HOUSE OF ASSEMBLY

Wednesday 9 March 2005

The DEPUTY SPEAKER (Hon. R.B. Such) took the chair at 2 p.m. and read prayers.

ONKAPARINGA ESTUARY

A petition signed by 472 residents of South Australia, requesting the house to urge the government to work with the federal government, the City of Onkaparinga and the Onkaparinga Catchment Water Management Board to develop and implement an action plan to restore the Onkaparinga Estuary, was presented by the Hon. J.D. Hill.

Petition received.

QUESTION TIME

DIRECTOR OF PUBLIC PROSECUTIONS

Ms CHAPMAN (Bragg): My question is to the Attorney-General. Was Stephen Pallaras QC the first person recommended to the Attorney-General for appointment as Director of Public Prosecutions?

The Hon. P.F. Conlon: Wendy recommended herself in an article.

The DEPUTY SPEAKER: Order!

The Hon. M.J. ATKINSON (Attorney-General): I appointed a panel, as is well known, and the members of that panel are well known. The panel recommended two people whom it thought could do the job, and one of them was Mr Pallaras.

ADELAIDE PARKLANDS

Mr SNELLING (Playford): My question is to the Minister for Environment and Conservation. What action is being taken to protect the Adelaide city parklands?

The Hon. J.D. HILL (Minister for Environment and Conservation): The government is taking a great deal of action to protect our parklands and to restore them to Colonel Light's original visionary plan. Today, in the company of the Lord Mayor, the members for Adelaide and Norwood and the Hon. Ian Gilfillan, in his capacity as the President of the Adelaide Parklands Preservation Association, I publicly released draft new legislation that will form a new partnership to care for our parklands into the future. The Parklands Bill seeks to create a new authority, led by the Adelaide City Council, with broad community representation, to oversee the management of the parklands. It will also ensure that any major developments infringing on the parklands will allow appeals, and it will improve rehabilitation and clean-up after any motor sports events in the parklands.

I have also announced today that the state government will provide a $1 million annual grant for irrigation to this new body and the restoration of land packages to the green belt. Until now, free water from SA Water has been used to irrigate the green belt. The government's generous pledge of funding will now provide an incentive for more efficient water use, and money left over will be spent on improving the parklands. In addition, some state water controlled lands that were originally part of the Colonel Light vision will be restored to the parklands. These areas total about 1.5 hectares and include land housing rowing clubs on the Torrens Lake and a former SA Water depot at Thebarton.

Meanwhile, Adelaide City Council has also set aside the former Royal Adelaide Hospital car park near the Botanic Gardens to be restored to the parklands. I want to put on record the government's appreciation of the support we have received from the Adelaide City Council and the Adelaide Parklands Preservation Association in the development of the bill, all of us sharing a common aim to preserve our city parklands.

TEACHERS, POLICE CHECKS

Ms CHAPMAN (Bragg): Will the Minister for Education and Children's Services explain why police checks on the state's 35 700 registered teachers, authorised by legislation passed through parliament last year, have not yet started? In a media release dated 9 December 2004, the Minister for Education announced $700 000 funding to complete the police checks by the end of term 2 of 2005. Further she stated:

> The checks will begin as soon as the new bill is proclaimed and the new Teachers Registration Board, which will oversee the process, has been established.

However, more than half of term 1 has now been completed and the program has not even begun.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Bragg for her question but must point out that perhaps she does not quite know the history of this matter. Since 1997, the Teachers Registration Board—

Members interjecting:

The DEPUTY SPEAKER: Order, the member for Bright!

The Hon. J.D. LOMAX-SMITH: —has been anxious to get reform, and it took our government actually to do what was required, what had been requested and had been waited for. The previous government had dragged its feet and refused to listen, and its solution was to look at the police records of new teachers.

The Hon. DEAN BROWN: On a point of order, the question is very specific. The minister is trying to go back and debate what occurred. The question related specifically to the legislation.

The DEPUTY SPEAKER: I uphold the point of order. The minister is starting to debate. The minister should answer the question.

The Hon. J.D. LOMAX-SMITH: The legislation passed through parliament before Christmas, having been demanded by those within the sector for many years. We have made progress: it has gone through parliament, but—

Ms Chapman interjecting:

The DEPUTY SPEAKER: Order! The member for Bragg will disappear off the question list if she is not careful.

The Hon. J.D. LOMAX-SMITH: The act was assented to on 16 December 2004. It required that prospective board members be appointed and there were very precise regulations surrounding who they should be, who they should be nominated by and who they should represent. That process is in train, but the act will not come into operation until the end of March, and there was a commitment that the process of checking those 35 000 teachers would be undertaken by the end of term 2. That process is complex. It is larger than is necessary and, had the previous government done the job properly, we would not be cleaning up the mess now.

STATE HOUSING PLAN

Mr CAICA (Colton): My question is to the minister—

The Hon. Dean Brown interjecting:

The DEPUTY SPEAKER: Order! The deputy leader is out of order. The member for Colton has the call.

Mr CAICA: My question is to the Minister for Housing. Given the state government's strong commitment to reduce homelessness in this state, how does the State Housing Plan address this issue?

Mr Brokenshire interjecting:

The Hon. J.W. WEATHERILL (Minister for Housing): The member for Mawson interjects.

Mr Scalzi interjecting:

The DEPUTY SPEAKER: Order! The member for Hartley could be homeless shortly.

The Hon. J.W. WEATHERILL: The member for Mawson knows that the Liberal Party is not in this debate on homelessness or affordable housing. A simple fact should serve to shut up those opposite for the balance of this question: 63 000 Housing Trust stock when we left government, down to 49 543 when we came in again. That is 13 471 Housing Trust houses taken off the list. So, that is their contribution to homelessness and affordable housing in this state—no credibility and no plan.

Mr WILLIAMS: I rise on a point of order, sir.

Members interjecting:

The DEPUTY SPEAKER: Order! The house will come to order before the chair will consider any point of order.

Mr WILLIAMS: I refer to standing order 98, which provides that the minister, in answering a question, should address the nub of the question and make no attempt to debate the matter. At this point, the minister has done nothing short of trying to debate the matter.

The DEPUTY SPEAKER: Order! The member has made his point of order. Other standing orders require members to listen to the person who has the call.

The Hon. J.W. WEATHERILL: I apologise, sir; I was distracted by the member for Mawson. In announcing the $145 million Housing Plan, we were very pleased to state that contained within the plan is a commitment to deal with halving the number of people who sleep rough, and it sets out to do that in a range of ways, including providing an exit point once people are out of crisis accommodation. There is not much point in having these great crisis accommodation services (and, of course, we have those in the plan) but nowhere for low income households to have a stable place to live.

We specifically address homelessness in a range of ways. The sum of $16.5 million will do two things: first, it will increase the supply of transitional boarding house accommodation in both metropolitan and regional areas and, secondly, it will upgrade and improve the standards of Acton House, which is a heritage-listed boarding house on South Terrace. We will also inject new funding of $6 million into the crisis accommodation program, which will give homeless people new accommodation options. This is on top of the $15 million we are spending over the next five years in the CAP area.

Members interjecting:

The Hon. J.W. WEATHERILL: I know those opposite are not interested in homelessness; they have never had an interest in this important social issue. We will also increase the supply of transitional accommodation through the supported tenancy scheme, which leases properties to non-government agencies to provide housing options for homeless people. Of course, these measures build on the work we are already doing across government and, in particular, the important work of the Social Inclusion Board and the supported accommodation assistance program. The state government is spending $20 million on the homelessness social inclusion strategy, including a range of initiatives which are, fundamentally, directed at trying to prevent people from falling into homelessness and sustaining tenancies so that people can remain in their home. We understand that the homelessness equation has two elements: safe, affordable accommodation and support services to sustain people in that accommodation.

On Friday, a very important meeting at a national level will be held. All state and territory ministers will meet with the federal minister to discuss the future of the supported accommodation assistance program. We have received an offer from the commonwealth, which has cut $15 million over the life of that agreement, and that is a great threat to our supported accommodation assistance program. We will certainly argue strongly on behalf of South Australia for that funding to be restored.

There has been a debate in federal parliament on different states swinging the lead on questions of homelessness. South Australia can hold its head high in its level of commitment to homelessness in this state, but what we need is a commonwealth partner who is prepared to do its share. On Friday, we will certainly take a very strong position to the federal minister, Senator Patterson, when all territory and state ministers meet to argue that not only should we have the status quo restored but, indeed, that there should be increases in this area. A recent evaluation report of the program made it absolutely clear that it was underfunded and needed more federal government commitment, rather than the miserable cuts that have been served up to us thus far.

The Hon. DEAN BROWN (Deputy Leader of the Opposition): I have a supplementary question. Will the minister confirm—

The Hon. K.O. Foley: You pinched money from housing for health.

The DEPUTY SPEAKER: Order! The Deputy Premier is out of order.

The Hon. DEAN BROWN: —that, in the first two years of this Labor government, the Housing Trust stock has dropped by more than 2 000—from 49 543 homes to 47 471 homes?

Members interjecting:

The DEPUTY SPEAKER: Order! The chamber does not need some little sir echoes; the question was asked by the deputy leader.

The Hon. J.W. WEATHERILL: The sales of Housing Trust stock have fallen to their lowest level in a decade. I will check the figures of those opposite—

The Hon. DEAN BROWN: On a point of order, Mr Deputy Speaker: my question was very specific. If the minister does not have the figures he can get them from the Housing Trust report, and I suggest that he indicated that he does not have the figures.

Members interjecting:

The DEPUTY SPEAKER: Order! The minister indicated that he could get the figures, so I think that we will leave it there.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order, the member for Mawson!

The Hon. J.W. WEATHERILL: There was some misinformation provided in the public sphere about this issue.

An honourable member interjecting:

The Hon. J.W. WEATHERILL: No, the member for Heysen sought to challenge my figure that the previous government had cut 10 000 Housing Trust houses out of the system. She tried to suggest that some of those went to other social housing agencies. That is untruthful. The situation is this: 63 000 Housing Trust stock in 1993; and 49 543 in 2002—a 13 471 reduction. There were 2 883 that went to other social housing agencies, but the 10 000 figure was generous to those opposite. They actually cut more than 10 000.

The Hon. DEAN BROWN: I have a supplementary question, Mr Deputy Speaker.

Members interjecting:

The DEPUTY SPEAKER: Order! The deputy leader is stretching standing orders a little.

The Hon. DEAN BROWN: It is a supplementary question related specifically to the answer just given by the minister. Will the minister confirm that, in the table listing housing stock reductions in the South Australian Housing Trust report, it states that from 1995 to 1999 the figures may differ as the figures do not include the Aboriginal Housing Unit figures which have been excluded?

The Hon. J.W. WEATHERILL: It is still 10 000; they cut 10 000 units of social housing stock out of the system, and another thing, if they are interested—

Mr Williams interjecting:

The DEPUTY SPEAKER: Order! The member for MacKillop is out of order. The chair will start warning people shortly.

The Hon. J.W. WEATHERILL: The member for Finniss, when he was minister for health, managed also to squirrel away $26 million that was earmarked for public housing into the health portfolio.

Members interjecting:

The Hon. K.O. FOLEY: I rise on a point of order. The Deputy Leader of the Opposition knows full well that he cannot make an allegation that the minister has misled the parliament other than by a substantive motion. I ask that he apologise or move a substantive motion.

The DEPUTY SPEAKER: That is correct. Did the deputy leader suggest that he had misled parliament?

The Hon. DEAN BROWN: I should not have used the word mislead and I withdraw that. I highlight the fact that—

The DEPUTY SPEAKER: Order! That is sufficient. The deputy leader has withdrawn that remark.

The Hon. DEAN BROWN: I withdraw that comment but I think that my question highlighted the misleading information.

The DEPUTY SPEAKER: Order! The deputy leader withdrew the remark, and that is the end of it.

SHINE SA, PEER EDUCATORS

Ms CHAPMAN (Bragg): Will the Minister for Education and Children's Services indicate when she proposes answering the questions put on the *Notice Paper* on 11 November last year with respect to SHine SA peer educators, given the publicity on 14 February this year in *The Advertiser* that peer group workers employed to give information on safe sex to young people in the field are as young as 16 years old?

The Hon. M.J. Atkinson interjecting:

Ms CHAPMAN: You should be interested in this; you are the Attorney.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Bragg for her question. I could not quite understand whether it is the workers or the students who are 16. Can the honourable member clarify that?

Ms CHAPMAN: For the benefit of the minister, I am happy to do so. I stated that the peer group workers employed to give information on safe sex to young people in the field are as young as 16 years old.

The Hon. J.D. LOMAX-SMITH: I am sorry. As is often the case, the member for Bragg's questions are somewhat oblique. I do not know which field she is talking about, but I do know that she is somewhat obsessed by sex education. She has such an interest in it that she always wants to delve into the curriculum and the management of that segment of our education portfolio. She does not show so much interest, I must say, in mathematics, science or psychology. The irony is that, in the recent debate on abortion, the federal education minister—

Ms CHAPMAN: I rise on a point of order, Mr Deputy Speaker—

The DEPUTY SPEAKER: Order! There is a point of order.

The Hon. J.D. LOMAX-SMITH: —has spoken constantly about the need to improve—

The DEPUTY SPEAKER: Order! The minister will not speak over the Chair.

Ms CHAPMAN: My point of order, Mr Deputy Speaker, is on the question of relevance. The question was very specific in relation to answering questions as to peer group workers who are employed under this program.

The DEPUTY SPEAKER: Order! The honourable member has made her point of order. It is relevance. Has the minister concluded?

The Hon. J.D. LOMAX-SMITH: I am very happy to respond to questions on notice, but I do object to the assertion that I am dallying in responding. I believe that four or five questions have not received replies—they are in train. If the honourable member comes up with a story about someone in the field being 16, we must look into the matter seriously.

Ms CHAPMAN: As a supplementary question: will the minister explain why (as it was published on 14 February this year in *The Advertiser*) these sex workers are already out of the field and she has not looked into it in the meantime?

The Hon. J.D. LOMAX-SMITH: I think that there is some misunderstanding. I do not control sex workers.

INTERNATIONAL WOMEN'S DAY AWARDS

Ms BEDFORD (Florey): Will the Minister for the Status of Women inform the house of the recipients of the International Women's Day Community Awards?

The Hon. S.W. KEY (Minister for the Status of Women): I thank the member for Florey for her question, and I acknowledge that a number of women from this house attended an International Women's Day luncheon hosted by the International Women's Day lunch committee. Members have been serving on that committee for more than 60 years, and they make quite an important contribution to South Australia's culture. The lunch, which was attended by more than 600 women (and some men), together with the Unifem

breakfast and the IWD march to occur on Saturday, is a major annual event in South Australia.

It was my honour to present awards to committed, talented women in our community. The community awards are presented to women or groups who work in the community and who have demonstrated that community spirit. The 2005 winners of the community awards are Mrs Maureen Holbrook, who has been at the forefront of the conservation of cultural materials, particularly embroideries. She has been a member of the Embroiders' Guild of South Australia for more than 37 years, and a curator of the state registered museum for the past 20 years.

In addition, Ms Olivia Hooper works tirelessly with the Riverland Regional Health Service's Talking Realities program for young parents, providing leadership and support to peer educators. She participated in the reference group for the development of the local Women's Health and Wellbeing Plan. Mrs Kaleeda Rasheed works with the Lebanese and Druse communities. She has been a teacher, educationalist and consultant for more than 27 years, and she is the President of the Australian Druse community. She is the first woman to be appointed to such a position in the world.

Mrs Elayne Stanton, who was instrumental in the development of the inaugural Aboriginal Hairdressing and Beauty Course at Adelaide TAFE, also received a community award. Elayne provides hairdressing services and support to the Aboriginal Health Pamper Days in Aboriginal communities. She co-facilitates an Aboriginal group on domestic violence and volunteers—a service to Aboriginal families during times of sorry business. Ms Jennifer Glover won the prestigious 2005 Gladys Elphick Award. Jenni is recognised for her involvement and participation in the Huntfield Heights community, and was a volunteer at the Hackham South School.

Jenni is known as Aunty Jenni to many children, both indigenous and non-indigenous, in the Huntfield Heights area. She has sheltered women and children escaping domestic violence and has done a great deal towards reconciliation in the area. Ms Yenenesh Gebre is the 2005 winner of the Irene Krastev Award for multicultural women. She was born in Ethiopia and arrived in Australia in 1992. Her voluntary work includes assisting newly-arrived refugee women with interpreting, setting up support groups and facilitating the participation of refugee women in mainstream community events.

The other community award winner, sadly, could not attend due to illness. Ms Erica Jolly is the winner of the 2005 Barbara Polkinghorne Award for literature. Erica is an active educationalist, university academic and author, who has campaigned all her life for a fairer deal for women, particularly young indigenous women. She has worked as a volunteer at the Tauondi College since 1999 and has published a book on the history of vocational education in South Australia. I know that everyone in this house will join me in acknowledging the fantastic contribution of women in this state and will particularly congratulate the community winners of the International Women's Day Community Awards.

