think the opposition does not understand what the members of the emergency services in this state want.

That was clearly demonstrated when the opposition was in government. It is scaremongering. Why is it scaremongering? Because opposition members want to play the politics of wedge and division. In reality it is not just that: the truth is that members of the opposition are green with envy because, first, we will achieve something that they would never have been able to achieve; and, secondly, they are not bright enough even to have thought of it. We have achieved the parties working together. They are working cooperatively. They are working together positively and they are working together in a strategic direction, and it is the parties that have done that. This bill would not be before us if it was not for those organisations and the people representing them working in a cooperative, positive and strategic direction. The opposition does not like it.

One of the other issues raised by the opposition was that this bill will create a situation where the various agencies and services will lose their identity. The reality is that this will enshrine their identity. There are no moves in this bill to have the services remain anything but specific organisations—the CFS, the MFS and the SES. Many opposition members spoke about the lack of understanding from this government's perspective of the role, function and culture of the services, which they say, through their actions, the opposition will protect. Again, it is they who do not understand the culture. I am convinced that they do not understand the function and the role of the services. Unlike the opposition, we see the similarities of the services, and in fact there are greater similarities between the services than there are differences. This bill is focusing on those similarities.

I now refer to the member for Mawson, who, by the way, was another disliked minister for emergency services and was very unpopular. I will refer to him as the 'when I was the minister member'. He was quite right when he said that they got it wrong with ESAU. Of course, they got it wrong. The interesting thing was the way they looked at creating ESAU. I have to tell the opposition that you cannot be half pregnant. They picked bits and pieces which they thought were good, but because it was not a package and because it was not advanced in the proper manner it was doomed to failure. I welcome the comments of the member for Mawson that they got it wrong when it came to ESAU—and they most certainly did get it wrong. This is our chance, through the services and the representatives who are here tonight, to get it right; and I believe that, despite the efforts of the opposition, we will get it right.

One of the other things that both the member for Mawson and the member for Bragg mentioned was the different levels of training and the impact that the onus and emphasis on training will have in respect of the ability to retain and recruit volunteers. This bill again is looking at coordinating those things in such a way that the appropriate level of training will be delivered to those volunteers to enable them to discharge their responsibilities effectively. We know that volunteer firefighters and full-time firefighters operating out of Adelaide or Blackwood require a different set of skills from the volunteer firefighter at Yunta. We have to take into account not only the levels of training that they need but also the duty of care involved, and it is the responsibility of the organisation and this state to ensure that they can discharge their functions effectively and to the proper standard.

I can refer the opposition to many coronial inquiries which have been conducted as a result of firefighters suffering fatalities because the right approach was not taken to training and coordination.

The member for Waite made a contribution that is best forgotten, except for the fact that he agreed that the combination of the emergency services levy and ESAU was not an

effective way to do things. The member for Finniss again showed a lack of understanding about emergency situations. The point is that emergency situations, natural disasters and fires do not know about gazetted areas and they do not know boundaries. They do not decide to happen here because orange overalls or blue uniforms may be present. They know no boundaries, so we must therefore have a coordinated approach to the way in which we deliver emergency services in this state. That means, by necessity, that we have to work together collectively and cooperatively, and we must ensure that we resource those organisations properly.

That is what this bill is about. The bill we have before us is a mechanism to allow a closer working relationship and to develop even further a bond between those organisations. I know as an operational firefighter for 20 years that the wedges that the opposition tried to put in place when it was in government did not completely work because we worked very well together and we were respectful of each other because we knew the job that we were doing was dependent upon that working relationship.

This bill is about working in a coordinated strategic way. It will be for the benefit of the community and the emergency services personnel who proudly and bravely serve and protect our community. The opposition suggests that this bill will threaten the identity of the services personnel and the services. The actual fact, however, is that the opposition is doing this by the fear it is promoting. The operational autonomy will be retained but it will be retained in such a way that the working relationship will be far more effective than it has been in the past.

The member for Stuart's contribution was a reasonable one. I always enjoy his contribution and his typical quote that the greatest threat to democracy is bureaucracy, but democracy is no guarantee of quality, as we saw when the opposition was in government—I thought I would add that. When commenting on the letter from the presiding member of the CFS board, the honourable member said he was surprised and disappointed that the CFS board was entering a political controversy. I suggest that the only people who are causing this to be a political controversy is the opposition. There is no political controversy. That is what the opposition is trying to promote and they are not going to do it successfully.

Before I refer to the contribution made by the member for Morphett, can I say that I quite like the man, but what is getting very annoying is the fact that he comes into this house and makes statements that are not based on fact and have not been researched and, in essence, are a crock. I could focus on the fact that he said that he was wearing his dad's badge. His dad was a legendary, respected member of the Metropolitan Fire Service. When I joined in 1983, Jock McFetridge was a divisional superintendent, a member of the brass and well-respected. The member for Morphett has a long way to go to reach that same level of respect. He is very sloppy in his research, and he comes in here and makes statements that are unfounded and not based on fact. He ought to do his research properly.

I expect the member for Morphett to apologise to me for saying that the United Firefighters Union provided me with $110 000 for my election campaign. That is not the truth. In fact, if I got $110 000, that would be enough for five campaigns, and if you run the same type of campaign in Colton next time that you did last time it will do me for 10 campaigns. It is just a nonsense. I expect the member for Morphett to remedy that situation.