METROPOLITAN FIRE SERVICE

The Hon. W.A. MATTHEW (Bright): My question is to the Minister for Industrial Relations. What action has he taken to ensure that occupational health and safety management at the South Australian Metropolitan Fire Service has been improved to acceptable standards? In a letter to the chief officer dated 5 March 2004, the WorkCover auditor found that the South Australian Metropolitan Fire Service failed to meet basic legal compliance in relation to implementation of its occupational health and safety policy requirements and prevention strategies.

The Hon. P.F. CONLON (Minister for Emergency Services): The member for Bright asked a question about this yesterday. The communication is not as remarkable as he suggests. The audit process often reveals those things. I indicated I will bring back an answer for him, and I will. However, it is comforting to know that, after yesterday when he was trying to remove any sort of representation of a union on a board, he now has discovered care and compassion for the workers employed at the fire service. One might wonder which is his true attitude.

The Hon. W.A. MATTHEW: I have a supplementary question, Mr Deputy Speaker. In view of the minister's answer, I ask: is he aware that, due to its non-compliance, the audit recommended that the South Australian Metropolitan Fire Service report every three months to WorkCover on its occupational health and safety management?

The Hon. P.F. CONLON: I am comforted further that the member for Bright has seen the light on the road to Damascus some time between last night and today and does care for workers, and I shall pass on his concerns to the relevant workers. Hopefully, this means a change of attitude on some other matters, but I rather suspect not.

The Hon. DEAN BROWN: I rise on a point of order. There was no attempt whatsoever by the minister to answer that question. It is a serious issue about safety—

The DEPUTY SPEAKER: Order!

The Hon. DEAN BROWN: —and, therefore, under standing order 98, I draw your attention to it.

The DEPUTY SPEAKER: Order! The member seeks to make a point of order, not to make a speech. The minister cannot be directed how he answers the question and, if that is how he feels he wants to answer it, that is his prerogative.

OPTUS BROADBAND ROLL-OUT

Mr SNELLING (Playford): Can the Minister for Infrastructure advise the house of any new investment in the state's ICT infrastructure?

The Hon. P.F. CONLON (Minister for Infrastructure): I can, and I know members opposite will be pleased to get some good news. They so much love good news. I can indicate that, after some discussions with Optus, it is investing $5 million in business broadband and telecommunication infrastructure. Optus will extend its fibre optic network through metropolitan Adelaide by up to 100 kilometres, providing competitive voice and high speed data services for more than 400 South Australian businesses. That is a big vote of confidence in South Australia's future. The government, of course, actively encourages private sector investment in the state—

An honourable member interjecting:

The Hon. P.F. CONLON: It would not take long, would it, before they were whingeing about another company choosing to invest in South Australia? The government actively encourages this sort of investment, despite how unhappy it makes the opposition. We set out, in South Australia's Strategic Plan targets, to support the installation

of broadband infrastructure for better internet access to businesses and to increase competition.

We welcome the $5 million investment from Optus. It follows on from some very positive discussions yesterday between my office and Caversham, which is developing the City Central project, which is going better than they expected. They said that they are surprised, but very pleased, by the level of interstate interest in Adelaide for the first time in many years. There is an interest in coming to Adelaide that was never there under those people. All they ever wanted to do while they were in government was talk about the State Bank and how hopeless we are. We do not believe that. I believe that we are in the best place on earth, as do many other people, and they are bringing their money here to prove it.

This rollout will provide flow-on benefits to the state, including reduced entry level pricing, which will increase demand for telecommunications services and drive productivity. The combination of new competitive telecommunication infrastructure with record levels of business investment and confidence in South Australia will drive GDP growth. That is what it is all about. People believe in this state, and they are investing. Contracts and materials for construction will be locally sourced, where possible, and will inject over $4 million into the local economy. Even though the proponent does not require planning approvals, because it is a continuation of an existing rollout, I am very pleased that it is going out on a consultation process with local councils to try to make sure that the benefit also includes community consultation. All in all, it is a very good result and another statement of confidence in this state. It is a very good thing.

Mr BRINDAL: I rise on a point of order, Mr Deputy Speaker. I claim to be offended by remarks made earlier today by the Minister for Education, and I ask her to apologise and withdraw. Specifically, in reply to a question, the Minister for Education alluded to people providing sex education as 'sex workers'. When I was a teacher, I provided health education and thousands of other people provided health education, and they are not sex workers. I am offended and I ask her to withdraw.

The DEPUTY SPEAKER: Order! The member for Unley will resume his seat. A member must take the first opportunity to raise a point of order if he or she is offended by a remark. I took the minister's remarks to be very general.

METROPOLITAN FIRE SERVICE

The Hon. W.A. MATTHEW (Bright): What has the Minister for Emergency Services done in response to findings by the WorkCover auditor into the South Australian Metropolitan Fire Service that there is 'significant weakness apparent within the MFS engineering department concerning mandatory safeguarding for machinery, equipment and associated operations'?

The Hon. P.F. CONLON (Minister for Emergency Services): Sir—

Mr Brokenshire: Where has the union been for the last three years?

The Hon. P.F. CONLON: The member for Mawson asked, 'Where has the union been for the last three years?' The notion that Itchy and Scratchy over there have suddenly become unionists is just too rich. Obviously, we expect the chief officer to act upon the results of the WorkCover audit. That is why WorkCover does the audit, and that is why the chief officer gets his job: to act upon the findings of that audit. I will obtain a report on the actions of the chief officer as quickly as possible so the member for Bright can go back to sleeping at night, because I know that he is tossing and turning about those poor unionists over there at the MFS. Please!

WOMEN IN THE JUDICIARY

Mrs GERAGHTY (Torrens): Can the Attorney-General inform the house—

Members interjecting:

The DEPUTY SPEAKER: Order! The member for Bright has had his question.

Mrs GERAGHTY: Thank you, sir. Can the Attorney-General inform the house about the appointment of women to the judiciary in South Australia?

The Hon. M.J. ATKINSON (Attorney-General): I was pleased to attend the ceremony last week at which Robyn Layton, one of Her Majesty's counsel, learned in the law, was sworn in as a Justice of South Australia's Supreme Court. When the Rann government was elected, South Australia had only one female Supreme Court judge, Justice Margaret Nyland. With the appointments of Robyn Layton and Ann Vanstone, the number is now three out of 11. Justice Layton replaces Ted Mullighan QC who resigned in 2004 to lead the commission of inquiry into the sexual abuse of children under the care of the state.

Justice Layton brings more than 35 years of legal experience to the bench. She was admitted as a practitioner of the Supreme Court in 1968 and took silk in 1992. Justice Layton has worked as a barrister and a solicitor in private practice, specialising in criminal, industrial, discrimination, personal injuries and family law. She has served as Deputy President of the Commonwealth Administrative Appeals Tribunal and as Judge and Deputy President of the South Australian Industrial Court and Commission.

Mr Brokenshire interjecting:

The Hon. M.J. ATKINSON: Well, I will take that suggestion from the opposition on notice. As a long-time advocate for human rights, Justice Layton has fostered an international reputation for her work as a jurist and an author. She has served as a commissioner on the commission of inquiry into forced labour in Burma for the International Labour Organisation in Geneva in 1997. More recently, Justice Layton conducted the Child Protection Review.

The government has made inroads into the male domination of the judiciary. Since the Rann Labor government was elected, we have appointed Trish Kelly as a Judge of the District Court; Anne Bampton as a Master of the District Court; Suzanne Cole as a Judge of the Environment, Resources and Development Court; and Christine Trenorden as the Senior Judge of the Environment, Resources and Development Court. Just under half the Rann government's appointments to the magistracy have been women. I refer to Cathy Deland, Penny Eldridge and Maria Panagiotidis. As I informed the house last week, I recently appointed Deej Esenji as Chair of the Legal Services Commission. Deej is currently also the President-elect of the Law Society of South Australia. All these appointments were made on merit. The feedback I have received on the performance of these judges and magistrates from lawyers and litigants appearing in the courts has been positive.

METROPOLITAN FIRE SERVICE

The Hon. W.A. MATTHEW (Bright): My question is again to the Minister for Emergency Services. What has the minister done in relation to the March 2004 finding that the South Australian Metropolitan Fire Service had not integrated occupational health and safety into operational systems relating to the Clipsal 500, and will he give the parliament a guarantee that these occupational health and safety problems which have been identified will be rectified in time for the Clipsal 500 race next week?

The Hon. P.F. CONLON (Minister for Emergency Services): I will get the member for Bright an answer from the Chief Officer, who is responsible for these matters. I have so much faith in the Chief Officer that I will make sure that the answer is here by question time tomorrow, because I have no doubt that the member for Bright is really concerned about this matter.

ICAN PROGRAM

Mr RAU (Enfield): My question is to the Minister for Education and Children's Services. What programs have been launched in the north-western region of Adelaide as part of the government's school retention action plan?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Enfield for his question. He is referring to the ICAN program, which was launched today at Woodville High School as part of our $28.4 million school retention package. ICAN, which is operating in the north-western suburbs, is the government's youth engagement strategy to deal with young people who are at risk of dropping out of school, as has been demonstrated by poor attendance, late attendance and failing interest.

These young people, who are on the verge of voting with their feet in saying that school is not for them, are being re-engaged and reinvigorated in their enthusiasm for education in a series of strategies that have been particularly developed in working together with parents, communities, businesses, the TAFE sector and their schools, with particular programs that pick up on opportunities in local areas. We particularly want to make that sure young people are not at risk, because anyone who drops out of school is much more likely to fall into low employment opportunities, poor levels of employment, low incomes and exposure to the juvenile justice system and are more likely to be affected by low health and mental health problems.

These young people who are being supported by our first announcement of four programs in the north-western sector are particularly at risk and have been identified by local groups in a range of ways. The four programs launched this morning included the first, which is called 'Supporting Youth Success', which identified a group of year 8 students from some of the state's most disadvantaged metropolitan areas across a four or five-year period. Those students have been identified and we have chosen 18 most at risk and they have begun a successful participation program called ICAN Do, which targets those children who have begun to show poor attendance records.

Another program works with local businesses at the Arndale centre, providing packages of stationery and donations from the Athol Park council to help provide uniforms and materials. A program that is particularly important is called 'Western Inspirations', which really involves young people who have already voted with their feet and left the school system and are reluctant to return to school in any guise. They will be given off campus options to re-engage and be taken to a building on the TAFE site at DMIT and given re-engagement opportunities through enterprise skill development, communications courses and programs in creativity and team building as a way of re-engaging them.

Gepps Cross School for girls will also be involved with a family well-being program for young Aboriginal women, who will be the recipients of counselling services, skills development and personal development programs and will be mentored into re-engagement, with particular focuses on their attendance record, bussing them to school, organising their social and personal lives around their children and helping them re-engage in schooling. These sorts of ICAN initiatives engage whole communities in finding local solutions for local problems. The programs will be provided with $300 000 over the next three years, and the aim is to re-engage and stop those people at risk of dropping out of the system and, because of their disengagement, being victims of no end of social and community failures.

ELECTRICITY PRICES

The Hon. W.A. MATTHEW (Bright): My question is directed to the Minister for Energy. Given three years of the minister's government and an increase in electricity prices of more than 25 per cent to South Australian households, does he still believe that his government will be able to deliver on its election promise of cheaper electricity or a price cut of more than 25 per cent in just the next 12 months?

The Hon. P.F. CONLON (Minister for Energy): I can tell you what we will deliver: a much better outcome than we would have got under the Libs. One of the first things we are going to deliver in July this year is a 6 per cent cut when their privatisation deal runs out. If they want to be honest about electricity, we should talk about the 6 per cent which they imposed unnecessarily through law through their privatisation deal on South Australians and which runs out in July this year. The first instalment is a 6 per cent cut when their privatisation deal runs out. Let me say this about these mealy-mouthed hypocrites on electricity—

The Hon. W.A. MATTHEW: I rise on a point of order, sir.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order! Before I deal with the point of order, the member for Mawson is out of order. Displays are not allowed in the chamber.

Mr Brokenshire interjecting:

The DEPUTY SPEAKER: Order! The member for Mawson will be named if he does that.

The Hon. W.A. MATTHEW: In making this point of order, I will ignore the unparliamentary language of the minister. I simply point you, sir, to standing order 98.

The DEPUTY SPEAKER: I uphold the point of order. The term 'hypocrite' is unacceptable.

The Hon. P.F. CONLON: I withdraw the term 'hypocrite' and I refer to them as whited sepulchres. I think, if they struggle off for a few hours with a literary allusion, they will work out what it means. I reckon in about three questions he will figure it out and take a point of order! Let me say why I refer to them as whited sepulchres.

The Hon. W.A. MATTHEW: I have a further point of order, Mr Deputy Speaker. The question is quite specific. Again, I refer to standing order 98.

The DEPUTY SPEAKER: Order! The point of order has been noted. The minister will answer the question.

The Hon. P.F. CONLON: Let me say this about electricity pricing, and this is completely relevant. For three years, the member for Bright has been running around peddling stories that prices are higher than they should be. Let me put some points on the record. When they were in government, the first tranche of competition delivered an average 45 per cent increase, in their own submission. In their own cabinet submission they said the same thing would happen to the public.

The Hon. W.A. MATTHEW: I rise on a point of order, sir. Again, under standing order 98, the minister has made no attempt whatsoever to answer the question.

The DEPUTY SPEAKER: Order! The minister will seek to answer the question.

The Hon. P.F. CONLON: Let me say this: when he talks about election commitments—

Mr Williams interjecting:

The DEPUTY SPEAKER: Order! The member for MacKillop is not the minister.

The Hon. P.F. CONLON:—he should understand that the people of South Australia know who wrecked the electricity system. When this fellow runs about saying that the prices are too high—

The Hon. W.A. MATTHEW: I have another point of order, sir. Again, I draw your attention to standing order 98. The minister continues to flout your ruling. He has not answered the question about what guarantee he can deliver for a cut in electricity prices.

The DEPUTY SPEAKER: The minister has a degree of discretion in answering a question, but he should not stray too far.

Mr BRINDAL: On a further point of order, Mr Deputy Speaker, the minister quite clearly said 'in their cabinet submission they said'. He purported to quote from a cabinet submission. In accordance with the rules of the Speaker, I ask that the cabinet submission be tabled.

The Hon. P.F. CONLON: I no longer have the cabinet submission; I sent it back. It was one of those that the member for Bright left in his office for some reason. I looked at it and sent it back. I can tell you what was in it. Since the honourable member raised it, let me assure him what was in it. There was an acknowledgment that prices had gone up, they said, by an average of 35 per cent, but they deliberately left out government—

Mr BRINDAL: I rise on a point of order, sir. The Speaker has ruled, quite clearly, that members cannot quote from a document unless they are prepared to table it. If the minister cannot table it, he cannot quote from it.

The Hon. P.F. Conlon interjecting:

The DEPUTY SPEAKER: Order! I take it that the minister is not quoting but, rather, alluding to something that could be in a cabinet or budget document.

The Hon. P.F. CONLON: I am paraphrasing from memory what was in there. What it said was that the same thing was likely to happen to people after their privatisation and entering the market. Their solution was to let the regulator set the price. That was their solution. All this nonsense is nothing but that. The opposition has been saying prices are too high for three years. There has been a ground-up review by the Essential Services Commission, with submissions made by interested parties from all over Australia. And what did the opposition say? The opposition did not make a phone call; there was not a word; it did not have a view about what electricity prices should be. Members opposite will come into this place to peddle it, but they did not have a view. As an alternative government, it did not provide an iota to show why prices should be lower, despite peddling this stuff in here. Let us make it absolutely plain. Members opposite know why prices went up; they did it; and they will do nothing to fix it.

The Hon. W.A. MATTHEW: I rise on a point of order, Mr Deputy Speaker.

Members interjecting:

The DEPUTY SPEAKER: Order!

Members interjecting:

The DEPUTY SPEAKER: Order! The house will come to order before I take the point of order.

The Hon. W.A. MATTHEW: Still, sir, the minister has not attempted to answer—

The DEPUTY SPEAKER: Order! I have not called the member for Bright yet. Does the member for Bright have a point of order?

The Hon. W.A. MATTHEW: My point of order is again under standing order 98. The minister has still not made any attempt at all to answer the question.

The DEPUTY SPEAKER: I think the minister has concluded, so he will not be making any further attempt for a while.

NURSES, VACANCY RATES

The Hon. W.A. Matthew interjecting:

Ms RANKINE (Wright): When the member for Bright is quiet, I will ask the question. My question is to the Minister for Health. How has the current rate of nurse vacancies—

Mr Koutsantonis interjecting:

The DEPUTY SPEAKER: The member for West Torrens is out of order.

Ms RANKINE: How has the current rate of nurse vacancies in our public hospitals changed under the Rann Labor government?

The Hon. L. STEVENS (Minister for Health): I am pleased to be able to inform the house that, under the Rann Labor government, the nurse and midwife vacancy rate in our public hospitals has fallen; in fact, it has halved. Since July 2002 and until January 2005, the nurse and midwife vacancy rate across both metropolitan and country South Australia has, on average, fallen by 50 per cent, and it now sits at an average of 2.6 per cent. This means that we are using fewer agency nurses in our public hospitals, which is good news for taxpayers, because the cost of an agency nurse compared with that of a nurse in a casual pool is 10 to 24 per cent greater. It is also good news for patients, who will receive better continuity of care. It is also good news for nurses and midwives, who will get far greater job stability.

The decrease in nurse and midwife vacancy rates is largely due to the success of a number of recruitment and retention strategies put in place in October 2002 that are aimed at giving nurses and midwives more job flexibility. One such example is the use of casual pools, of what hospitals call 'resource banks', where nurses can nominate a particular day or shift for which they will always be available. As well, the recent nurses' enterprise bargaining provided for an increase in paid maternity leave. This entitles full-time nurses on return from parental leave to work part-time at their substantive classification level until their child's second birthday.

The fall in the nurse vacancy rates at public hospitals shows that these initiatives are having some effect in

attracting nurses back into the public system and, more especially, keeping them there. The recruitment and retention strategies have already begun to work, but I am mindful that, while this is a good start, there is still much more to do. We will continue to work to improve the delivery of health services in the state for patients and health workers.

MAGISTRATES, SHORTAGE

Mrs REDMOND (Heysen): What action is the Attorney-General taking to address the shortage of magistrates that is leading to significant delays in the hearing of trials and causing unreasonable legal costs for the parties? A constituent has advised me that he attended the Adelaide Magistrate's Court on 28 February 2005 for a two-day trial which had been listed since November 2004. Upon arrival he was informed that there were too many matters to proceed. After waiting until 11:30 a.m. he and his counsel were told that the trial could not go ahead as scheduled, and it was relisted for late June 2005. He incurred legal costs of $2 000 for the morning as there was no magistrate available to hear his case.

The Hon. M.J. ATKINSON (Attorney-General): There are something like 35 magistrates in South Australia. I think that, since our party came to government, the numbers have been cut by one as a budget measure. My understanding is that, on the civil side, the lists are going quite well; in fact, they were improving for a while. On the criminal side, the results are not as satisfactory. We reversed the decision of the Liberal government to take resident magistrates away from Mount Gambier and Port Augusta. It just showed the contempt of the previous Liberal government and, in particular, the previous Liberal attorney-general Trevor Griffin for the regional areas of the state. Indeed, we now have two magistrates resident at Port Augusta: Magistrate Fred Field and Magistrate Clive Kitchin. We also have a resident magistrate in Greg Clark at Mount Gambier. We will look at the numbers of magistrates required to keep the lists in good order, and I would be interested in the details from the member for Heysen so that we can work out the real reason that that trial was cancelled.

BETTING EXCHANGES

Mr KOUTSANTONIS (West Torrens): My question is to the Minister for Recreation, Sport and Racing. What measures can be taken to constrain the operation of unlicensed offshore betting exchanges operating on Australian racing events?

The Hon. M.J. WRIGHT (Minister for Recreation, Sport and Racing): I thank the member for West Torrens for his question. The Australian Racing Board, on behalf of the three codes of the Australian racing industry, has requested that state and territory racing ministers introduce template legislation dealing with betting exchanges and any other unlicensed offshore wagering operations. Members would be aware that betting exchanges enable a punter to profit from backing a horse to lose. The request from the Australian Racing Board has been made to state and territory racing ministers as a result of the commonwealth government's refusal to act on the problems currently facing the Australian racing industry caused by this unwelcome intrusion by overseas-based betting exchanges. The proposed legislation is designed to achieve the following objectives:

- to ensure that clubs' racing programs are not published by betting exchanges without the approval or authorisation of the club or association conducting the meeting; and
- to ensure that offshore wagering operators do not offer wagering services to Australian residents without an appropriate state or territory wagering licence.

I strongly support this proposal to constrain the operation of betting exchanges, and I will make my position very clear at the Racing Ministers' Conference later this month. However, in the event that my interstate ministerial colleagues do not resolve unanimously to introduce such nationwide template legislation, the government's intention is to achieve these objectives through the introduction of appropriate amendments to the Lottery and Gaming Act 1936.

Issues of integrity, the impact on revenue streams to racing, as well as concerns relating to problem gambling, are all issues in regard to betting exchanges. The Australian racing industry has, over a considerable period of time, asked Betfair, the world's largest betting exchange and best known operator, not to provide a wagering service on Australian racing events until such time as the industry and government have satisfactorily resolved these issues. The industry has also asked the federal government to use its legislative powers to ensure that this does not occur, and that has been refused by the Howard government. So far, Betfair has refused to comply with this request and, as a consequence, the betting exchange operator continues to jeopardise the future of the Australian racing industry.

This proposal for template legislation will assist the industry in its endeavours to ensure integrity of its racing product and will assist the industry to maintain and potentially grow current revenue flows. The Howard government is soft on betting exchanges, and its refusal to act only jeopardises the viability of the industry and also puts at risk problem gambling. We are looking for the support of all the state and territory racing ministers to apply pressure on the Howard government to act responsibly in this matter. The government will act in the best interests of the racing industry, and I look forward to the support of the parliament.

BIO-MARKERS

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is to the Minister for Health. Will she give an assurance that she will not support any move for the Australia New Zealand Food Regulation Ministerial Council to downgrade the existing approval process for bio-marker claims on food packaging? Bio-marker maintenance claims are claims on food packaging such as 'maintains healthy cholesterol levels' or 'maintains bone density'. Last year the ministerial council required such claims to receive pre-market approval, as it did for health claims. There is a move to downgrade that approval process at present.

The Hon. L. STEVENS (Minister for Health): The government has a position on bio-marker maintenance claims, and it is supported by the majority of Australian jurisdictions. That position has not changed.

BIOSCIENCE

Mr O'BRIEN (Napier): Can the Minister for Science and Information Economy inform the house how the state's bioscience sector is performing?

The Hon. P.L. WHITE (Minister for Science and Information Economy): I am very happy to respond on that

subject, because I am pleased to inform the house that a recent industry survey of South Australia's bioscience sector has found that revenue, capital-raising and employment numbers are on the rise. Since 2002, revenue from the state's biotechnology sector has risen by 30 per cent from $120 million to $165 million, with eight companies turning over more than $5 million in 2003-04. Total employment across the sector rose by approximately 100 full-time equivalents in that time. Of the 27 companies that responded to both the 2002 and 2004 surveys, total revenue increased from $100 million to $114 million, with research and development spending nearly doubling from $10 million to $19 million. Capital-raising is estimated to have doubled from $15.4 million in 2002-03 to $32.7 million in 2003-04 and is forecast to increase to $65.6 million in 2004-05. About one third of that is expected to come from venture capitalists.

Success rates in securing grant funding has also improved, with companies receiving $9.4 million in grants from 45 separate grant programs in 2003-04, up from $6.3 million in 2002-03. Overall, however, grants have contributed only a small fraction to the industry's revenue. Company growth was strongest in the human health, medical and veterinary devices, diagnostics and professional services sector. If members are interested, other findings from the survey can be found on the BioInnovation SA web site at www.bioinnovationsa.com.au.

DESALINATION PLANT, EYRE PENINSULA

Mrs PENFOLD (Flinders): My question is directed to the Minister for Administrative Services. Has the government reneged on the promise it made at the community cabinet meeting in Port Lincoln in 2002 for a public-private partnership to build a $32 million desalination plan to service Eyre peninsula? An Eyre peninsula desalination plant is not listed in the 2004 Major Developments in South Australia directory, which lists some $14 billion worth of projects—most of which are not yet approved or confirmed—but it was mentioned in the house by the Premier last week as part of a request for federal funding to put towards water projects.

The Hon. M.J. WRIGHT (Minister for Administrative Services): I thank the member for Flinders. As she knows full well, this government never reneges on a promise.

Members interjecting:

The DEPUTY SPEAKER: Order!

COUNTRY FIRE SERVICE

Mrs REDMOND (Heysen): Will the Minister for Emergency Services advise the house what steps the government is taking to address the shortage of staff in the Development Assessment Unit (Bushfire Protection) of the Country Fire Service? A constituent has advised me that, after submitting plans for the development and building approval of a carport addition, he received a letter from the Development Assessment Unit (Bushfire Protection) which advised that, 'Workloads may prevent us from assessing your application within the correct legislative time frame.'

The Hon. P.F. CONLON (Minister for Emergency Services): I point out to the member for Heysen, who is relatively new in this place, that, when she asks a question and makes a statement about shortage of staff, she actually has to be able to substantiate it beyond hearsay. I would have thought that with her legal background she would know that. The member for Heysen got to feet and baldly asserted that there is a shortage of staff, and then in her explanation talked about a constituent's letter and workload. Those two things are not necessarily the same. The member for Heysen's explanation does not support her question. I will bring back some information for the member for Heysen.

One of the things the government did after the bushfires was to make a number of very important improvements in planning laws. We did a lot of work with Planning SA in coming up with a system with the CFS. When the member asks questions, she might acknowledge that it is a very good government initiative. I will get the information from the chief officer of the CFS for the member, but it would be nice if for once members opposite acknowledged good initiatives introduced by this government.

GRIEVANCE DEBATE

RANDOM DRUG TESTING

Mr VENNING (Schubert): The house has been under stress all day, that is, until I got to my feet. I am pleased to report that the state flag flying atop Parliament House is now flying the right way up. The question is: was that an omen? I also question why the Premier, two days ago, took over my question about why the Department of Primary Industries is changing its logo and has refused to answer it. It is most strange indeed.

I welcome the government's announcement yesterday that it will introduce random drug testing for drivers in South Australia. However, it infuriates me that the Rann Labor Government has put people's lives at stake, all in the name of political gain and gamesmanship. Here is yet another example of strong rhetoric and no action—or, at least, slow action. I also noted the Premier's ministerial statement made in this house yesterday. It was more glossy rhetoric and, I might say, out of order, because it was about a matter already before the house.

I read with great interest the government's Road Traffic (Drug Tests) Amendment Bill. Whilst I note some minor changes from the private member's bill I introduced on 23 November last year, I still fail to understand why the government took so long to act on such an important issue and why it did not amend my bill, that is, take it over and pass it. After all, it has been before the house since November last year.

If the government had acted on my bill by amending it and sending it out for public consultation, it is more than likely the law would be in place as we speak and drug drivers would be suffering the consequences at least by Easter. South Australian roads are notorious for claiming lives over the Easter break. It is one of the busiest times on our roads, yet the government still refused to act on my private member's bill back in November. The only differences between the government's bill and my bill are that the level of penalties to be imposed were more severe in my bill and the government has changed the terminology. The government's bill refers to 'oral fluid', whereas my bill refers to 'blood'. As members can see, they are absolutely and totally pedantic changes in order to say that the government's bill is different. It is pure politics. This bill could and should have been in

place long before Easter. If it helps to save a couple of lives, it should be worth putting our political agendas behind us just this once.

At the rate we are going, by the time the public consultation period ends on 30 April we will be lucky if the legislation is even introduced before Christmas. How many lives will be sacrificed or lost in the meantime? The only noticeable difference I find between the government's bill and the one I introduced last year, apart from the change in terminology, is the penalties imposed. I have been saying for some time now that the government is soft on drugs. I still believe that is the case, and this bill confirms it. Why shouldn't drug driving offenders be treated in exactly the same way as drink driving offenders? The repercussions of both events can be just as dangerous, if not fatal. Labor's maximum penalty of a $700 fine is just a joke. If people are stupid enough to drive under the influence of drugs which are known to reduce reaction time and cause hallucinations, they should pay the consequences.

For repeat offenders to lose the privilege to drive for three months as outlined in the government's bill is not acceptable: six months should be the minimum period. Drug drivers have been getting away with it for far too long and without fear of apprehension. We should have followed in the footsteps of the Victorians right from the start, as I wanted to do, but they did have a month's start on us. They had their initial glitches, but we can now come in and learn from them. There is no shame in following their legislation without picking up their mistakes. I would give the police the right to conduct random drug tests straight away.

The minister said on radio yesterday that my bill was proposing blood tests. That is not true. My bill included a three-phase approach: the swab test, same as the minister's; then, if there is a drug present, they proceed to a roadside laboratory test; and then, if they need clarification or if there is a dispute, they can undertake a 100 per cent sure blood test at a hospital or by a medical officer. The methods I outlined are unobtrusive and known to be accurate, according to the Victorian police. Yes, my penalties are heavier than those in the Victorian legislation, but I feel that they should be and, to be consistent, they should be exactly the same as under the RBT legislation. I believe that the government's treatment is shabby. I am only a backbencher, after all. They could have come into this place and taken over the legislation. It is more important than me. It is more important than the government playing politics, so get on with it and save lives.

TRAINING

Mr RAU (Enfield): I want to say a few words today about something I touched on yesterday, that is, the question of training. Over the years, we have heard quite a bit in the parliament about training, and all of us realise the importance of training in our community. However, I want to know where the investment in training is coming from. Many years ago we had government institutions such as the Public Buildings Department, ETSA, the E&WS and so on, which employed a great many apprentices. They had a number of skilled tradesmen who were members of the staff who were there to assist these young people in gaining their skills, and there was always a complement of these people at any given time in the structure of these government bodies.

It seems to me that what has happened progressively over the last few years is that these government bodies have been privatised, largely through the activities of the former government at the state level and the Howard government at the federal level, and what has happened—

Mr Scalzi interjecting:

Mr RAU: Privatised or outsourced, it does not matter much, it is the same net effect. What has happened is that the incentive and commitment to training those young people has disappeared. As the government has moved out of the direct employment area, the private operators who picked up the work have been content to take advantage of the pre-existing investment in skill development made by governments over many years but not to keep that investment going. We have now the very sad situation where there are large numbers of tradesmen who are getting on in years and starting to think of retirement and who are so busy they do not know what to do with themselves.

I have heard this in the area of plumbers and a whole range of people in the building trades, including refrigeration mechanics. Has anyone ever tried to get a refrigeration mechanic? It is almost impossible, and any number of other skilled tradespeople are becoming harder and harder to get hold of. The solution to this problem lies in an institutional change on the part of private employers (because, unfortunately, the government no longer occupies the field in many of these areas) to actually pick up some of their responsibility for the next generation; not only to give employment to young people but also to do something about putting back into the community so that in five or 10 years we still have those skilled people there.

The business people who want to solve this problem by simply importing tradespeople from overseas are really missing the point, because what they are doing is seeking to remove the capital investment made by other societies in their own citizens and for us to take advantage of them. That is a short cut and, if you look at the international scene, it is a rather mean thing for us to do, given where some of these people come from. We want to take skills from other countries because we are too lazy and too unfocused to get on with generating the skills ourselves. I look forward to the day when we return to an intelligent training regime, where we try to fit our needs, from an industry point of view, with young people in our community.

As I said last night to the parliament, the electorate I represent has more than its fair share of people who do not have employment. The misery associated with unemployment, whether it be through drug use, substance abuse, crime or just lack of engagement with the community, is to be avoided at all costs, because it becomes an intergenerational problem. We need to focus on training, and we need to expect more from private industry. We need to jump on these glib assertions by some business operators around Australia that, every time there is a labour shortage, all you do is grab people from overseas. We have plenty of people in our own country who need work and training, and we should not leave them in the misery in which they presently reside.

ELECTRICITY PRICES

The Hon. G.M. GUNN (Stuart): It is nice to see you occupying the chair, Mr Deputy Speaker, and looking quite distinguished in that role. Obviously, you are enjoying it. However, I will not go down that track, as it would be out of order to make any further comment. Today, we have heard the Minister for Infrastructure waxing lyrical in the chamber about power prices. I understand that interesting government advertising has been sent to our electorates and, depending

on where it was sent, it had a photograph of the incumbent Labor member or supporter.

I do not know whether it has been sent to your electorate, Mr Deputy Speaker, although it is probably out of bounds, as they do not want to upset you. However, this advertisement has appeared in the *River News* and in Port Augusta, where there is a government paid ALP office. The advertisement states: 'AAA rating delivers $65.6 m health and education boost.' That is only part of the story. In relation to interest expenses, the budget papers put forward by the Treasurer state:

> Figure 2.1 presents a time series of actual and forecast net interest expenses. The sharp decline in net interest costs between 1997-98 and 2000-01 is due to the application of privatisation proceeds to debt reduction which resulted in a lessening in the sensitivity of the budget to interest rate movements.

Page 2.5 of the budget papers indicates that, by the year 2007-08, there will be virtually no interest payable on government outlay in this state (a very good thing for taxpayers), thus releasing millions of dollars. I was interested in the editorial which appeared on 23 December 2004 in *The Advertiser* and which stated:

> The continuing escalation of power prices makes a mockery of the pre-election promise made by Premier Mike Rann: 'We will fix our electricity and an interconnector to New South Wales will be built to bring cheaper power.'

We are still waiting and looking forward to it with bated breath. The editorial continues:

> Yet to be realistic, the rise in power, gas and water prices is largely beyond the control of the Government. Upgrading the electricity generation and distribution system, like the ageing water pipe network, has been deferred and ignored by successive governments battling to find sufficient money to meet other community demands.
>
> If these systems are to be upgraded to acceptable standards then consumers must help bear the cost.
>
> Without government subsidy, the individual electricity retailers must make profits to satisfy shareholders and raise funds for maintenance upgrades.
>
> Nor can the breakup and sale of ETSA be blamed. A federal Labor government implemented the deregulation of power. If ETSA had not been sold South Australians would face debts of around $10 billion and the State's AAA economic rating would be nothing more than a dream. Power costs will ultimately stabilise. But for the foreseeable future consumers must become smarter or suffer the pain of price rises.