The badge that he was wearing was an FBU badge, which is an English badge. It was his dad's badge, for sure, but it was not his dad's union badge. It was the badge of the FBU, the English union. I am happy to give him the history of the Fire Brigade Officers Association, the Firefighters Association and the UFU, but the member for Morphett needs to do his research and make sure he gets his facts right. I will help the honourable member because I am an approachable person, I tell the truth and I am happy to assist him in coming to a proper conclusion so that he does not make unsubstantiated statements to the house.

I would like to congratulate the minister but I do not think he needs to be congratulated. However, I congratulate the people of the emergency services who are making this bill a reality, the people who have worked hard to make sure that not only have they consulted but also they have brought those organisations together to go forward as one. I congratulate all those who have been involved.

I began by saying that my fear is that the opposition is going to blow this bill out of the water. It will attempt to decimate it and, through those actions, I fear we might lose the opportunity to advance what will be the greatest initiative with respect to emergency services management in this state. More importantly, it provides the foundation to go even further into the future to make sure that emergency services are resourced like they never have been in the past.

Success is based on working together. I call on the opposition to take a bipartisan approach in this matter for the benefit of all South Australians. It is without doubt the most significant bill, and I talk from experience—indeed 20 years' experience—in emergency service. It is the most significant bill relating to emergency services in my 20 years of involvement. It provides a foundation for a safer future for our communities, the communities that we represent (and I remind the opposition of that), and that includes the opposition. I commend the bill to the house.

**The Hon. P.F. CONLON (Minister for Emergency Services):** It is my melancholy duty to close the debate on this bill knowing that its future is to lay on the table for several months until the parliament comes back again and hopefully opposition members come to their senses. It is a bill that I say in all sincerity should have swept through both houses of parliament with acclaim, not with the filthy scaremongering that we have seen from the opposition. I hope that the member for Kavel, who I think is a decent fellow but seriously misled by some of his colleagues, stays until the end of the debate and hears about the hypocrisy that exists in the approach to this bill.

Let me put on the record just how this bill came about, from the start to the finish, because it is important, given the things that we have heard in this place, that the truth is heard. We went into the last election with a policy of abolishing the manifestly failed Emergency Services Admin Unit, an admin unit created by the previous government with no consultation whatever with a single one of the emergency services. It imposed bureaucrats on top of the people who perform our emergency services because they were smarter and better able to run it than were the people who actually do the job. They imposed that without any consent and it manifestly failed.

We came to the election with a very simple promise about emergency services: that we would abolish the Emergency Services Admin Unit, which was very popular—universally popular—with the all services, no matter where they came from. One of the things that we discovered upon coming to

government was that some very strange things had been going on in emergency services, particularly in the CFS, for the previous couple of years. We discovered that some peculiar things were going on, despite assurances from the previous minister.

I must refer to the contribution of the member for Mawson. He invented his contribution. He said that the previous government not only paid the debt but also it was serious about delivering capital works and ensuring that budgets were adequate. One of the things we discovered (and this is a matter of public record) was that, through mismanagement of the CFS budget and the creation of new unfunded positions, for two to three years (three years, I think it was) we had been spending somewhere between $2 million and $3 million of the CFS capital budget on recurrent expenditure. That meant you lost all those fire stations and all those fire trucks. Money set aside for them was, through mismanagement, being spent on a recurrent budget.

The 18 000 volunteers whom they purport to represent were being robbed of the fundaments that they required to do the job. I have spoken to them. We have done the road trips at great length and visited as many of these volunteers as possible. This government has gone out to the community with community cabinets and has spoken to these people. By and large, they are not interested in the nonsense that we on this side hear. They want to know where their fire station is, they want to know where their fire truck is, and they want to know how they can serve the community better, because that is the sort of people they are. They are not interested in all this. That led us to understand that, while ESAU was bad, it was very plain that enormous warfare was going on between ESAU and the minister. We said, 'Let's be fair.'

*Members interjecting:*

**The Hon. P.F. CONLON:** I can understand why the opposition does not want to hear this because I can honestly say that, in my time in this place, I have never heard a more dishonest and hypocritical contribution than that made by the shadow minister and one or two of his colleagues. A few of them on the other side made decent contributions because they are decent people who are part of their community and part of their region. However, I have never heard a more dishonest and hypocritical contribution on a bill in this place than that of the shadow minister.

We had this clear policy of abolishing ESAU. We had no greater ambition than that, and a very clear one. What we discovered was open warfare between the previous minister and ESAU, and the expenditure of a capital program on recurrent expenditures. To be fair, it seemed to me as minister that a lot of things I had laid at the feet of ESAU may not have been its fault. So, instead of simply abolishing it, I instituted a comprehensive review of emergency services.

Right from the start, I knew how sensitive such a thing would be. So, who conducted that review? One was John Dawkins, a former federal treasurer, who was criticised by the member by Stuart. However, there were three people on that review. The second one was Stephen Baker, a former minister—not a Labor minister for emergency services but a former Liberal minister—and the third person was Dick McKay. I do not know whether Dick is embarrassed these days by his connections with the Liberal Party in the past. I hope he is not, but he may well be, given its performance. He is a former treasurer of the Liberal Party in South Australia.

This was the review by which we fitted up the emergency services. As the minister, I gave them only one instruction, and I made it very clear. The one thing I wanted changed (the rest of it was up to the people themselves) was that I wanted the people who performed the service, not the bureaucrats, to be in charge of the services. I did not care about the rest of the model; that was all I asked for. I believe in that, and I will always believe in it. I have undying respect for those people. It is a shame that, in all the nonsense and hypocrisy we hear, that is forgotten. We asked them to do that, and do you know what happened? The services themselves wanted to go much farther than I had ever set out to achieve or asked for.