Those two statements in the budget document clearly indicate that the policies of the past have unfortunately caught up with the people of this state, and that the government should come clean on it.

The other matter which has to be borne in mind is the running down of public infrastructure. The disgraceful decisions of the Bannon Labor government, which brought the state to a halt, and the lack of investment in our public infrastructure such as the old ETSA, have meant that the private power installations have had to invest millions. In my constituency, $160 million in the power plant at Port Augusta; the construction of a peaking plant at Hallett; and other infrastructure such as upgrading the railway line between Leigh Creek and Port Augusta—all absolutely essential—and we need more investment in these particular areas. So, I call upon the Premier and the government, when it puts out these glossy statements, to tell the full story, not part. Half the story is a good story, the full story does not have the gloss.

Time expired.

CHILD CARE

Ms RANKINE (Wright): It is clear, as I pointed out to the house yesterday, that the assertion that the Howard Liberal federal government is family friendly, and implementing policies to support families to help women, in particular, back into the work force, is at best fanciful, and at worse an absolute nonsense. This is highlighted very strongly in its policies in relation to child care. I spoke last week about how the child-care rebate, (a policy that was clearly made on the run during the hurly-burly of the election campaign) in effect, makes child care much more expensive for struggling families, compared to those in the $90 000 and up income bracket. The child-care policies of the federal government are a dismal failure and are hurting families, not helping them.

Last week I detailed how iniquitous the Child Care Rebate Scheme is, but it is not the only facet of the child-care crisis in Australia. Today I would like to focus on another aspect of the crisis, namely the lack of planning in the provision of long day care places. The federal government claims to have a system that encourages the supply of child-care places in areas where they are most needed. Its position appears to be, however, that private enterprise will somehow fix the supply and demand issue.

Perhaps it can explain then why private enterprise is voting with its money and not building child-care infrastructure where it is needed, simply because it is not profitable. Developers are saying, and I quote from an article in *The Sydney Morning Herald*, 'that despite strong demand they cannot afford to buy land or lease property.' So, in areas where there is great need, child-care facilities are not being provided because the land costs too much. Yet, because the federal government does not 'limit or control the number of long day care centres', we are in a situation of over supply in some areas and a massive shortage of places in others.

A quick glance at newspaper reports from around Australia show that the current situation is appalling. In New South Wales, for example, 'parents face a Herculean task in securing places for infants and toddlers in Sydney's inner west.' In Victoria, the Port Phillip council area has waiting lists of 1 600 families, and here in South Australia, as reported recently in the *Sunday Mail*, there are waiting lists of up to two years. The article states:

> The battle for places is particularly difficult for under 3's, with the outer southern suburbs and the city feeling the most pressure.

I know from my own experience talking with parents and child-care workers in my electorate, and also in many regional areas, that they are also having real difficulties managing huge waiting lists. I have been told in some regions that the lack of child care is resulting in people deciding not to move into the area. Compare this to the situation that has developed in Kellyville in New South Wales, where 12 new centres have opened in a four kilometre radius within eight months. One director said:

> We are completely opposite to the rest of the state. Everyone else has an enormous waiting list. Out of 60 places we currently have 15 children a day.

Currently, we have a situation where child-care operators (who meet a few eligibility criteria) can, within the appropriate planning regulations, build any number of long day care establishments anywhere they choose. The federal government's policy has done almost nothing to reduce waiting lists since the last national survey conducted by the Australian Bureau of Statistics in 2003. This national survey revealed a

then 46 300 shortage of long day care places for children. Its policy is an abject failure and is having a damaging and detrimental effect on many parents who want to rejoin the paid work force.

The result of its hands-off approach has been to create an excess of places where land is cheap and not necessarily where the demand is. The consequence of this failed policy is that many parents are simply prevented from working. For parents who work part time this is a particular problem. A recent ACTU survey showed that 52 per cent of respondents indicated that a lack of child care limits the hours they can work. This lack of child care adds severely to the financial pressure on many working families. It also harms the economy by reducing work force participation about which the Prime Minister is currently so concerned.

Again, we have this federal government saying that it is family friendly but which, in fact, is producing policies that are far from family friendly and which result in a complete mismatch between supply and demand. The federal government has very clear controls on the availability and location of outside school hours care; so, my question is: why not controls for long day care? I call on the federal government, as a matter of urgency, to bring back planning controls for long day child care. In this way we will be able to ensure a fair and equitable spread of places, stop wasteful duplication and reduce financial pressure on families.

Time expired.

SEWERAGE, HEYSEN

Mrs REDMOND (Heysen): I rise today to bring to the attention of the house a matter which has emerged in my electorate and which has illustrated how something unfair can arise; and there seems sometimes to be some inadequate procedures to address the unfairness. A constituent came to see me not long ago about his problem; and, I gather, it has happened to many more people than just him. Many places in the electorate of Heysen, of course, are not on sewerage. Many houses still have septic systems. Quite a number of people have what are known as Envirocycle systems, which are far more self-sustaining if properly maintained, really, than septic systems.

My constituent had a septic system which developed a problem. In order to address that he decided to do the environmentally conscientious thing and looked into getting an Envirocycle system installed in his yard to replace the septic system. The Envirocycle system is not by any means cheap and it takes a fair bit of maintenance. In fact, as part of having an Envirocycle approval, as I understand it, one must produce to the administering authority (which is the council) the evidence that it is being properly maintained. Essentially, the waste water from the Envirocycle is then regenerated through to one's own garden.

I think that it is really a very good way to go. This chap investigated the system and discovered that it would cost about $10 000. Indeed, by the time he finished landscaping his yard after the installation of the Envirocycle he had spent in the vicinity of $15 000. Clearly, that was a significant investment. Before embarking upon that course he contacted the council to find out whether there were any intentions to put the sewerage system through, and he was advised that, as far as the council was aware, there were no imminent moves in relation to sewerage and that he should contact SA Water.

He contacted SA Water and, again, he was advised that, no, the sewerage would not be coming through. Armed with that advice from both the council and SA Water, he then proceeded to invest this significant amount of money (about $15 000) installing the Envirocycle system in his yard and having the yard landscaped. What do you know? A couple of short months later, he received notice that, indeed, the sewerage was being extended along his road and would he please pay, I think it was, $3 111 as a contribution towards going onto the sewerage system.

He had some discussions with SA Water in relation to the request for that payment, and it must be conceded that SA Water agreed that he could postpone that payment; and I gather the situation is that he could postpone that capital contribution of over $3 000 indefinitely if he opted to stay with the Envirocycle. However, the difficulty he was then confronted with was that, even if he was able to postpone the capital contribution, he nevertheless had to start paying sewerage rates. So he is caught in a situation where he has invested $15 000 on a system, he has to pay significant amounts for maintenance of that system and can elect to use that system still but, even if he uses that system, the regime that we have in place requires that he nevertheless contributes sewerage rates as well.

That seems to me to be unfair, and I think most people would agree, particularly when this gentleman had gone to the bother of making inquiries immediately before installing the Envirocycle to ensure he was not about to be confronted with the cost of contributing to the installation of sewerage. So he is left in a situation where, having spent $15 000 to install the system and having the cost of maintaining it, he nevertheless has to pay ultimately over $3 000 capital contribution and, in any event, on a continuing basis, rates for a sewerage system which he is not using.

Alternatively, he could opt to pay the capital contribution, start paying sewerage rates and use the sewerage system but, of course, he would have further expense changing from the Envirocycle to the sewerage system and would lose the benefit of the money that he has invested in the Envirocycle. It seems that there is no compensation available to him for the investment he has made in the Envirocycle.

Time expired.

DRAPER, Ms T.

Mr SNELLING (Playford): On Monday in the federal parliament Trish Draper, the member for Makin, rose to criticise the speech I made some weeks ago about her behaviour at the Christmas break-up of the Valley View Neighbourhood Watch. I am always interested in anything Ms Draper has to say on questions of personal morality, so I was very keen to have a good look at this speech. Having spent almost the entire speech simply reiterating what I said (and it was very good of her to take my comments in this chamber and repeat and confirm them in the federal parliament), Ms Draper stated that I did not understand that the state of South Australia retains its classifications powers. I perfectly understand how and why the state of South Australia retains powers with regard to classifications. I suspect I understand them a lot better than does Ms Draper.

At the meeting of the Valley View Neighbourhood Watch, Ms Draper was seeking to lay the blame for the release of the film *Anatomy of Hell* at the feet of the state government. While the state does retain powers of classification, the primary responsibility for classifications remains with the commonwealth, and there are very good reasons for that. It would not really be practical for a film to be banned in South

Australia yet be allowed to be shown interstate. You would have a ridiculous situation where a film would be banned in Mount Gambier yet, just over the border, people would be able to see it. It gets even more ridiculous with the spread of DVDs because, once a film is released on DVD, you would not be able to purchase it in South Australia but you would be able to get it by mail order from interstate. So there are very good reasons for the commonwealth taking responsibility for classifications.

Rather than trying to shirk her responsibility as a member of the government, Ms Draper should perhaps be spending her time lobbying the federal government—and, in particular, the federal Attorney-General—to appoint some members of the Classification Board who have views perhaps more in line with community standards. Rather than laying the blame on the state government, perhaps she should look at what her own government is doing and the personnel her own government appoints to the commonwealth classifications tribunal. I reiterate that Ms Draper was seeking to politicise a Neighbourhood Watch meeting, at which she had not been invited to speak, when she stood up and spoke, anyway. I assert that her actions were downright rude. That is not just my opinion: it is also the opinion of other people at that meeting who spoke to me afterwards.

ECONOMIC AND FINANCE COMMITTEE: ANNUAL REPORT

Ms THOMPSON (Reynell): I move:

That the 51st report of the committee, being the Annual Report 2003-04, be noted.

I take this opportunity to provide a brief summary of the activities undertaken by the Economic and Finance Committee over the past financial year. The committee has tabled six reports over this period. Its 44th report—Annual Report 2002-03; 45th report—Final Report, Holdfast Shores Redevelopment; 46th report—Interim Report, Real Estate Industry Agent Indemnity Fund; 47th report—Final Report, Road Maintenance Funding; 48th report—Interim Report, Proposed Reduction in Poker Machines in South Australia; and 49th report—Final Report, Emergency Services Levy 2003-04 were prepared and presented to the parliament by the committee. The committee further met its responsibilities with respect to the catchment water management boards and the Sport and Recreation Fund.

In the reporting period the committee also commenced its newly mandated role of receiving invitations to tender from the Department of Transport and Urban Planning with respect to passenger bus contracts across the state. This new oversight function is provided under section 39(2)(a) (b) and (c) of the Passenger Transport Act 1994 and stipulates that invitations to tender must be provided to the committee for comment within 14 days of their publication. In the reporting period the committee received witnesses from the department regarding the tender for the Wandering Star late night passenger services. At this meeting the committee arranged protocols with the department for all further submissions so that the process could be completed more effectively in the future. The committee had no objections to the tender process for the Wandering Star as outlined by the department.

Of the reports tabled, those on the Holdfast Shores redevelopment and road maintenance funding were final reports, which ended inquiries initiated in the previous reporting period. The Holdfast Shores report contained two recommendations to the Minister for Infrastructure, namely, that future development projects ensure adequate community and stakeholder engagement in order that they understand and incorporate public values and, secondly, that the minister investigate the future possibility of cost sharing by the government with people who will predictably benefit from the development facility. This recommendation passed 4:3. The road maintenance inquiry focused on the facilities employed to maintain roads in the state's Far North region. The committee's report urged the Minister for Transport to recognise the benefits of a well maintained road system for local communities and businesses as well as the mining, pastoral and tourism industries.

The other final report of the period in addition to the annual report was that produced for the emergency services levy 2004-05. The submission received by the committee indicated that the revenue from 2003-04 exceeded projections by $3.7 million due to property value growth and that the actual cash balance retained by the Community Emergency Services Fund after specific project expenditure was $8.7 million. The committee also heard that the effective rates of the levy would remain unchanged, and increases experienced by property owners would be the result of increasing property values.

The committee sought clarification from the Treasurer as to the policy regarding accumulating cash balances and was informed that there was no intention to seek increases in the CESF cash balances. The interim reports tabled in the reporting period in relation to the real estate industry agent indemnity fund and the proposed reduction in poker machines were prepared to enable evidence received by the committee in the course of the respective inquiries to be made publicly available. At the end of the period, both inquiries were ongoing.

During 2003-04, the committee further initiated inquiries into the following matters: the Construction Industry Training Board, prosecution services, the proposed reduction in poker machines in South Australia, land tax, national competition policy, open gas pricing, and private school bus contracts. At the completion of the reporting period, all inquiries were ongoing apart from prosecution services which was dispatched on 30 June 2004 by a majority vote after debate within the committee. The other inquiry concluded in the period (apart from those which were completed with final reports, as previously mentioned) was on government office accommodation, which was dispatched after committee investigations determined an inquiry was not warranted.

An item of continuing interest for the committee was its ongoing relationship with the Auditor-General. As part of the committee's ongoing examination of this role and how it may better synchronise with the Auditor-General, the committee sought further information from equivalent public accounts committees in Australia to investigate how it might improve its oversight of public finances in South Australia.

Finally, the committee underwent some significant changes in staff during the reporting period with its research officer, Dr Kylie Coulson, departing in March 2004, and the clerk assistant who had been standing in as secretary since mid-2003 being replaced by a new permanent secretary, Dr Paul Lobban, in May 2004. The committee would like to thank its staff for their assistance and also those individuals who appeared as witnesses or provided information for the

various inquiries. I would also like to thank the members of the committee for their efforts and interest over the year.

The committee acknowledges the tardiness of this report, which in large part is due to staff changes and ongoing administrative rearrangements and assures the house that the next report will be much more timely. I am pleased to present the house with the annual report of the Economic and Finance Committee 2003-04.

Mr HAMILTON-SMITH (Waite): I will respond on behalf of the opposition even though for the period covered by the report I was not a member of the committee, having joined it after June 2004. I think there are a number of points that need to be made in regard to the report. In particular, although the committee has produced some interesting work during the year, it leaves itself open to questions in regard to whether or not it has been busy enough. Most of the work done by the committee has been on its own motion and not as a consequence of referral by the government.

It has been of concern to me throughout my involvement with this committee—I was a member of the last Economic and Finance Committee in the previous parliament—that the reality is that it has tended not to function as a genuine committee of the parliament. I think the government could use some of its parliamentary committees to do some of its research work. I refer in particular to the issue of land tax and property taxes in general where the government could refer matters to the committee, the committee could take evidence and make recommendations, it could look into the efficiencies of the way revenue is raised and money spent, and perhaps come up with something that is constructive and well-meaning which can be used by the government to run things better. To operate in this way, which is the way in which a committee of the Westminster system is required to operate, it requires a degree of goodwill from both sides.

The Hon. M.J. Atkinson interjecting:

Mr HAMILTON-SMITH: I will come to that point in a moment.

The Hon. M.J. Atkinson interjecting:

Mr HAMILTON-SMITH: The Attorney-General is interjecting because he is deeply hurt that the committee looked into the matter of the Crown Solicitor's Trust Account. I remind the Attorney-General that his own members moved the motion to review the Crown Solicitor's Trust Account. In fact, the opposition had suggested this and moved it. It was withdrawn on the government's initiative. It then changed its mind suddenly and the government chose to call it back on. So, the Attorney has nobody but himself to blame for calling on the matter. It was a very clever own goal on the part of the Attorney in calling it on.

Investigating such matters as the Crown Solicitor's Trust Account, since the Attorney's has raised it, by a highly partisan committee—a committee where the parliament is quite happy to not even have members of the opposition present, a committee that is quite happy to have quorums that contain only members of the government—does not leave the committee open to much credibility and public debate.

The Hon. M.J. Atkinson interjecting:

The ACTING SPEAKER (Mr Caica): Order!

Mr HAMILTON-SMITH: Mr Acting Speaker, are you going to allow this to continue or will we conduct this debate with some sense of order?

The ACTING SPEAKER: Order!

Mr HAMILTON-SMITH: Thank you, sir. The committee would be well advised to focus on matters to do with finances and with the way money is raised and spent and to try to make constructive recommendations.

The Hon. J.D. Lomax-Smith interjecting:

Mr HAMILTON-SMITH: The member for Adelaide says, 'What a disgrace'. She has been here three minutes, has never been on a parliamentary committee in her life, and breezed into a ministry ahead of other members opposite, without having done time on the backbench. A number of members on the government backbench are far more qualified and experienced to fulfil her position, yet she sits there and makes comments from on high in temple mount, the princess from the castle: so and so is a disgrace, this about the committee, that about the committee. I suggest the member for Adelaide sit there, remain silent and try to keep her nose out of trouble during the remainder of this term. She has been very uninspiring as a minister. I suggest that she does not interject.