There was a joint submission to that review from the Metropolitan Fire Service and the Country Fire Service about the creation of what this bill is about. It came from them. In fact, at many stages in this process—and I will give this evidence under oath—I went to those people and said, 'You don't understand the politics of this. You are going too fast too far, and they will play politics.' These people, because they are decent people, who are out there serving the community, did not believe that. They thought everyone would treat them decently. Well, they are getting a big lesson, aren't they? We told them what would happen; they were going to fast too far.

The enthusiasm for working together was unprecedented in emergency services. I was actually the person reigning them back. The volunteer fire brigade services, the state emergency service volunteers and the UFU wanted to hold meetings together to drive it. This has never happened before. It was driven by goodwill. It was driven, if I got anything right, by our view that the people who performed the service should run the service; the people at the coalface should run the services.

So, we did all that. We received recommendations from the Dawkins Baker McKay review, and one of those recommendations was for the abolition of the CFS Board. That made me very nervous, because I knew the sort of grubby politics that some members opposite would play with it. So, I went to see the CFS Board and I said, 'I'm very nervous about this. I don't know whether we should be going this far. It is up to you how we will do this.' Because it has decent people on it, because it has the volunteers on it, the CFS Board said, 'Well, we have some reservations, too. However, we believe that, because there are so many people with goodwill, this is the way forward, and we want to do it.' What we have here is something that has been created by the people who perform the services; it has been created by their goodwill. They have run ahead of me on it. They have been desperately driven by one desire, and that is to find a better way to deliver services for the people of South Australia. So, that is the sin of this Labor government: to do that with these decent people.

What did we get in this place? We got lies and hypocrisy. The lies were that it was a secret plan to amalgamate the services. What an absolute nonsense! It is not just the member for Colton's contribution, which would cost about $1 billion a year, and we would have to close a few hospitals to do it. I mean, please! It is not just that. I reckon that I am a clever bloke, but I do not reckon I am that clever. That means that I have fooled the board; I have fooled Vince Monterola; I have fooled Grant Lupton; I fooled Euan Ferguson; and I have fooled the FBA. I have fooled them all! I am a bloody genius! I have fooled every single one of them! What a complete and utter nonsense!

What greater disregard could these people have for the people who perform our emergency services than to trot out such a flagrant distortion, such a cheap lie? I do not smell a rat, as the shadow minister does. I see decent, honourable

people who have given their lives to the service of the community who are trying to do it better, and it is a shame that the opposition cannot see it. What did they hang their hat on, apart from the lies about a secret plan? The abolition of the CFS Board should never happen.

Let me go back through the comments of these people. The shadow minister said that the opposition is troubled by the change; they have taken away a responsibility and authority from Country Fire Service volunteers through the abolition of the board. He said that the opposition would never have done this thing. I remember interjecting and saying, 'They would never have done this thing.' We had that failed former leader, Dean Brown, the member for Finniss, saying that he would never have supported anything like the abolition of the Country Fire Service Board. No, of course not. Of course, the member for Mawson, the former minister, who wrecked the service's capital program, who robbed them of fire stations and fire trucks year after year, would never have supported this, either.

The problem is that when they imposed the emergency services admin unit it of course had to go through cabinet, and they sent a copy of the cabinet submission to the emergency services admin unit. What I have only discovered as minister in the last month is that ESAU was stage one. It's all signed off. It is signed off by Rob Kerin, the current Leader of the Opposition. Perhaps he has had amnesia. Let me tell you what stage two was. Remember the difference between our fundamental approach and theirs. Our fundamental approach is to put the people that run the service in charge. Their approach with ESAU—and I will show you the picture from the cabinet submission—was to put the Chief Executive of Justice and the Chief Executive of ESAU in charge of the emergency services, who were then to do what they were told at the direction of those people. That is what they were going to do. That was only stage one. What was stage two? And remember this, speech after speech about the importance of preserving the Country Fire Service Board, and, from the submission, signed off by the Leader of the Opposition Rob Kerin—and they all sat in cabinet and signed off on it:

> The CFS board would be replaced with an emergency services advisory committee.

I am sorry; the major sin with the bill these people have created. How were they going to make sure that this came about? Let me remind you about what we did with this, every step of the way, consulting with the people who run the services, and letting them devise it. I went to that CFS board meeting and said, 'I'm nervous about this.' How were they going to make sure that the CFS board cooperated? Through their cabinet; they all sat there; and what did they say? They said:

> Should the minister require to direct the CFS board to facilitate the proposed reform agenda pending future legislative change, the Governor could enact a regulation applying provisions of the Public Corporations Act to the CFS. Section 61b of the Public Corporations Act provides that a public corporation is subject to the control and direction of the CFS.

There is the fundamental difference. We went to the CFS board and they said that there was a better future and that would involve a move to an advisory board and they did it by consensus. Their approach: impose an ESAU; no consultation; and change the regulations so that they direct the CFS board so it cooperates in its own execution. What hypocrites. What utter hypocrites. Can you imagine? How do they come into this place and put forward the dirty, grubby, fear-mongering arguments on a bill that has been created by some of the most decent people in our community? This is the height of hypocrisy. What were they going to achieve in stage two? Instead of the emergency services running their own service:

> Under the proposed arrangements resulting from stage two, the Chief Executive of Justice (a bureaucrat) would be delegated a purchasing role i.e. the purchasing of outputs.

In the second paragraph:

> The Chief Executive of the Administrative Unit (another bureaucrat) would be responsible for the overall management and administration of the administrative unit. The chief officers of CFS, SAMFS and SES would be subject to the direction of the Chief Executive while retaining statutory powers.