The Hon. M.J. Atkinson interjecting:

Mr HAMILTON-SMITH: I beg your pardon—what was that remark? I ask the Attorney to repeat his interjection. Let it go on, Michael.

The ACTING SPEAKER: Order! Interjections are unruly and they will cease.

Mr HAMILTON-SMITH: If this committee genuinely acted as a bipartisan committee, it could do some good work for the parliament. If, however, it is hijacked by the government of the day for purely political purposes, the government can expect a response from the opposition. I remind the Attorney to look at the *Hansard* record of the last parliament for the Economic and Finance Committee. I call to his attention the conduct of the members for Port Adelaide and Elder on the last Economic and Finance Committee over a range of issues. Their behaviour on that committee was absolutely reprehensible. The standard was set by the Labor Party in the last parliament with the conduct of the members for Elder and Port Adelaide.

I refer to the scouring of public servants in the last parliament and the way issues were turned into a political football. The standard was set by the Labor Party and, if it now wants to call on terms of reference with purely political motives, like the Crown Solicitor's Trust Account, which you called on and which was supposed to be there to prop up the government's line, then it can expect a reaction from the opposition. If it wants to have committees that are constituted only of members of the Labor Party, fine, but I simply make the point, as I have in the committee, that, with a bit of goodwill and a little bit of observance of Westminster practice, for example, giving people notice if you wish to call witnesses, obeying the procedures and the practice of the house—particularly in respect of standing orders as they apply to committees and in respect of privileges issues and what is appropriate and not appropriate to go before the committees when a matter of privilege is under consideration—as set out in Erskine May, Odgers and other sources, the committees could operate very effectively on a bipartisan basis. But if the government wishes to twist the parliamentary committees for its own purposes, then I can assure it that the opposition will respond—and it has responded. It will ensure that the government—

The Hon. M.J. Atkinson: You dishonour the vocation!

Mr HAMILTON-SMITH: I beg your pardon?

The ACTING SPEAKER: The Attorney-General will cease his interjections. It will be the electors of Waite who will decide the worthiness or otherwise of the member for Waite—and no-one else.

Mr HAMILTON-SMITH: Mr Chair, I think the remark was uncalled for—

The ACTING SPEAKER: I was trying to help.

Mr HAMILTON-SMITH:—but you are in the chair.

Members interjecting:

The ACTING SPEAKER: I insist on silence from the government benches.

Mr HAMILTON-SMITH: I am trying to talk about the 2003-04 annual report—

The ACTING SPEAKER: I remind the member for Waite that what occurred in the previous parliament has nothing to do with this report.

Mr HAMILTON-SMITH: Clearly, the government is not interested in any of the matters contained in the report, to which I was trying to refer, by the way, before the Attorney-General's interjections on totally unrelated matters took us elsewhere. There is clearly no point in continuing.

Ms THOMPSON: I think members have had an adequate demonstration this afternoon of why the Economic and Finance Committee in recent months has had some difficulty acting in a constructive, bipartisan way. The member for Waite suggested that we read the headlines. The headlines have been dreamed up by him on a number of occasions in a most unconstructive manner. I was disappointed that in the time available to the member for Waite, he did not bother to refer to the subject under consideration, namely, the annual report 2003-04. I think it is very difficult for *Hansard* to try record my comments when there is so much discussion across the chamber and I would ask members to desist: they are just being unfair. Mr Acting Speaker, I draw attention to the fact that the member for Waite seems to think that speaking over the top of other people is the way that proceedings should occur in parliamentary committees.

The ACTING SPEAKER: I think there has been a level of discourteousness, even in this chamber as we speak. For the rest of the contribution from the member for Reynell, we all will listen to her in silence.

Ms THOMPSON: I want to make a few brief points. In his remarks the member for Waite has referred twice to the committee in relation to the government. He has talked about the fact that the government should use the committee to do its research work. He also said that, if it genuinely acted in a bipartisan manner, the committee could do some good work on behalf of the government. The member for Waite seems to be unaware of the duties of the committee, which include acting on behalf of the parliament, not the government. Perhaps it is this basic misunderstanding on his part of the role of committees which has caused him to behave on a number of occasions in the Economic and Finance Committee in a way that does not bring credit to any member of this parliament.

He also said that this is a committee where the government is quite happy not to have members of the opposition present. He could be referring to the amendment that he proposed in relation to the committee, which required that a quorum be comprised of at least one member of the opposition; or he could be referring to proceedings of the committee in October last year, which still seem to rankle very strongly with him. The committee met at the appointed time; a time of which members had notification. Unfortunately, at the appointed time, there was no member of the opposition present. The member for Stuart had courteously conveyed his apologies to the committee, so we were not expecting him.

Mr HANNA: I rise on a point of order. The matters now being canvassed by the member for Reynell do not relate to the report that she has brought forward.

The ACTING SPEAKER: I uphold the point of order.

Ms THOMPSON: I deliberately failed to take a similar point of order in relation to the member for Waite, because little he said related to the matter in the committee. However, I will point out that the overall operations of the committee in 2003-04 were vigorous but courteous, unlike what has happened subsequently.

Motion carried.

SAME SEX LEGISLATION

Private Members Business, Bills/Committees/Regulations, Notice of motion No. 5. Mr Brindal to move:

That he have leave to introduce a Bill for an Act to make provision for the recognition of a particular kind of relationship that may exist between two persons of the same sex; to make a related amendment to the Acts Interpretation Act 1915; and for other purposes.

The ACTING SPEAKER: Pursuant to sessional order dated 14 October 2004, Private Members Business, Bills/Committees/Regulations Notice of motion No. 5 is withdrawn.

Notice of motion discharged.

ROAD TRAFFIC (DRUG TESTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 February. Page 1446.)

Mrs GERAGHTY (Torrens): I move:

That the debate be further adjourned.

The house divided on the motion:

AYES (20) AYES t.)

Atkinson, M. J.	Bedford, F. E.
Caica, P.	Ciccarello, V.
Conlon, P. F.	Geraghty, R. K. (teller)
Hill, J. D.	Key, S. W.
Koutsantonis, T.	Lomax-Smith, J. D.
McEwen, R. J.	O'Brien, M. F.
Rankine, J. M.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. W.
White, P. L.	Wright, M. J.

NOES (17)

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

PAIR(S)

Rann, M. D.	Kerin, R. G.
Breuer, L. R.	McFetridge, D.
Maywald, K. A.	Brindal, M. K.
Foley, K. O.	Matthew, W. A.

Majority of 3 for the ayes.

Debate thus further adjourned.

HERITAGE (BEECHWOOD GARDEN) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 December. Page 1239.)

The Hon. J.D. HILL (Minister for Environment and Conservation): I foreshadow that I will be moving amendments. When this matter came before the parliament some time ago, both houses agreed to deproclaim Beechwood Garden, which enabled the government to sell the garden to the current owners of the house associated with it. There was an undertaking to maintain the garden in its current, or similar, form on an ongoing basis, and that was done by use of a heritage agreement. At the time, the opposition expressed its agreement with the government's position but asked that we put in legislative protection for that heritage agreement. I said I would support that proposition provided I had a chance to look at the language that the member for Heysen was proposing and that the owner of the property was happy with that as well. There has been some argy-bargy between the member for Heysen and myself. She had a more—

Mrs Redmond: Negotiation is a better word.

The Hon. J.D. HILL: I withdraw that word. I negotiated with the member for Heysen on a pleasant basis as to how to deal with this. The member for Heysen wanted a broader range of measures to be included in the legislation that would require approval by the parliament before any action could happen. I am proposing a narrower range of matters so that only substantial issues would need to come to the parliament and more mundane, day-to-day kind of issues could be agreed on by the minister of the day. The heritage agreement is really a contract between two parties (that is, the minister and the landowner) about what happens on that land, and it can be varied by consent of the two parties.

What the member for Heysen wants—and what my amendment seeks to do—is to say that that is still the case, except on substantial issues the parliament also has to agree to that variation. I think that is reasonable. I understand the current owner of the garden supports that measure. On that basis, I support it.

Mrs REDMOND (Heysen): As the minister has indicated, there has been some negotiation in relation to this matter. I accept the minister's position that the bill I have proposed, as currently drafted, does put a significant imposition on the minister in the sense that it requires that any variation to the heritage agreement, no matter how small, would have to come back before the house. I accept that, conceivably, amendments to the heritage agreement could be proposed from time to time which would be inconsequential or insignificant in terms of what everybody is seeking to achieve, that is, the best management on an ongoing basis and security of this historical garden.

I recognise where the minister is coming from in relation to his proposed amendment, which I know he will be moving shortly. I still have some difference with the minister, but I can count as well as the minister can. I know that what we are both trying to achieve is an ultimate outcome where this garden is recognised for its historical significance and that it is protected in perpetuity by way of a heritage agreement which is registered on the title and which binds successive owners. In that regard, we are at one. I think that is all I need to say at this point.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Page 3—

Lines 2 to 5—Delete subclause (1) and substitute:

(1) A heritage agreement entered into in relation to the whole or any part of the prescribed land must not be—

(a) varied so as to provide for a significant variation; or

(b) terminated,

unless the variation or termination (as the case may be) has been authorised by a resolution of both houses of parliament.

After line 7—Insert:

(3) For the purposes of subclause (1), a significant variation is a variation of a heritage agreement that makes provision with respect to—

(a) the division of the prescribed land (being a division of land within the meaning of the Development Act 1993); or

(b) the granting of any lease, licence, easement or other right relating to the use, occupation or control of the prescribed land (but not including a case that only involves a transfer of the prescribed land to a new owner).

I have spoken to these amendments previously. It really is to put some sort of limit on the matters that would need to go to the parliament and limit it to substantial issues. That is set out in the amendment and, in particular, the granting of any lease, licence, easement or other right relating to the use, occupation or control of the prescribed land would be covered as well: it would be the substantial things. I thank the member for Heysen for accepting this as a compromise. I know that it is not exactly what she wanted, but I believe it will provide the level of protection she and her community and, indeed, the government would want.

Mrs REDMOND: As the minister has indicated, this is not quite what I wanted. Whilst, at the close of my second reading contribution, I indicated that I was prepared to accept that the bill as proposed by me initially perhaps went too far in being so stringent that any tiny thing had to come back to this parliament and be approved by both houses, the minister's amendment, in my view, does not go quite far enough. What it does is protect the whole property against any subdivision or any variation to the way the land is held, and that is the key issue.

It remains my view that it would have been preferable to incorporate into the legislation a provision that any other significant amendment would have to come back to the chamber. However, I can count as well as the minister and I accept that it is probably better to get this protection in place for the property, which is the ultimate protection of preventing any subdivision of this property, so that it is legally binding on this and all future parliaments. With that in mind, I support the amendments.

Amendments carried; clause as amended passed.

Long title passed.

Mrs REDMOND (Heysen): I move:

That the bill now be read a third time.

Mr HANNA (Mitchell): I have been following the Beechwood issue closely and this piece of legislation in particular. With the minister's amendments, I believe it is a very sensible compromise in relation to the issue. There should not be any underestimation of the depth of feeling of those who have enjoyed the benefit of the Beechwood gardens in the past. A number of them contacted me in

addition to their local member, the member for Heysen. It is very pleasing to see the passage of this legislation.

Bill read a third time and passed.

ROAD TRAFFIC (HIGHWAY SPEED LIMIT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November. Page 830.)

Second reading negatived.

LOWER SOUTH-EAST—COMMERCIAL FORESTRY REGULATIONS

Adjourned debate on motion of Mr Williams:

That the regulations made under the Water Resources Act 1997 entitled Lower South-East—Commercial Forestry, made on 3 June and laid on the table of this house on 29 June, be disallowed.

(Continued from 10 November. Page 840.)

Motion negatived.

CONSTITUTION (TERM OF MEMBERS OF THE LEGISLATIVE COUNCIL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 October. Page 381.)

Mr HANNA (Mitchell): I move:

That standing orders be and remain so far suspended as to enable forthwith, in relation to the Constitution (Term of Members of the Legislative Council) Amendment Bill, the Statutes Amendment (Multi-Member Electorates) Bill, the Electoral (Optional Preferential Voting) Amendment Bill, the Referendum (Term of Members of the Legislative Council) Bill, the Referendum (Multi-Member Electorates) Bill, the Direct Democracy (Citizen-Initiated Referendums) Bill and the Referendum (Direct Democracy) Bill:

(a) one second reading debate to be undertaken;
(b) separate questions to be put on each bill at the conclusion of the second reading debate;
(c) the bills to be considered in one committee of the whole house;
(d) one third reading debate to be undertaken; and
(e) separate questions to be put on each bill at the conclusion of the third reading debate.

Motion carried.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That standing and sessional orders be so far suspended as to allow one minister to speak for 45 minutes, other members for 20 minutes and the mover 10 minutes in reply in the cognate debate on the motion that the bills be now read a second time.

The DEPUTY SPEAKER: There not being a majority present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

The Hon. M.J. ATKINSON (Attorney-General): The government opposes the second reading of each of these bills. Before going into the merits of the bills in detail, it is important to think about the reasons for the reforms being proposed. The reforms cover a variety of matters that go to the heart of the parliamentary system. Therefore, these questions must be asked: what is the problem with the system we now have, and will the proposed reforms improve the operation of parliament or our system of government? It is for the proponents of these bills to demonstrate that this is so. The State Electoral Commissioner has advised that the technical and cost implications to his office would be considerable. For example, the software used in the count for both House of Assembly and Legislative Council elections would have to be updated to cope with optional preferential voting, multi-member electorates and reduced terms.

The State Electoral Office cannot simply walk into a computer retailer and purchase the necessary software over the counter. This updated software would have to be rigorously tested. As members would realise, this would be expensive. Further, considerable expense would be incurred in educating electoral office staff and the public, including extensive advertising programs for radio, television and the print media. It is reasonable to expect that the election inquiry service operated by the State Electoral Office would have to have more staff to respond to an increase in voter inquiries.

These costs are in addition to the costs of conducting a referendum seeking the public's support for the necessary amendments to the Constitution Act. The government is not suggesting that these sorts of technical and resource issues are of themselves grounds to oppose the bills. However, when considered alongside the policy arguments against the reforms, the government feels that, on balance, the proponents of these bills have not justified the need for change. I should make clear that neither the state Electoral Commissioner nor any member of his staff has expressed an opinion on whether any of the reforms should be introduced. His office has simply offered advice on the technical and resource implications of their introduction.

I now turn to the Constitution (Terms of Members of the Legislative Council) Amendment Bill. The bill seeks to amend the principal act so that the term of members of the Legislative Council will expire on the dissolution or expiry of the House of Assembly. The government does not support this proposal. It believes that the current system is preferable. Currently, members of the other place generally serve the equivalent of two terms of the House of Assembly. That is eight years.

The terms of members of the council (the other place) have always been staggered so that, usually, only one half of the membership is elected at any one election. The amendments proposed in this bill would mean that all 22 councillors would be elected at the same election, meaning a reduction in the quota from 8.3 per cent of the formal vote to 4.3 per cent, or thereabouts. The importance of the other place and equivalent chambers is explained in *Odgers'* text as follows:

> The requirement for the consent of two differently constituted assemblies improves the quality of laws. It is also a safeguard against misuse of the law-making power and, in particular, against the control of any one body by a political faction not properly representative of the whole community.

The government believes that the current system is consistent with the role of the other place as a house of review. It has been common for upper houses to be constituted in this way. For example, the Senate maintains a staggered system of appointment. Staggered terms allow members of the other place to be more removed from immediate electoral pressure. It offers stability and balance, as a strong populist vote in the house would not necessarily result in a majority of members in the other place. I believe that this is a safeguard. It has the advantage of ensuring continuity of experience in at least one house of parliament.

I now turn to the Statutes Amendment (Multi-Member Electorates) Bill. The bill would reintroduce multi-member electorates in the House of Assembly. It would also increase

the number of members of the house, align electorates to commonwealth electoral divisions and provide a mechanism for filling casual vacancies in the house. The House of Assembly was established in 1856, and originally consisted of 36 members voted for in 17 districts or electorates. One electorate had six members, one had three, 12 had two and three had one.

The size of the house and the way in which representation was determined have both varied over time. The initial membership of 36 was the smallest, and the largest membership was 52. The current size (47 members) was set by the Constitution Act Amendment Act in 1969. Until 1936 the House of Assembly was constituted of members elected from multi-member districts. Since 1936, however, each electorate has returned only one member. When parliament chose to move to single member electorates, the Attorney-General of the day (the Hon. S.W. Jefferies) had regard to the findings of the Cavendish Commission in the United Kingdom.

The commission was appointed in 1908 under the chairmanship of Lord Cavendish to examine the various schemes adopted or proposed for popularly elected legislative bodies, and to consider how far they or any of them were capable of application in the United Kingdom. The Cavendish Commission favoured the retention of single member electorates. It concluded that no system had been devised that was simpler for the elector, more rapid in operation or more straightforward in result. Amen!

The commission noted the principal defect of single member electorates is that they exaggerate majorities. But that conclusion was drawn in reference to a first-past-the-post system, whereas South Australia had, and continues to have, an exhaustive preferential voting system.

The government does not believe that a convincing case has been made out for changing to multi-member electorates. It believes that the current system serves South Australia well. Single member electorates provide clearer lines of accountability to the electorate. One member represents the electorate in parliament and attends to constituent matters. A move to multi-member electorates will expand the geographic area that members must cover and increase the number of electors to whom a member is accountable. It is not sufficient to say that there would be four other members serving the electorate, as each member would be expected to represent the whole electorate. Under the proposal, an electorate would contain around 96 000 electors, compared to about 22 500 in current state seats.

Mr Goldsworthy: Like the feds.

The Hon. M.J. ATKINSON: Yes, exactly. That is the proposal. It should also be noted that the bill would increase the number of members of this house from 47 to 55. The government does not think that this can be justified. More members would mean that more money would have to be spent on MPs and staff salaries, office accommodation and electorate expenses. The proponents of this bill have not explained how the purported benefits of the proposed changes would justify this additional expense—an expense that would be borne by the public.

Mr Hamilton-Smith interjecting:

The Hon. M.J. ATKINSON: I note, Mr Deputy Speaker, the member for Waite has already broken his promise to listen in silence, and we are less than 10 minutes into the debate. He is carrying on like a ratbag.

The member for Mitchell suggests that the change would increase the likelihood of Independents and candidates from minor parties being elected. Given that this can lead to uncertainty and instability in government, the government questions whether this is necessarily desirable. Likewise, the government does not believe the cause of democracy is necessarily served when the balance of power is held by Independents.

Members interjecting:

The Hon. M.J. ATKINSON: I note the support of the member for Kavel and the criticism of the member for Waite.

Mr Hamilton-Smith interjecting:

The Hon. M.J. ATKINSON: The defamatory and cowardly remark by the member for Waite is just astonishing, but it is his form. In his second reading speech, the member for Mitchell suggests that the multi-member electorates would continue to be drawn by the Electoral Districts Boundaries Commission. This is incorrect. The bill repeals Part 5 of the Constitution Act which, as members would be aware, provides for the establishment of the Electoral Districts Boundaries Commission and for electoral redistributions. It then provides that the proposed multi-member electorates be the commonwealth electoral divisions.

The government does not endorse this approach. It makes the South Australian system dependent on the commonwealth system. In February 2003, the Australian Electoral Commission determined that, as a result of population changes between the states and territories, South Australia would be entitled to 11 members in the House of Representatives at the next general election. That is a decrease of one. By linking the number of house members to the commonwealth system, any change in the number of commonwealth seats in the state would affect the house.

Mr Hanna: I am entitled to rely on parliamentary counsel.

The Hon. M.J. ATKINSON: I think it is rather irresponsible of the member for Mitchell to attribute this defect in his legislation to parliamentary counsel. If the number of commonwealth divisions increased again to 12, the House of Assembly would increase to 60 members; whereas if in the future the state loses another commonwealth seat, we would lose a state electorate and so reduce the number of House of Assembly members to 50. To retain 55 members we would need to amend our legislation to increase or decrease the number of members to be elected in an electorate. In South Australia, the number of commonwealth electoral divisions has fluctuated over time as the state's population, relative to the other Australian states and territories, has changed. Since 1949, we have had seven changes, with the number of commonwealth divisions fluctuating between 10 and 13. There are also practical issues—

Mr Goldsworthy: What is it now?

The Hon. M.J. ATKINSON: —11—the most important of which is timing. A federal redistribution too close to a House of Assembly election might not allow enough time to update the electoral roll, schedule polling places and other matters necessary for the proper conduct of a state election. The bill provides a mechanism for filling casual vacancies. The bill would remove the need for by-elections by providing that a member of the House of Assembly who resigns or dies while in office will be replaced using the same procedure as currently applies to the other place, that is, elected by a joint sitting of both houses. As in the other place, if the member were, at the time of his or her election, an endorsed candidate of a particular party, the person chosen to replace the member should be a member of that party who is nominated by that party to fill the vacancy.

The main argument against the amendment is that it undermines the concept of a member being elected by the

people. Instead, the member will be a person selected by a party. It fails to acknowledge the extent to which a member may have built up personal support within his electorate—a notion unknown to the member for Waite. The amendment also highlights the problem of what happens where a member was the endorsed candidate of a particular party but has since left the party—such as the member for Mitchell—or where the member was elected as an Independent but has subsequently joined a party—as the member for MacKillop did in the last parliament. As the amendment currently stands, the party that endorsed the candidate at the time of the election would be able to select the replacement member notwithstanding that the outgoing member had ceased to be a member of that party. So, in the case—

Mr Goldsworthy: Shame!

The Hon. M.J. ATKINSON: What is the shameful aspect of it, member for Kavel?

Mr Goldsworthy: Keep going and we will hear about it.

The Hon. M.J. ATKINSON: But is the shame the member for Mitchell's proposal or my criticism of it?

Mr Hamilton-Smith: Are we back to question time? We will ask a few.

The Hon. M.J. ATKINSON: No, the member for Waite is not permitted by his party to ask questions or take points of order any more owing to his bungling. So, in the case of the resignation of the member for Mitchell, the ALP would replace him. Even more difficult is the case of Independents. There does not appear to be any appropriate basis on which such members could be chosen. This is a problem that already exists in the filling of casual vacancies in the other place. The proposed amendment would only extend this problem: it does not solve it. The government does not believe that a sufficient case has been made out for the amendments proposed. The bill is therefore opposed.

I now turn to the Electoral (Optional Preferential Voting) Amendment Bill. The bill amends the Electoral Act 1985 to replace the current preferential voting system—effectively, full or compulsory preferential voting—with a form of optional preferential voting. The bill would replace section 76(1)(a) and (2) of the Electoral Act with new provisions. The existing provisions require an elector when voting below the line in an election for the other place or when voting in a House of Assembly election to indicate on the ballot paper his or her order of preference for all candidates. The proposed new provisions provide that an elector need not indicate his or her order of preference for all candidates; rather, the elector must indicate his or her first preference by (as now) placing the number one next to that candidate's name in the relevant square on the ballot paper. The elector may then indicate his or her preference for all or some of the other candidates by placing the number two and consecutive numbers in the squares opposite their names, but need not do so. It would be optional for the elector to indicate his or her preferences for some or all of the other candidates.

Consequential amendments to the Electoral Act would remove the provisions governing the lodgment of House of Assembly voting tickets as no longer necessary with optional preferential voting. To clarify that, where lodged, voting tickets for the other place would need to indicate the order of preference for some but not all other candidates and provide for the interpretation of House of Assembly and Legislative Council ballot papers to take account of optional preferential voting.

The government supports the retention of the present compulsory preferential system for both the House of Assembly and the other place as it has advantages over the optional preferential model that is proposed. First, the introduction of optional preferential voting would apply only to state elections. Compulsory preferential voting would continue to apply to federal polls. Electors would have to vote under two different systems in federal and state elections. As I will explain in a moment, the regime proposed in this bill is different again from the optional preferential system applying to local government elections in South Australia. So, electors would have to work their way through three different forms of preferential voting in the three different elections. This would only add to voter confusion and increase the informal vote.

Secondly, for house elections, compulsory preferential voting ensures that only the candidate preferred by the majority of electors (either on primary votes or after the distribution of preferences) can be elected. The same cannot be said of optional preferential voting. The current system requires a candidate to obtain a majority of 50 per cent plus one of the valid votes cast to win the seat. If at the first count no candidate has gained more than 50 per cent of the vote, the candidate with the lowest number of preferences is eliminated. The second preferences indicated on the ballot paper are then distributed. The member for Kavel would be familiar with this process having gone to preferences at the last general election, if I am not mistaken.

Mr Goldsworthy: So what?

The Hon. M.J. ATKINSON: I just draw attention to it. No doubt his vote-pulling power got him 50 per cent plus one after preferences. This process of excluding the candidate with the least number of votes, then distributing his or her preferences, continues until one candidate obtains 50 per cent plus one of the votes. Under optional preferential voting, the elimination of candidates with no further preferences indicated means that it is possible for a candidate to win an election with less than 50 per cent support. Every vote for an eliminated candidate where no further preferences are indicated cuts the number of votes remaining in the count. A winning candidate needs to have 50 per cent of the total vote remaining in the count, not of the total formal vote.

This means that, whereas under compulsory preferential voting successful candidates can genuinely claim to represent their electorates as they have ultimately won the support of an absolute majority of electors for their seats, a candidate elected under optional preferential voting cannot necessarily say this.

Mr Rau: Almost first past the post.

The Hon. M.J. ATKINSON: Quite. For this reason compulsory preferential voting is a more complete or accurate expression of the vote.

Mr Goldsworthy interjecting:

The Hon. M.J. ATKINSON: The member for Kavel is uncertain: I assure him that it is so. Thirdly, evidence from Queensland, where optional preferential voting was introduced in 1992, and recent South Australian local government elections, show that under optional preferential voting many electors may become de facto first past the post contests as electors plump, that is, mark only one preference on their ballot paper. In the case of plumping for a candidate who finishes third or lower, their vote is exhausted.

In the 2001 Queensland election over half the electorates effectively became first past the post contests, with 47 out of 89 seats being won on the primary vote. A Queensland Electoral Commission ballot survey of 11 seats found that

almost 60 per cent of voters across the board voted for just one candidate. Similar results have been noted in local government mayoral elections in South Australia. A report this year by the State Electoral Office on optional preferential voting, which examined results from five mayoral contests in 2003, found that 46 per cent of electors completed a first preference only, with electors indicating preferences just behind at 44 per cent. Only 10 per cent gave partial preferences.

The report noted a correlation between the number of candidates and the incidence of plumping. The more candidates the more likely electors were to provide just one preference. In the City of Adelaide election with three candidates, 38.9 per cent of voters indicated one preference only, whereas in Tea Tree Gully—a contest between five candidates—51.5 per cent plumped for just one. I need not remind members that in the house elections more than four candidates usually contest each seat. The average number of candidates contesting each seat is rising. At the 2002 election there was an average of six candidates contesting each seat.

The problems associated with optional preferential voting are not limited to the house. Two further problems result from its application to elections for another place. In terms of the model proposed in this bill, there is no requirement that electors indicate a minimum number of preferences when voting below the line for the other place. This is different from the regime applying to local government elections under the Local Government (Elections) Act 1999, where an elector must indicate preferences for at least the number of vacancies to have his or her ballot paper accepted as formal. In New South Wales electors must indicate preferences—

Mr Goldsworthy: You know about local government elections?

The Hon. M.J. ATKINSON: I do know about local government elections and I have had some success in that area.

Mr Hamilton-Smith interjecting:

The Hon. M.J. ATKINSON: Yes, and continue to follow it. Electors must indicate preferences for at least 15 candidates seeking election to the 21 Legislative Council seats when voting below the line. If the election does not require electors to preference up to the number to be elected, it is increasing the likelihood that some candidates will be elected under quota. No such safeguard applies under the model proposed in the bill by the member for Mitchell. Furthermore, as candidates and groups contesting elections for the other place will still be able to lodge voting tickets, votes cast above the line will, in many cases, have greater effect than votes cast below the line, the latter being exhausted far earlier in the count where the elector's preferred candidate is eliminated and no further preferences have been allocated. In addition to the policy arguments against optional preferential voting there are technical difficulties of its being carried out, being those that I summarised at the beginning of my response.

I now turn to direct democracy: the Citizens' Initiated Referendums Bill. The CIR bill would introduce the concept of citizens initiated referendums. The idea of citizens initiated referendums sounds attractive—and I have argued for it. It is seen as giving the electors of the state a more direct say in the laws under which they live, and being likely to increase civic interest in public affairs. Nevertheless, the government opposes the bill.

I start by quoting from a paper written by Dr Lisa Hill of the politics department of the University of Adelaide and published in the book *Peace, order and good government—state constitutional and parliamentary reform*, edited by Clement McIntyre and John Williams. She refers to our compulsory system and says:

> Since Australians already perform, arguably, the most important act of participation available to citizens, it is not clear that they want or need more participation in politics. It may be the case that Australian voters are already doing as much as they can and care to do. But assuming, for the sake of argument, that Australian democracy could use some help, neither is it clear that more democracy is the answer to ours, or anyone else's, democratic deficit problem. Since we know that some of the causes of civic withdrawal are more complex than simply being alienated from politics (for example, lack of community, being time poor, stressed or economically disadvantaged) more participation may not be the most appropriate solution. Even if more democracy were the answer, neither is it clear whether CIR offers more democracy, because democracy is not reducible to majority rule. Finally, even if democracy were reducible to majority rule, it is debateable whether CIR delivers a greater level of genuine democratic participation or is able to capture faithfully the will of the people. This is not to suggest that politics cannot offer any remedies to civic demobilisation, simply that CIR may not be the answer.
>
> Certainly, it would be good to have better and more representative government. If we could find a system immune from exploitation and under-deliberation, and which was also able to capture popular will in its most sober and considered mood, then CIR could conceivably raise levels of political efficacy, and generate a more positive and trusting attitude towards political institutions. On the other hand there is a real danger that CIR could lead to voter fatigue, a condition known to depress turnout on voluntary settings, but likely to inspire antipathy towards compulsion were it to take hold here.

There are several main forms that citizens initiated referendums may take. The form proposed by the CIR bill before the house is of the most extreme type; and I suggest the member for Mitchell designed it that way to bring discredit upon it. It is not to the point to say that another country has CIRs, so we should too, without looking first at the outcome that can be achieved by the particular form of CIR in that country; secondly, the processes for holding a CIR there; and, thirdly, the type of democratic and parliamentary system the country has. For example, in New Zealand there are CIRs but their purpose is to advise the government of the opinion of electors about the proposed law. I understand that in Switzerland the process is limited to constitutional amendment. Apparently, the success rate is only about one in 10. In some places CIRs are limited to the local government level. So far as I am aware, no other Australian jurisdiction has CIR.

The CIR bill before the house would allow for the enactment of new laws or the repeal or amendment of existing laws. Some 400 electors could initiate the process. If within eight months the signatures of 3 per cent of electors can be obtained, a referendum must be held. Of course, we all know that some people will sign a petition without reading it in reliance upon the representations made to them or the pressure placed on them by the person seeking their signature.

Mr Goldsworthy interjecting:

The Hon. M.J. ATKINSON: I could not say. I can tell the member for Kavel that it was my practice to transcribe the names and addresses of people who signed petitions on euthanasia or prostitution to the house. In previous parliaments, I had written to them to tell them that I had voted in accordance with their wishes, and some of them—not many, but some—wrote back or telephoned me to say that they did not sign the petition, or did not hold that view. Well, in fact, I can assure the member for Kavel that they had signed the petition.

Mr Hamilton-Smith interjecting:

The Hon. M.J. ATKINSON: Well, I was not promoting the petition. Generally, members of the member for Waite's party were promoting the petition; I merely transcribed the names and addresses. I hope that clarifies it for the member for Waite. Of course, if a majority of electors in the referendum vote yes in the poll, the bill must be presented by the Electoral Commissioner to the Governor for assent, whereupon it becomes law.

The executive government and the parliament would have no role to play in the repealing or the making of the law initiated under the CIR bill, except that parliament would receive some documents and decide whether a referendum would be held on a date earlier than the next general election for the House of Assembly. The parliament could not influence the content or drafting of the bill; it would not debate or vote on it. The parliament would have no opportunity to improve the bill by passing amendments to it, or submitting it to a select or standing committee of parliament before it became law. The risk of an unsatisfactory, or even pernicious, law must be greater without these processes. This would cut across our system of representative democracy in which the representatives selected by electors are responsible to the electors in their constituencies and to the people of the state generally.

Laws would be made anonymously by secret ballot by people who have no accountability for their vote, and no responsibility to put them into effect. Unlike members of parliament, the electors do not take any oaths that have the effect of requiring them to put the interests of the people of the state before their own personal interests, and they are under no obligation to protect the individual citizen by maintaining the rule of law. One of the great risks associated with CIRs is that they can result in the oppression of minority groups, particularly those against whom there is a lot of prejudice.

Mr Hanna interjecting:

The Hon. M.J. ATKINSON: I am hurt by the member for Mitchell's interjection, but I place it on the record. A bill passed by CIR could result in conflict or inconsistency with existing laws. The proponents of bills for CIR are not in a position to consult with all the ministers and their departments to identify all the laws and policies that might conflict or be inconsistent with their proposals. Often they would not have the benefit of the advice of skilled researchers and policy makers that the government has through the Public Service. That may give the member for Waite the clue to the answer to his first question by way of interjection.

Policy inconsistency tends to create confusion, inefficiency, frustration, anomalous results and disrespect for the government. Inconsistency in legislation is likely, in addition, to result in litigation. CIR could also harm the finances of the state and the ability of the government to govern effectively by passing laws that would require the expenditure of large amounts of government money, although not money bills, and would reduce the revenue of the state.

Finally, I would like to talk about cost. The direct cost of citizen initiated referendums in accordance with the bill would be great, and the costs would be incurred with unpredictable frequency. This would make it more difficult than it already is for any government to manage the state's finances. The State Electoral Commissioner was consulted and he made some rough estimates of cost.