Not only were they going to do everything that we were going to do by cooperation with people, they were going to go a step further, make them do it, and put bureaucrats in charge. They want to sell fear to the volunteers. I tell you what we are going to do with this bill. We are going to let it sit on the table through this break and we are going to go out and tell our story, and the people who have put it together will tell their story. This fellow over here says—because basically he is a bloody genius—'Of course, the CFS wrote me a letter saying that they like it,' because they did not hear it from him. The first thing I did was ask the CFS if they would consider inviting the shadow minister to come and talk to them so that they could have the benefit of his genius before they decided where to go further. But what is exposed here is the most abject, the most disgraceful hypocrisy. Let me come back to what we have tried to do here.

**Mr Goldsworthy:** Talk about repetition.

**The Hon. P.F. CONLON:** A bit of repetition; I do not think that you would like to hear it. I think that you need to go back and ask some questions of your own people. I think that the member for Kavel wants to go and ask some questions of his own people who have been leading him up the garden path. Put it on the record. I have enormous respect for the people who perform emergency services. That is why I made a fundament of our approach that they would design their own future; not me, not anyone else. That was the fundamental approach. I contrast that with the approach of the previous government, signed off just four years ago, stage two, directing the CFS board to cooperate in its own execution, directing the abolition, putting bureaucrats in charge. That is how much faith they had. I continue to have faith.

I will put on the record this: I have been around this country. I have seen the volunteers at Marla, I have seen them at Ceduna, and I have seen them at Port MacDonnell. I have seen the job they do. They cover hundreds of kilometres, they give their own time, and they do it for very little. All they ask is to be equipped to do the job properly. They are trying to create a service which removes duplication and which brings together some resources so they can share them so they go further. The one fundamental commitment we have given to them is that whatever they achieve in efficiencies through this design will stay with them.

We have demonstrated our commitment on this. The budget in the CFS has improved by more than any other budget in a government agency, except possibly child protection—real increases without increasing the levy because it came from consolidated revenue, the reinstitution of that. We know that these people could always do with more. They have set out to design themselves a way to improve efficiencies so they get more and keep it in delivering the service that they believe in. That is the terrible sin of this government. That is the sin that we have committed with

this. We are happy to have this sit on the table. I am not going to accept the amendments of the opposition, and the principal reason I am not is because they are not genuine. Because if they were influenced by the sort of lies that were trotted out in this debate, then they cannot be genuine. When we have one after another former cabinet member—

**The Hon. G.M. GUNN:** I rise on a point of order. The opposition has sat and listened to the minister very quietly, and given him full opportunity. He has now gone beyond the realms of decency in referring to lies on this side of the house. We have not been engaged in telling lies: we have told the facts. Therefore, I ask—

**The ACTING SPEAKER (Mr Koutsantonis):** Order! You will not debate it. As the father of the house, the honourable member will be given some leniency; I understand that. Are you saying that the minister has accused someone of lying?

**The Hon. G.M. GUNN:** On this side of the house we ask to have it withdrawn.

**The ACTING SPEAKER:** I did not hear the remark. Minister, did you accuse—

**The Hon. P.F. CONLON:** Sir, I said that the opposition engaged in lies in the second reading of this bill. If I am obliged to withdraw that I will, and I will say that the things put forward as facts by the opposition are not facts, and they know that. One after another, former cabinet members sat in that cabinet when it was signed off by the current Leader of the Opposition on 26 October 1998. The member for Bright was there and so was the member for Finniss—two who said that they would never abolish the CFS sat there. It has an approved stamp on it—the member can have a look at it if he wants—signed by his current leader. And he knows it because it went through.

You will notice that in the second reading contribution the member for Mawson was equivocating a bit because he remembered it, but they did not think we would know about it—and I have to say that I did not know about it until four weeks ago. If the member for Bright says that that is not really what happened he can disabuse us of that at a later date, but we all know that it is. We all know that they were the ones with a secret plan to abolish the CFS Board and put bureaucrats in charge of the services; they were the ones with the secret plan to make a regulation—not come to the parliament—that would make the CFS Board subject to the direction of the government while they moved the bureaucrats in. That was their plan.

*Members interjecting:*

**The Hon. P.F. CONLON:** If they insist I will table it, but they do not want it tabled—that is not going to happen. Let us bring this debate back to what this is really all about. I will say this (and I actually get more emotional about this bill than anything else I have had here): this has been created by very decent people who give thousands of hours of their lives to the community, and they are to be stymied by those people on the green leather in opposition who have picked up their super and who have clung on to government for a lot longer than they ever should have to get a little bit of extra salary and a little of bit of extra super. They are stymieing people who have given thousands of hours to the community—and I respect those people and I am humbled by them. I am known as a hard man in politics and I have been known to direct agencies and to be tough on them but I will say this, and I defy anyone to contradict it: there is one group I have never directed or tried to bring around by force to my point of view, even though I have had some frustrations with bureaucrats, and that is the emergency services. That is because I respect what they do.

Over the next three months we will get our story out, and if the opposition cannot respect the views of the Volunteer Fire Brigades Association, the State Emergency Service, and the UFU—in fact, let me name the people: Vince Monterola, Grant Lupton, Euan Ferguson, Brian Lancaster and Nat Cooke, all people they appointed—then I hope that we will come back and the parliament will respect these people and allow us to pass a bill created by decent human beings. For once in our lives let us do something decent in here. I commend the bill to the house. I am disgusted by the approach of the opposition but I look forward to taking the argument to the people who count—the people who do the job.

Bill read a second time.

In committee.

Clause 1 passed.

Progress reported; committee to sit again.

## TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

In committee.

(Continued from 20 July. Page 2817.)

Clause 12.

**The Hon. W.A. MATTHEW:** Last night, I asked the minister some questions in relation to statistics that might be available in relation to minors. My next question is in relation to vending machines in general. I ask the minister whether, effectively, the only place that vending machines will be legally available for the sale of tobacco products will be those defined within this clause and that no other clauses within any other bill, for example, will permit vending machines to be available in a shopping centre, such as Westfield Marion. Is it strictly these premises described within this clause?

**The Hon. L. STEVENS:** Yes; that is the case. Of course, this is in relation to vending machines in licensed premises.

**Mr MEIER:** In my second reading debate, I mentioned certain aspects, one of which was that I hoped to see a ban on smoking in gaming machine areas as soon as possible, and I think I suggested the date of 1 April next year. I understand that the member for Mitchell intends to move an amendment in this respect, and we will see how successful that will be. This restriction on vending machines is certainly a positive. I believe that the government could save itself a lot of time if it sought to introduce the restriction on smoking in gaming areas much sooner and, therefore, it would not have to worry about this clause. The way I read it is that the machine is allowed to be situated in an area delineated under a gaming machine licence, so I assume that is where they are at present.

**The Hon. L. STEVENS:** No; it is not.

**Mr MEIER:** I will ask for the answer to that shortly. Obviously, there is the temptation to go to the machines much more regularly than would normally be the case whilst smoking is permitted in gaming areas. Certainly, it would be a much simpler method just to ban vending machines at the same time as banning smoking in gaming areas.

I point out that it is an anomaly that the maximum penalty is $5 000. I am sure the amount of money made from vending machines would be quite significant. Clause 11, which is in relation to lolly cigarettes, and so on (the penalty under which is also $5 000), provides:

A person must not sell by retail any product (other than a tobacco product) that is designed to resemble a tobacco product.

Probably the person who sells these products might make $50 to $100, if they are lucky, whereas the company running the vending machine probably makes many thousands of dollars. A fine of $5 000 is significant, and something from which they will probably learn, whereas a fine in relation to clause 11 is a massive fine and could shut down some small businesses. First, has any commonsense gone into the penalties of $5 000, or do they involve a bureaucratic stroke of the pen, with someone saying, 'Make it $5 000 for every offence, because it's easy to administer,' rather than the severity of the offence?

Secondly, will the minister explain a little further exactly where gaming machines are to be located and to what extent that location will be restricted compared to the situation now?

**The Hon. L. STEVENS:** In relation to the fines, we are quite serious about preventing the uptake of smoking by minors. Certainly, the whole issue of vending machines comes into that category. The bill has three objectives: prevention of uptake by minors; prevention of relapse by those wanting to give up smoking; and protection of workers, which is, broadly, the environmental tobacco smoking. We are very serious about those issues, and advertising, lolly cigarettes and vending machines are all part of that, and that is why the fines are quite substantial.

I am advised by parliamentary counsel that, in addition to the fine, the machine could be seized, so there is that alternative in the way a penalty might be applied. The issue in terms of vending machines is very much about preventing access to the machines by minors. It is my understanding that vending machines are not a large portion of the receipt of tobacco products generally in licensed establishments. However, we know that they are very successful for minors, but they are probably not so overall because cigarettes cost more from the vending machine than if they are bought over the counter. But the machines have been a way that children can quickly obtain cigarettes and avoid any scrutiny in relation to their age.

This clause simply provides that coin-operated vending machines can be placed only in a gaming room which children are not allowed to enter and which is very well policed in that regard. The same situation applies to the Casino. If a proprietor wants to put a vending machine in another area, it has to be operated by tokens, so that any person wanting to use that vending machine will have to go to the bar or other point of sale, and the person selling the tokens will have to ask for proof of age. That is one way of preventing children from accessing those machines.

**Mr MEIER:** Assuming that our amendment to have smoking in gaming rooms banned from next year is not successful and the ban comes into force in October 2007, is there a sunset clause to provide that vending machines not be allowed in gaming areas from 2007?

**The Hon. L. STEVENS:** There is no sunset clause. Even though smoking will not be allowed, a proprietor may still choose to put a vending machine inside their establishment; it is just that people will not be able to smoke cigarettes inside. They will be able to purchase them, but they will have to go outside to smoke.

**The Hon. W.A. MATTHEW:** I commend the minister for the intent of this section. Vending machines have long caused me concern. From my observation, they have provided a means for quite young children to access tobacco products. I acknowledge that placing such machines in gaming areas and limiting the number of machines outside gaming areas to tokens certainly gives a greater degree of control than currently exists. However, there is always the dilemma of an 18 year old providing a 14, 15 or 16 year old with products to which they are not entitled, whether it be tobacco or alcohol. What offence provisions are there where someone over the age of 18 goes to a vending machine and then provides tobacco products to a child who is not entitled to them? What ability is there to be able to issue a penalty? Has the minister considered provisions for confiscating tobacco products from a juvenile until their illegal receipt can be dealt with?

**The Hon. L. STEVENS:** Clause 13, which seeks to insert new section 38A (sale or supply of tobacco products to children), deals with that issue. The member for Fisher has an amendment dealing with the matter of confiscation as it relates to children.