The government would not hold him to these figures, especially since he has left now to work as the Electoral Commissioner in Victoria. I inform the house of them to give it some idea of the magnitude. I understand that the Commissioner estimates that it would cost between $6 million and $7 million for each stand-alone attendance referendum held between elections. If a referendum could be conducted by post, similar to the 1997 election for delegates to the Constitutional Convention, it could be cheaper.

As there are 1.1 million electors in South Australia, the cost of postage would still be considerable. It is most unlikely that the material required by a bill could be sent to electors for 50¢ postage each but, if it could, the cost of postage alone would be more than half a million dollars, with additional costs for returns, processing and results notation. Even if a referendum were held at the same time as a general election, the estimated cost would be in the range of $1 million to $1.5 million extra.

The Electoral Commissioner advises that it would also be necessary to run a balanced education campaign to make voters aware of the referendum issues; then, after the referendum, there would be the cost of the work of following up electors who failed to vote. Besides all out-of-pocket expenses, the Commissioner would need additional staff to run a CIR program, undertake checks of signatures against the electoral roll, act as local electoral officials, monitor potential breaches of referendum law, etc. He expects that at least $100 000 per year in recurrent salary expenditure would be needed. CIR may, besides costing the taxpayers money, increase the incomes of what Lisa Hill in her paper describes as 'the emergence and expansion of an initiative industry'. For example, in Switzerland and the American states that have CIRs, professional managers, petitions circulators and signature collectors, media consultants, fund raisers and lawyers are engaged.

Mr Hanna: That would be bad for democracy, wouldn't it?

The Hon. M.J. ATKINSON: The member for Mitchell says that that would be bad for democracy. Lisa Hill refers to the legal challenges that occurred there and states:

> In this manner CIR may be exploited as a means, not to enhance popular will, but of putting inordinate amounts of power into the hands, not only of moneyed interests, but of lawyers and the judiciary.

It is for these reasons that the government urges members to oppose the second reading of each of these bills. There are also three bills before the house that provide for the holding of referendums necessary to carry out the substantive reforms on Legislative Council terms, multi-member electorates and CIR. I do not intend dealing with these referendum bills separately. Suffice to say, the government opposes each one.

Mr SCALZI (Hartley): I commend the member for Mitchell for bringing forward these bills and, like the member for Mitchell, I do not necessarily agree with the changes that will be brought about by them. As the member for Mitchell clearly stated when he introduced these bills, the government undertook to have a Constitutional Convention—

The Hon. M.J. Atkinson: And we did.

Mr SCALZI: —and sought the opinion of the people of South Australia. As the Attorney rightly points out, they did. They travelled throughout South Australia, and I attended some of those meetings in the metropolitan area, in particular in my electorate, because I think it is important that members attend public meetings, especially meetings to deal with constitutional—

The Hon. M.J. Atkinson interjecting:

Mr SCALZI: The Attorney talks about meetings—

The Hon. M.J. Atkinson: Street corner meetings.

Mr SCALZI: Perhaps the Attorney can tell us how many people turned up at Tranmere. Was it more than 10 or less than 10? The Attorney-General has not told us whether it was more or less than 10 in Hartley. I would have thought that the Attorney, given the prominence of his position, would have got a better roll out. Perhaps the people of South Australia, as he would interpret it, were so happy with the Attorney-General that they did not think it was important to turn up at the meeting.

Mrs Geraghty: You don't understand.

The DEPUTY SPEAKER: Order! The member for Hartley should focus on the bill, and the member for Torrens should be listening.

Mr SCALZI: I was talking about the consultation process of the Attorney-General in the Hartley electorate. I understand that there were about 10 people who turned up to the public meeting. One thing is certain: a lot more people were attending the meetings to do with the constitutional convention. When I attended Burnside Town Hall it was full, as was the Norwood Town Hall and the meetings held at Campbelltown, I understand.

The Hon. M.J. Atkinson: What are you doing?

Mr SCALZI: What am I doing? I believe that in a democracy these sorts of issues must be aired, and I am pleased to give the Attorney a little background on the principle of democracy, although I will not go into the background of all the various bills, as he has. The word 'democracy', as we know, comes from the two Greek words 'demos' and 'kratos', which means 'people power'.

Mr Goldsworthy: 'Gratis' means free.

The Hon. M.J. Atkinson: No, 'gratis' is Latin.

Mr SCALZI: That is Latin, as the Attorney says. When we talk about the origins of democracy, we always go back to ancient Athens where, the Attorney well knows, 'demos kratos' referred only to the male Athenian citizens, who were outnumbered by the slaves 16 to 1. Women were not included in that democracy.

So, the actual mechanism of democracy originated in Athens, but part of the democracy of the two house system could also have origins in the old Roman republic, that is, before Julius Caesar and the emperors. We would all lament the death of Cicero, referred to as 'the pillar of iron'.

Going back to democracy, there are two basic types of democracies, or 'people powers', manifested. One is direct participatory democracy—an example of that would be a citizen-initiated referendum in its pure sense—and the other would be representative democracy, where you entrust representatives for a certain period of time to act on behalf of the community. Our system, the Westminster system of government, is a very good example of representative democracy, and it has been very successful for hundreds of years, developing to the point where it is today.

Mrs Geraghty interjecting:

Mr SCALZI: As the member for Torrens rightly points out, it took a long time to give women the right to vote. In South Australia we are proud that in 1894 not only were we the first state to give women the right to vote but we were also the first to give them the right to stand for parliament. Indeed, in 1994 we celebrated that right with the hanging of the tapestries in this chamber. As South Australians, we should be very proud of having given women the right to vote and to stand for parliament. As the member for Torrens would be aware, England, the country from which our ideas on representative democracy came, did not give women the right to vote until 1926. Indeed, Italy, the country where I was born, did not give women the right to vote until after the Second World War, and Switzerland did not give women the right to vote until the 1960s.

Mrs Geraghty interjecting:

Mr SCALZI: The member for Torrens would be aware that there are many countries in the world today where women still do not have the right to vote. In celebrating International Women's Day yesterday, women could rightfully have pointed out that, whilst we enjoy the basic principles of democracy and celebrate South Australia's achievements, sadly, there are many places in the world where women still do not have the right to vote.

The Speaker (the member for Hammond), in his compact with the government, is trying to achieve some real constitutional reforms. It is not a secret that I do not support citizen initiated referendums. However, I believe that it is important that we debate such issues as citizen initiated referendums, multi-member electorates and the terms and role of the upper house. In order to have this debate, as the Attorney-General has outlined, this legislation has been put together so that we can vote on it separately.

I am concerned that the government, which signed the compact with the Speaker (the member for Hammond), did not introduce any of these bills but left it to the member for Mitchell. If it were not for the Independent member, the member for Mitchell, the discussion we are having here today would not have taken place. One could question the government's real commitment to looking at the issue of reform. As I have said, I have been quite open in not supporting citizens initiated referendums, but I respect those who do support them. The fact that these bills have been introduced and that there is some community support for citizens initiated referendums tells us something about our system. Something is not quite right when people are concerned. You only have to look at the level of cynicism in our community and the mistrust of our institutions to see that we need to do something about our system and look at it objectively. I have talked about citizens initiated referendums—

The Hon. K.O. Foley: What a dopey idea that is.

Mr SCALZI: No, I do not believe it is a dopey idea, as the Deputy Premier has said. I believe those people have genuine concerns, and they have a right to express those genuine concerns. They are not dopey. One could talk about bridges. Obviously, the Deputy Premier is not trying to build bridges with the community by making such a statement about a genuine concern in the community about the ineffectiveness of some of our parliamentary procedures. But I will leave it up to him.

One particular bill that I would like to refer to is the Referendum (Multi-Member Electorates) Bill. My reading of the bill would suggest that you have 11 electorates with five members in each, and it is similar to the Hare-Clark system. The member for Mitchell referred to the ACT and to Tasmania. Whilst the intentions of the member for Mitchell are commendable in trying to ensure that there is broader representation, I believe that having multi-member electorates in the lower house is flawed, because it moves away from that position of trust between an electorate and a member. It moves away from that trusting commitment in a representative democracy.

Opponents of the present system would say that they are not represented but, as the member for Hartley, I am the member for the whole electorate of Hartley, not just for the

Liberal members, the Labor members, the Democrat members, or Family First. When a member is elected they are elected for the whole constituency, and we are entrusted to represent the views and to make decisions according to what we believe is the best interest of that community we represent. I believe that having five members per electorate will give us some difficulties.

Mr Koutsantonis: Are you trying to save your job?

Mr SCALZI: That would be similar to what used to happen in ancient Athens, and I am glad the member for West Torrens has interjected. Whilst the ancient Athenians were arguing about certain rules they got invaded by the Persians, and they had difficulty in maintaining that particular democracy at that time—which, in itself, was flawed because there were 16 slaves and no women representatives. So, it is not that I am trying to maintain my position.

The Hon. M.J. Atkinson: What period are you talking about here?

Mr SCALZI: The Attorney-General is trying to drag me into giving a date so that he can say that he is much more learned than I am. I admit that the honourable Attorney-General is a well-read member and knows the Thesaurus back to front, and I know that he corrects members on that side just as well as he does on this side, as a former journalist. With English being my second language, I do not wish to compete with the Attorney-General in his skill with the English language. It is a pity that *The Advertiser* lost him.

I believe that the multi-member electorate system, if implemented, will create difficulties that will be inconsistent with our representative democracy, which is basically a pact of trust between a member and his or her constituency.

Mrs Geraghty interjecting:

Mr SCALZI: The member for Torrens would be very much aware that our Prime Minister, after every election, talks about the humility and the honour of representing the whole electorate. Indeed, we represent the Labor members as well as the Liberal members and all the members of the community. That is what true representative democracy is: a compact for a time.

I think that one of the measures proposed by these bills—namely, to reduce the term of the Legislative Council to four years—is a good idea. Whilst it might not appeal to the major parties, because some would fear greater independence as a result, I believe that representation by minor parties is justified in the upper house. I think it is good for democracy, and I am not against it. I also believe that the role of the other place should be looked at. I agree with the Speaker that there should be a move towards more committees in the Legislative Council and more scrutiny of bills before they come to this chamber. I also agree that the Legislative Council should not have ministers, because that is inconsistent with its role as a house of review in its true sense.

I believe that this is the debate we had to have, and I commend the Speaker for bringing it on. I commend the member for Mitchell for introducing these bills, which I believe the government had the responsibility to introduce, given that it had made the compact. By not allowing a proper debate on these issues, I believe it has not honoured its commitment. As to some of the principles, if you had single electorates, and the responsibility of the members were taken seriously—because, as in the standing orders, we are referred to as the 'member for Hartley', 'the member for Morialta', or the 'member for Croydon', and not referred to by our names, because our position has limited tenure—

The Hon. K.O. Foley interjecting:

Mr SCALZI: Because the Deputy Premier is in a safe seat, he thinks he has unlimited tenure, but the reality is that there is no such thing as a safe seat, and we are entrusted with this responsibility for only a time. The other issue that concerns me is that, at the federal level, the signage in front of senators' offices states 'Labor Senator for South Australia', or 'Liberal Senator for South Australia'. I believe it should be just 'Senator for South Australia', because, ultimately, they represent the state before the party, or should do.

Time expired.

The SPEAKER: I will help the honourable member, and anyone else in the house who may be confused about the reason why all honourable members in these chambers of the Westminster parliaments are known by the name of their electorate. Their duty is to represent all citizens in those electorates, whether or not they voted for them. They do not stand in parliament as humans in their own right. They are not delegates. They accept personal responsibility for the decisions they make in whatever manner they may choose to do so, whether or not under the direction of an organisation to which they belong. It is not because they have tenure of greater or lesser time than any other honourable member here.

Mr GOLDSWORTHY secured the adjournment of the debate.

REPRODUCTIVE TECHNOLOGY (CLINICAL PRACTICES) (PROHIBITION OF PUBLICATION OF CERTAIN MATERIAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 October. Page 610.)

The house divided on the second reading:

AYES (16)

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

NOES (24)

Atkinson, M. J.	Bedford, F. E.
Caica, P.	Conlon, P. F.
Foley, K. O.	Geraghty, R. K.(teller)
Hanna, K.	Hill, J. D.
Key, S. W.	Koutsantonis, T.
Lomax-Smith, J. D.	Maywald, K. A.
McEwen, R. J.	O'Brien, M. F.
Rankine, J. M.	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.

PAIR(S)

Kerin, R. G.	Rann, M. D.
McFetridge, D.	Breuer, L. R.
Brindal, M. K.	Ciccarello, V.

Majority of 8 for the noes.

Second reading thus negatived.

The SPEAKER: Can I say to the house that my personal view of the matter is that it was a desirable reform. Regrettably, no other honourable member, other than the member for Mawson, spoke on the matter, so far as I am aware, and nobody has contemplated the implications of trading in such material by these nefarious means. It is about as sensible as allowing private operators to offer free blood on the internet without it going through a properly licensed process of ensuring its freedom from disease. I think the house has been—and I say this with the greatest respect, honourable members—derelict in its duty in not contemplating this essential reform that ensures the health of the public and the identity of children which may be a consequence of this kind of activity.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) BILL

The Hon. P.L. WHITE (Minister for Transport) obtained leave and introduced a bill for an act to amend the Harbors and Navigation Act 1993, the Motor Vehicles Act 1959 and the Road Traffic Act 1961. Read a first time.

The Hon. P.L. WHITE: 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 purpose of this Bill is to facilitate the effective administration of the *Harbors and Navigation Act 1993*, the *Motor Vehicles Act 1959* and the *Road Traffic Act 1961* by correcting administrative anomalies and making other minor amendments.

Amendment to the Harbors and Navigation Act 1993

The Bill amends the Harbors and Navigation Act to transfer all land vested in the Minister of Marine immediately prior to the commencement of the Act to the Minister responsible for the administration of the Act.

The office of Minister of Marine no longer exists, and this amendment will give the appropriate Minister legal capacity to deal with this land.

The Department of Transport and Urban Planning has identified several remnant property portfolios that are still registered on the Land Titles Register in the name of the Minister of Marine. These include the West Lakes waterway (together with the easements for edge treatment maintenance over allotments possessing frontage to the Lake), the Lincoln Cove Marina Stage 1 at Port Lincoln (together with a variety of easements providing access rights for revetment wall maintenance works over allotments possessing frontage to the main Marina, control of water quality etc) and various properties across the State associated with commercial fishing and recreational areas administered by the Department.

The necessary transitional provisions required to transfer land vested in the Minister of Marine to the Minister responsible for the administration of the Harbors And Navigation Act were not included in the original Act due to an oversight. The *Harbors and Navigation (Ports Corporation and Miscellaneous) Amendment Bill 1994* as originally introduced contained the necessary transitional provisions to correct this oversight. However, during the Bill's debate in April and May 1994 the Minister for Infrastructure successfully moved an in-house amendment to remove these provisions because of uncertainty at that time as to the implications of the Mabo decision and the possible effect of any transfer of the land on native title interests. Advice from the Native Title section of the Crown Solicitor's Office has since confirmed that the proposed amendment has no impact on native title.

Amendments to the Motor Vehicles Act 1959

The Bill amends the Motor Vehicles Act to enable the Minister for Transport to appoint inspectors for the purposes of the Act.

The Act currently empowers the Governor to appoint inspectors. At present Transport SA employees are appointed as inspectors under both the Motor Vehicles Act and the Road Traffic Act. The latter Act allows the Minister for Transport to appoint persons to be inspectors as necessary for the purposes of the Act. This amendment will expedite the appointment process and create a more efficient system by enabling the Minister rather than the Governor to appoint inspectors. As police checks are already undertaken on candidates for appointment as inspectors under both Acts, there will be no change in the vetting process.

The Bill also amends the Act to correct a cross-reference in section 114.

Amendments to the Road Traffic Act 1961

The Bill makes several amendments to the Road Traffic Act.

The amendment to section 33 is designed to enable roads to be closed for an event and persons taking part in the event to be exempted where the event is held on an area not on that road.

The amendment will improve the operation of the section to the benefit of the wider community by providing police and councils with greater flexibility in the management of traffic during community events held near a road, which may impact on the road network, such as the soccer tournaments held at Hindmarsh Stadium during the Sydney 2000 Olympics.

Experience with the operation of section 33 during the Olympic Games revealed that the provision does not cater for events held on land adjacent to roads. This was particularly demonstrated by the need to close roads surrounding the Hindmarsh Stadium for crowd control and security purposes prior to the conduct of events in the Stadium. As the event was not to take place on a road or road related area, but in an area adjoining a road, the provisions of section 33 could not be used. That situation was addressed by the use of section 59 of the *Summary Offences Act 1953* which permits the presiding officer of a council or the Commissioner of Police to close a road where the road will be unusually crowded. However, this section does not enable exemptions to be granted from compliance with provisions of the Road Traffic Act and associated regulations. Thus, pedestrians walking on a road or drivers trying to negotiate through a crowded area could be committing offences under that legislation and this could have severe liability implications if a person is killed or injured. Another example is the annual 'Sky Show' at Bonython Park, which generates significant pedestrian activity that can impact on a number of roads within the area, not just those immediately adjacent to the park.