**The Hon. DEAN BROWN:** Last night we discussed the number of vending machines per premises. If we are serious about this, is the minister willing to give a commitment to restrict the number of vending machines per venue to no more than one? That would send a very clear message in the same way as does, I think potentially, the single point of sale. I am not saying that there cannot be another point of sale, because tobacco products could also be sold at a bar where they are not visible. However, I think it is important that we take a hard stance on this and restrict the number of vending machines per venue to only one. I think that would reduce the ease with which cigarettes or tokens can be purchased.

There would still be nothing to stop someone from buying a token and giving it to an under-age person and that person putting the token into the machine and getting the cigarettes. Although it would be an offence to do that (I understand that it would have to be supervised), the more vending machines you have, the easier it will be for people to commit an offence of giving a token to someone who is under age and for them to use it. It has been highlighted to me that vending machines currently are one of the easiest points of access for people under 18 years of age to get cigarettes. The more vending machines there are, the easier it will be.

**The Hon. L. STEVENS:** The deputy leader makes a number of points. We know that the old style vending machines which are operated by coins have provided a successful means for children to access tobacco products. That is why we have stipulated that, unless a vending machine is placed in a gaming area where age restrictions are tightly supervised, it has to be token operated, and the token has to be purchased from a staff member at a bar or another point of sale, and that staff member will be required to ask for proof of age. I think we have dealt with that matter.

In relation to the issue that the deputy leader mentioned about vending machines being a problem and his suggestion that we should restrict them, one could argue that tobacco products obtained through vending machines are more expensive than buying them over a bar. We also know that smoking is very price sensitive. In fact, it could be argued exactly the other way around; that is, you should have more vending machines and fewer other points of sale because cigarettes purchased from vending machines are more expensive and therefore people would not smoke as much because smoking is price sensitive. However, that aside, we will not specify the numbers of vending machines in the act. As I said last night, a vending machine is a point of sale. The government's intention in this bill is to restrict the points of

sale of tobacco products, but it will be done on a case by case basis, and how many points of sale each premises has will be part of the licence, bearing in mind that we are aiming for the minimum and vending machines come into that mix.

Amendment carried; clause as amended passed.

Clause 13.

**The Hon. DEAN BROWN:** Will the minister outline to the committee the specific obligation and potential penalties against the employer running a business which sells cigarettes and which may sell cigarettes to minors?

**The Hon. L. STEVENS:** This is a very important part of the legislation, because it is part of the objective of protecting minors in relation to the sale of tobacco products. Section 38A(1) makes it very clear that, if a product is sold or supplied to a child, the responsible person, the employer, is vicariously liable for that sale and for the supply of the tobacco by their employees to children aged less than 18 years, in accordance with the Fair Trading Act 1987. This is different is from the current arrangement where the employer is not responsible and any liability rests with the staff member who works on the counter and who sells the tobacco product. A very important strengthening of the provision is that the bill seeks to make employers also liable for the sale and supply of tobacco by their employees. This means that employers will need to act responsibly and train and educate their staff to seek valid proof of a purchaser's age.

At the moment, a business employing staff to sell tobacco products is less likely to be prosecuted than smaller owner-operator businesses because it is usually only the person, as I said before, who sells the tobacco who gets caught. As the former minister would know, because it also occurred when he was the minister, since 1999 the department of health has conducted controlled purchase operations of tobacco retail outlets. Despite the publicity surrounding this process, my advice is that one-fifth of retailers throughout the state are still selling cigarettes to minors. That research was undertaken in the year 2000. There is an issue out there; we need to deal with it. In 2002, in a survey done by Quinn and Miller, they reported that 23 per cent of children reported having bought their last cigarette from a retailer.

The government believes that it is unacceptable that children are able to purchase cigarettes easily and this bill introduces a number of measures that will enforce compliance. The deputy leader and members will see that that is very clear. A number of paragraphs provide the balance point for the proprietor in that there is a defence to a charge against that subsection. I refer the deputy leader to paragraphs (a), (b) and (c). The defences are, first, that the shop assistant required the minor to produce evidence of age of a kind prescribed by regulation; secondly, that the minor had made a false statement or produced false evidence; and, thirdly, in consequence, the person who served the child or assisted the child reasonably assumed that the minor was of or above the age of 18.

**The ACTING CHAIRMAN (Mr Koutsantonis):** Order! I remind the two gentlemen in the back row of the Speaker's gallery that mobile phones are not to be used. The gentleman with the blue tie; thank you. I can clear the gallery.

**The Hon. DEAN BROWN:** I appreciate the information that the minister has given. Is it the intention of the government to continue to use people who carry out surveillance of retailers as the previous government did?

**The Hon. L. STEVENS:** It would be our intention to do that in the way that has been established: of giving people a warning first and then continuing to monitor that. We need some way of checking, and you established that in 1999 and it is our intention to continue that.

**The Hon. DEAN BROWN:** I welcome the change of heart by the minister because she opposed it fairly strongly at the time. I believe (and she has probably come to understand) that it is the only effective way that you are going to be able to get any prosecutions. Any other means are going to be extremely difficult indeed. Even with that, I know how difficult it was to achieve a prosecution. Does the minister think it will be easier to achieve a prosecution under these amendments than under the existing act as currently operates? Because of the issues of evidence, proof of purchase and intent, it is extremely difficult to produce the required evidence.

I think there were a number of prosecutions. When I was minister a number of cases were going off for prosecution. One was resolved but I do not think the others had been at that stage, although they have been now. If I remember rightly, I think there have been one or two prosecutions in the last year or so. Are we substantially changing the ability to prosecute people in terms of the evidence that needs to be presented for the courts to be convinced?

**The Hon. L. STEVENS:** In relation to my initial opposition to the practice of the controlled purchase operations, I was concerned because of the principle of using entrapment and whether that was appropriate with minors. I asked questions of the former attorney, the Hon. Trevor Griffin, about that matter. It was looked into and I appreciated the answer and I accepted the position that he put, and therefore we will continue that practice. I agree that it is difficult to secure these prosecutions. There are two changes that we believe will help. The first is a small one, an expiation fee.

*Members interjecting:*

**The ACTING CHAIRMAN:** Can members please have their conversations elsewhere?

**The Hon. L. STEVENS:** There are two changes that we hope will make a difference. First is the expiation fee, an on-the-spot fine, rather than going to court. The second thing relates to proposed new section 38A(4), which provides:

> The defence under subsection (2) or (3) applies to the exclusion of the general defence under section 79 [of the principal act].

My advice is that section 79 provides a general defence in relation to the whole act and that defence is 'if the offence was not committed intentionally, and not did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence'. This section has been a problem in relation to prosecution as it is such a general defence, and it has been very difficult for the prosecution to prove against it.

Proof of minimum training of employees or evidence of a signed letter between employer and employee shows that the employee was informed yet departed from their training and was acting outside their agency and therefore their acts cannot be attributed to the employer or the company.

Retailers, as a matter of course these days, ask their employees to sign a letter stating that they will not sell to minors. It is very hard for the prosecution to determine the intention of an individual, and it is therefore deemed much more relevant to make it mandatory to ask for photographic identification. There is a deliberate placing of proposed new subsection (4) in relation to section 79, and it is hoped that that provision, plus the expiation fee, will make this more effective and comprehensive.

**The Hon. W.A. MATTHEW:** I listened with careful interest to the way in which the minister detailed to the committee how she sees the proof of age provisions (I assume the regulations) working and the training that she expects proprietors would provide to their staff. Obviously, the committee does not have the benefit of the regulations before it, but at this stage I seek the minister's assurance that the intent is that the provisions will be effectively identical to the provisions that are already in place in relation to the sale and/or provision of alcohol to a minor, where there is proof of age requirement.

Otherwise, if it is not fairly rigorous, my concern is to further explain to the minister that, if it is simply to be an easy judgmental manner, anyone could in all innocence argue that they considered a person to be above 18 years, because picking the age of young people between 15 and their early 20s is very subjective.

**The Hon. L. STEVENS:** My advice is that this emulates the liquor licensing provisions in that the employer is responsible for the employee's actions in this matter. It is similar in that regard.

**The Hon. W.A. MATTHEW:** This is more a comment than a question, and I expect that the minister will be able to answer it today. As I exhausted my questions in relation to clause 12, I was unable to ask it. However, as there is reference to vending machines, I will talk briefly about the tokens that are used to operate vending machines. As I understand it, the tokens used in today's version of vending machines are essentially not dissimilar to a coin and weighted accordingly, so that, through a mechanical system, the cigarettes are dispensed. One of the dilemmas with tokens sometimes is that, depending upon the way in which they are weighted and sized, they can be fairly similar to coinage. Whilst manufacturers usually go to some length to ensure that a token will not be of similar weight to a coin of lesser value than the token, the reverse does not necessarily apply.

I put to the minister that it could be that tokens can be replaced by coinage, albeit coinage of perhaps higher denominational value than the purchase cost of a token. Nevertheless, it could allow a minor to access a machine. Of course, there are other ways of activating machinery. These days, particularly with the advent of rechargeable smart cards and digital technology, it has allowed the manufacture of paper effectively with a digital strip on it at very small expense, and these could also similarly be used for such machines. Can the minister advise whether alternative digital technology has been considered for the operation of machines and, if not, does she believe that the wording of this bill could unintentionally preclude the use of such digital technology in the place of a token, as so described?

**The Hon. L. STEVENS:** I cannot give the member an answer now in relation to the digital technology aspect of his question. However, my advice is that the use of tokens in vending machines is already in operation in Tasmania, where it has been operating very successfully. We will have a look at the member's comments between now and September and perhaps put on the record some more information on that aspect during the next session.

Clause passed.

Clause 14 passed.

Clause 15.

**The Hon. DEAN BROWN:** I rise on a point of order, Madam Acting Chair. In the light of what the minister is now going to do, there is an amendment under clause 16, which deletes material in terms of cigarette retail display.

**The Hon. L. STEVENS:** I think the member might be looking at the wrong clause.

**The ACTING CHAIRPERSON (Ms Thompson):** Can the member for Finniss indicate to which line he is referring?

**The Hon. DEAN BROWN:** I am referring to clause 15, the whole clause. I am asking this question because, under clause 16, the government has a proposed amendment which deletes section 44. I want to know how much of this section is relevant to the section we are about to delete and whether any section of this part here is relevant to section 44.

**The Hon. L. STEVENS:** No, this is quite a separate section. This is about advertising. Section 44, which I do not wish to proceed with at this stage, relates to the storage and display of products. This is in relation to the definition of advertising of products; it is not the products themselves.

Clause passed.

Clause 16.

**The Hon. DEAN BROWN:** I rise on a point of order. This is a procedural matter. This is a very long clause, and it deals with a number of different sections. I wonder whether we can have some flexibility over the fact that a member can rise three times only on the one clause.

**The ACTING CHAIRMAN (Mr Koutsantonis):** I will adopt the system of the supplementary question.

**The Hon. DEAN BROWN:** There are so many diverse aspects to this and also there are so many amendments.

**The ACTING CHAIRMAN:** I will be very lenient.

**The Hon. L. STEVENS:** I move:

Page 8, lines 15 to 31—Delete proposed section 44

This amendment relates to the storage and display of products in tobacco retail premises. As I said in my second reading speech, the government does not wish to proceed at this time with this section, because we have had a number of representations from a range of retailers about issues such as timing, costs, and various matters about which they would like to talk further with us in relation to this issue of storage and display of products. In the spirit of the way in which we have handled this bill, which has been to ensure that we have given people the maximum opportunity to have their say and to try to work through the issues to reach a position where we all win, or to the greatest extent possible we win and still carry out the objectives of the legislation, I have said that we will need to spend more time talking, and that will occur over the weeks between now and when the bill returns to the upper house.

**The Hon. DEAN BROWN:** Does the minister expect to have those amendments ready for debate in the other place, because obviously parliament is going to be prorogued, this is the last week of sitting, and it will not get through the upper house. The new session is due to resume in seven weeks time and I presume that this bill will come back then. I want to know if the minister expects this to be back here in some other form, this provision that I am talking about, when the bill is presented next to the Legislative Council?

**The Hon. L. STEVENS:** That is my intention.

Amendment carried.

**The Hon. DEAN BROWN:** On page 9, proposed new section 46, which is entitled 'Smoking banned in enclosed public places, workplaces or shared areas', relates to the definition of workplace. Proposed new section 46(1) provides, 'Smoking is banned in an enclosed public place, workplace or shared area.' 'Workplace' includes a work motor vehicle that any other person might drive at any stage even though they might not be in the car at the point of driving. I think that that is a fair assumption. Does this mean

then—and I think I am right in saying that this section takes effect from 31 March 2005—that there will be no smoking in any hire car in South Australia after 31 March 2005 because it is a work car, and there would be other people driving those cars? Even though you may have only one occupant in the car, is no other person allowed to smoke in that car?

**The Hon. L. STEVENS:** Good question. I need to take some advice. Parliamentary counsel is just having a look.

**The Hon. DEAN BROWN:** It is my understanding that a hire car would in fact be a work car because it is owned by a company and it is there for commerce, and even though it might be used for pleasure, it is for commerce. Other people drive that car and therefore there would be no smoking allowed in any hire car even if there is only one occupant in that car at any stage. I wanted to clarify that.

**The Hon. L. STEVENS:** We have come out of our huddle and my advice is that there are a number of possibilities where it may or may not be a place where no smoking may occur. For example, if a family hires a hire car for use during a holiday or whatever, it is not a workplace. If a person is a chauffeur and is in the hire car by themselves (that is, in their enclosed workplace) my advice is that it does not have to be smoke-free, but if the chauffeur is in the enclosed space, the hire car, with a person who has an employer/employee relationship with the chauffeur it has to be smoke-free.

That is my advice, but I think we will need to check that and think about it, and I thank the deputy leader for raising this because it is an interesting one. It has also been pointed out to me that in part D of that definition of a workplace a number of categories are not included as workplaces; you will see 'any other place of a kind prescribed by regulation'. So, I think that we need to look at this point the member has raised and check out the initial advice I have received. If there is an issue, we can make a decision in relation to part D, I think, in that definition.

**The Hon. DEAN BROWN:** I personally believe that we have to go back and look at redrafting when you bring the bill back; I think you have to go back and look at the definition of workplace. I will read that definition out, because I think it is one of the most difficult pieces of English that I have tried to comprehend:

> Workplace has the same meaning as in the Occupational Health, Safety and Welfare Act 1996, but does not include—
>
> (c) a vehicle that is not used for work purposes by more than one employee;

To start with, it is a double negative which makes it virtually impossible for anyone—and certainly for the layman—to comprehend. If I read it four or five times and still cannot understand it, how will the public be able to comprehend it? 'A vehicle that is not used for work purposes by more than 1 employee': therefore, if a vehicle is used for work purposes by more than employee it is, in fact, defined as a workplace and cigarette smoking is not allowed. That is my understanding, so I will try to give my interpretation because it has an effect on the question I asked: if a work car is driven by different employees at different times, but there is only one person in the vehicle at a time (which is, clearly, the driver), then that person is not allowed to smoke because there is another employee who may step into that vehicle at another stage.

**The Hon. L. STEVENS:** My advice is that that is the intention.

**The Hon. DEAN BROWN:** That was my reading of it. If that is the intention, I think we need to be clear. If I am right, therefore, there is no way you could have a hire car, even with your exemption, because you have already specifically included that in the legislation. However, you could make a further regulation to exempt a class of vehicle specifically. I seriously think that people have not comprehended the fact that, effectively, you are saying that any work vehicle is now excluded from smoking at any stage because, for any company with more than one employee, you do not know when a second employee might step into that vehicle.

There is no time limit. It could be a company vehicle being driven by an employee today, and it could be that employee's dedicated vehicle, but, in a month's time, or in six months' time, another employee could drive the vehicle; therefore, there can be no smoking in that vehicle. Effectively, you are saying that there can be no smoking in any work vehicle. That is the practical ratification of this measure, except for the very minute number of cases where a company has only one employee.

**The Hon. L. STEVENS:** I suggest that we continue this debate tomorrow. I thank the deputy leader for his comments, which are now on the record. We will look at this issue overnight and continue tomorrow.

Progress reported; committee to sit again.

## ADJOURNMENT

At 9.57 p.m. p.m. the house adjourned until Thursday 22 July at 10.30 a.m.