The amendment will enable a road to be closed if it is considered that the conduct of an event in an area adjacent to the road would or is likely to compromise or impact on road safety on an adjacent road. This is not unlike the provision in the Summary Offences Act, but it carries the additional advantage that exemptions can be granted from the need to comply with traffic legislation, and will provide police and councils with a greater range of options for traffic and crowd control.

The amendment to section 53B will enable the forfeiture and disposal of speed analysers, radar detectors and similar devices where persons are found guilty of or expiate offences against the Australian Road Rules in relation to such devices.

Currently the section provides that it is an offence for a person to sell a radar detector or jammer, or store or offer a radar detector or jammer for sale. While section 53B empowers a member of the police force to seize, retain and test any device that he or she has reasonable cause to suspect is a radar detector or jammer, such devices are only forfeited to the Crown if a person is found guilty of or expiates an offence against the section. Once these devices are forfeited to the Crown, section 53B enables them to be disposed of (at the direction of the Commissioner of Police).

Rule 225 of the *Australian Road Rules* makes it an offence to drive a vehicle if the vehicle has in or on it a device for preventing the effective use of a speed measuring device, or a device for detecting the use of a speed-measuring device, whether or not the device is operating or in working order. However, devices seized under section 53B (that is, devices actually used in vehicles) are not forfeited to the Crown and therefore may not be disposed of if a person is found guilty of or expiates an offence against Rule 225.

South Australian Police has advised that such devices are confiscated on the spot at the time of detection of an offence against section 53B or Rule 225. The offender is issued with an expiation notice and a receipt is issued for the seized device. Both offences carry the same maximum penalty of $1 250, expiation fee of $220 and no demerit points.

The amendment will enable confiscated devices to be disposed of not only if the device is being sold or stored or offered for sale in contravention of section 53B of the Act, but also if it is on or in a vehicle in contravention of Rule 225 of the Australian Road Rules.

It will therefore facilitate the efficient administration of the Act by South Australian Police, and promote greater consistency between the Act and the Rules.

The amendment to section 82 of the Act alters the definition of "school bus" in that section.

Section 82 fixes a maximum speed limit of 25 kilometres per hour when passing a school bus that has stopped on a road apparently for the purposes of permitting children to board or alight the bus. A school bus is defined in subsection (2) to mean a vehicle bearing signs on the front and rear containing in clear letters at least 100 millimetres high the words 'SCHOOL BUS'. However Rule 117 of the *Road Traffic (Vehicle Standards) Rules 1999* contains vehicle standards specifications for school buses based on the nationally consistent Australian Vehicle Standards Rules. These rules require school buses to be fitted with a sign bearing the words 'SCHOOL BUS', a graphic of two children crossing a road at the front of the bus, and a sign bearing a graphic of two children crossing a road at the rear of the bus. Consequently, the requirements of the vehicle standards and section 82 are inconsistent.

The amendment will remove the inconsistency in the definitions, assist in compliance with the law, enable the consistent application by enforcement officers and facilitate national consistency. The amendment will not change the substantive requirements of the law for school bus operators.

The amendments to section 86 of the Act will allow the Minister, the Commissioner of Police and councils to dispose of abandoned vehicles other than by public auction.

Section 86 allows the removal of vehicles left unattended on a bridge, culvert or freeway, or left on a road so as to cause obstruction or danger, as well as the disposal of these vehicles by the Minister, the Commissioner of Police or the relevant council. The section provides that a vehicle removed under the section must be disposed of by public auction if the owner of the vehicle fails to pay all expenses incurred in connection with the removal, custody and maintenance of the vehicle. It requires the owner to be given a notice requiring the owner to take possession of the vehicle within one month of service or publication of the notice.

In practice only a small proportion of owners currently seek to recover their vehicles. The costs of removing and storing a vehicle and notifying the owner usually exceed the value of the vehicle. The majority of vehicles abandoned are not suitable for sale at public auction, and additional expenses incurred in transporting them to the auction venue would rarely be recouped by sale proceeds.

Additionally section 86 requires personal service of the notice on the owner (for example, by a process server or police) wherever practicable. This is not considered to be an efficient use of Government resources. Personal service by post (even by registered mail) does not meet the current requirements of the section.

The amendments will allow the following:

- notice to be given to the registered owner of a vehicle by 'person-to-person' registered mail (where the actual addressee must sign for the delivery of the notification) to the most recent address on the register of registered vehicle owners;
- publication of the notice in one newspaper in circulation generally throughout the State, rather than in two such newspapers;
- vehicles to be disposed of by means other than public auction.

Disposal may be by public tender or by sale. If a vehicle is offered for sale and not sold, or the Minister, the Commissioner of Police or the council (as the case may be) believes on reasonable grounds that the proceeds of the sale would be unlikely to exceed the costs incurred in selling the vehicle, the Minister, Commissioner of Police or council may dispose of the vehicle as he or she sees fit.

The amendments are intended to create a more expedient and efficient process by which to notify registered owners of abandoned vehicles, and dispose of the vehicles without further cost being borne by state or local government. Additionally, these amendments will facilitate more effective administration of the Act and achieve greater consistency with the *Local Government Act 1999* which enables councils to dispose of vehicles that have been abandoned.

The amendment to section 163C ensures that the relevant section enabling the Registrar of Motor Vehicles to suspend the registration of a vehicle may be exercised where it is suspected on reasonable grounds that the vehicle has been driven in contravention of the relevant provisions, such as without a current certificate of inspection.

Parliamentary Counsel has advised that the Registrar's power to suspend a vehicle's registration under section 163C(3) of the Act is invalid because of a previous drafting oversight in Part 4A of the Act. The proposed amendment will correct this anomaly.

The amendment to section 163GA inserts a provision to provide that if a vehicle is not maintained in accordance with a prescribed scheme of maintenance that applies to the vehicle, the owner and operator of the vehicle are each guilty of an offence. for which the maximum penalty is $1 250.

The amendment will ensure that minor breaches of bus maintenance standards attract the appropriate penalty. Currently, the only penalty available where a bus fails to comply with the maintenance standards is to cancel the certificate of inspection issued for the bus, which means that the bus may not travel at all on roads while carrying passengers. This has significant commercial consequences for private bus operators.

The amendment will enable the Department of Transport and Urban Planning to seek a monetary penalty instead of cancelling the certificate of inspection. The current penalty provision is rarely utilised as, in the case of minor breaches, it is considered an excessive and disproportionate punishment and may therefore be open to appeal. Minor breaches of the maintenance standards should be subject to a more effective and practical penalty. The amendment will strengthen the integrity of the maintenance standards and the bus inspection system. This will have benefits for the general community in improving adherence to the maintenance standards and therefore improving road safety outcomes in general.

The insertion of section 165 creates an offence of making a false of misleading statement, similar to that in the Motor Vehicles Act.

The Road Traffic Act contains an offence provision for making a false or misleading statement. However this offence only applies for the purpose of trying to identify the owner or operator of a vehicle. The maximum penalty for this offence is a fine of $1 250. However, the Motor Vehicles Act contains a more general false or misleading offence provision covering both oral and written statements, and provides a maximum penalty of $2 500 or imprisonment for 6 months. The proposed amendment is intended to create a general offence of making a false or misleading statement, similar to that in the Motor Vehicles Act. This amendment will aid enforcement personnel in their work and ensure efficient administration of the law.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Harbors and Navigation Act 1993*

4—Amendment of Schedule 2—Transitional provisions

The Minister of Marine was a body corporate established by the *Harbors Act 1936*. That Act was repealed when the *Harbors and Navigation Act 1993* came into operation in 1994. The administration of the new Act was committed to the Minister for Transport. Section 15 of the new Act vested certain land in the Minister but did not include all land vested in the Minister of Marine immediately before the commencement of the new Act. However, nothing was done to transfer the land to the Minister for Transport, to transfer rights and liabilities of the Minister of Marine in relation to land to the Minister for Transport, or to replace references to the Minister of Marine in proclamations under which dedicated land had been placed under the care, control and management of that Minister with references to the Minister of Transport.

3—Vesting of land etc held in name of Minister of Marine

Proposed clause 3 provides—

- that all land vested in fee simple in the Minister of Marine immediately before the commencement of the *Harbors and Navigation Act 1993* will be taken to have vested in fee simple, on the commencement of that Act, in the Minister responsible for the administration of that Act;
- that all other interests, rights and liabilities of the Minister of Marine in relation to land immediately before the commencement of the *Harbors and Navigation Act 1993*, will be taken to have become, on the commencement of that Act, rights and liabilities of the Minister responsible for the administration of that Act;
- that a proclamation in force immediately before the commencement of the *Harbors and Navigation Act 1993* under which dedicated land was placed under the care, control and management of the Minister of

Marine will, on the commencement of that Act, be taken to have been varied by replacing references to the Minister of Marine with references to the Minister responsible for the administration of that Act

The Registrar-General is required to take such action as may be necessary or expedient to give effect to this clause.

Part 3—Amendment of *Motor Vehicles Act 1959*

5—Amendment of section 7—Registrar and officers

Section 7 of the Motor Vehicles Act empowers the Governor to appoint inspectors of motor vehicles. This clause inserts a provision to empower the Minister (rather than the Governor) to appoint inspectors.

6—Amendment of section 114—Certain defences ineffective in actions against insurers

This clause corrects a cross-reference.

Part 4—Amendment of *Road Traffic Act 1961*

7—Amendment of section 33—Road closing and exemptions for certain events

Section 33 of the Road Traffic Act empowers the Minister to declare that an event that is to take place on a road is an event to which that section applies and to make an order directing either or both of the following:

(a) that a road on which the event is to be held and any adjacent or adjoining road be closed to traffic for a specified period;

(b) that persons taking part in the event be exempted, in relation to a road on which the event is to be held, from the duty to observe an enactment, regulation or by-law prescribing a rule to be observed on roads by pedestrians or drivers of vehicles.

This clause amends section 33 so that the section can apply to any roads that, in the opinion of the Minister, should be closed for the purposes of an event, rather than only roads that are adjacent or adjoining the road on which the event is to be held.

8—Amendment of section 53B—Sale and seizure of radar detectors, jammers and similar devices

Section 53B of the Road Traffic Act makes it an offence to sell, store, or offer for sale, a radar detector or jammer. A member of the police force may seize, retain and test any device he or she has reasonable cause to suspect is a radar detector or jammer, and devices seized under the section are forfeited to the Crown if a person is found guilty of or expiates an offence against section 53B in relation to the device. This clause amends section 53B to enable the forfeiture of devices where a person is found guilty of or expiates an offence against Part 3 of the Act. The Australian Road Rules, which are made under that Part, make it an offence to drive a vehicle if the vehicle has in or on it a device for preventing the effective use of a speed measuring device, or a device for detecting the use of a speed measuring device.

9—Amendment of section 82—Speed limit while passing school bus

This clause substitutes a new definition of "school bus" to ensure consistency with the provisions of the vehicle standards under the Road Traffic Act that apply to school buses.

10—Substitution of section 86

Section 86 of the Road Traffic Act empowers members of the police force and certain other persons to remove vehicles left unattended on bridges, culverts, freeways and roads, and to dispose of such vehicles if they are not claimed by their owners within a certain time.

86—Removal of vehicles causing obstruction or danger

Proposed section 86 differs from the current section 86 in that—

- it allows the removal of vehicles left unattended on a road so as to be likely to obstruct any event lawfully authorised to be held on the road, rather than only events in the nature of processions;
- it requires notice of the removal of a vehicle to be published in 1 newspaper circulating throughout the State, rather than in 2 such newspapers;
- it allows a vehicle removed under the section to be disposed of in such manner as the relevant authority thinks fit, rather than only by sale by public auction, if the authority reasonably believes that the proceeds of the sale of the vehicle would be unlikely to exceed the costs incurred in selling the vehicle.

11—Amendment of section 163C—Application of Part

Section 163C empowers the Registrar of Motor Vehicles to suspend the registration of a motor vehicle until a certificate of inspection is issued in relation to the vehicle if he or she suspects on reasonable grounds that the vehicle has been driven in contravention of "this section". However, the reference should be a reference to a contravention of "this Part" (Part 4A). This clause corrects that reference.

12—Amendment of section 163GA—Compliance with vehicle maintenance scheme

This clause inserts a provision in section 163GA to the effect that if a vehicle is not maintained in accordance with a prescribed scheme of maintenance applying to the vehicle, the owner and operator of the vehicle are each guilty of an offence.

13—Insertion of section 165

This clause inserts a new section similar to section 135 of the Motor Vehicles Act.

165—False statement

Proposed section 165 makes it an offence for a person to include a false or misleading statement in information furnished or a record compiled pursuant to the Act. A maximum penalty of $2 500 or imprisonment for 6 months is prescribed. It is not necessary for the prosecution to provide the defendant's state of mind, but the defendant is entitled to be acquitted if he or she proves that, when making the statement, he or she believed the statement to be true and had reasonable grounds for that belief. The section applies to both written and oral statements, and in respect of both written and oral applications and requests.

Schedule 1—Transitional provisions

Schedule 1 provides for appointments of inspectors of motor vehicles made by the Governor under section 7 of the Motor Vehicles Act held immediately before the commencement of the amendments to that section made by this measure to continue (and for such appointments to be revoked, or conditions of the appointment to be imposed or varied, as if the person had been appointed under the amended provisions).

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

STATUTES AMENDMENT (LOCAL GOVERNMENT ELECTIONS) BILL

The Hon. R.J. McEWEN (Minister for State/Local Government Relations) obtained leave and introduced a bill for an act to amend the City of Adelaide Act 1998, the Local Government Act 1999 and the Local Government (Elections) Act 1999. Read a first time.

The Hon. R.J. McEWEN: 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 aim of the this Bill is to improve the effectiveness of the system of Local Government representation, following review of the provisions introduced in 1998 for the City of Adelaide, and in 1999 for Local Government generally.

During 2004, the Local Government Association [LGA], at the request of the Government, led a review of Local Government election and representation provisions, and provided us with the collective Local Government view on desirable legislative reforms, based on submissions from councils. The LGA also provided an independent report on the outcomes of the community consultation conducted as part of the review, and took this into account.

The review was in keeping with a commitment that the framework for Local Government elections would be reviewed after two election cycles, and it drew on the Electoral Commissioner's report on the 2003 Local Government elections. A practical impetus for the review was the need to deal with the close proximity of State and Local Government elections every 12 years, following the introduction of set 4 year term elections for the South Australian Parliament.

Unless legislation is revised, in 2006 the processes for State elections in March and Local Government elections in May will overlap.

The Government considered the outcomes of the LGA-led review and conducted consultation on a draft Bill earlier this year. The draft Bill was widely distributed and 62 submissions were received, including 30 from councils and 15 from various resident and ratepayer groups. These groups, societies with an interest in electoral reform, and interested individuals took provided thoughtful and valuable feedback on the proposals.

The main change proposed in the Bill is to increase the term of office for council members from 3 years to 4 years from the 2006 Local Government elections, in conjunction with altering the date for periodic Local Government elections from the first business day after the second Saturday of May to the last business day before the second Saturday of November. Four year terms for Local Government have been adopted by most other States and have the potential to increase the capacity of South Australian councils and their strategic focus. The proposed shift to a Spring election date will give newly-elected members more opportunity to be involved in council budget and rating decisions for the following financial year, and will also solve the clash between State and Local elections that would otherwise occur in 2006. The current term of office for existing council members is to be extended from May to November 2006.

The main concern expressed about a 4 year term is that potential candidates will be discouraged from nominating, particularly younger people and those with work and/or family commitments. It is a reasonable concern, but the fact is this problem already exists and retaining 3 year terms will not solve it. The aging profile of council members is well-documented, most recently in Prof Dean Jaensch's November 2004 survey of elected members for the LGA. The LGA is aware that new and sustained initiatives are required to attract and retain younger council members. A revised scheme for council members' allowances and other benefits, and more council support for member training and development, may be part of the solution and the Bill contains proposals that provide a framework for them.

As a consequence of 4 year terms, the requirement for councils to conduct reviews of their representative structure every 6 years will change to every 8 years. The process of examination and consultation at the outset of a council representation review will be improved under the proposed requirement for a representation options paper to be prepared by a person qualified to address the issues involved. The options a council and its community will need to consider include (if the council has more than 12 members) whether the number of council members should be reduced, and (if the council is divided into wards) whether the division of the area into wards should be abolished.

This Bill does not include the amendment contained in the consultation draft Bill that would have prevented a council from using any title other than "chairperson" as the title for a principal member chosen by council members. The Local Government Association confirmed its support for that amendment but councils were divided on the issue, and those councils currently using or considering a different title such as "chairman" or even "mayor" were strongly opposed. The current provisions will remain so that councils and communities make decisions about whether their principal member should be elected at large or chosen by council members on the basis of the implications for representation and governance, and not on the basis of the status attached to the title.

The draft Bill reduces the number, and consequently the cost to communities, of supplementary elections needed to fill casual vacancies during the term by—

extending the period before a periodic election within which casual vacancies are not filled from 5 months to just over 10 months – the period commences on 1 January of the periodic election year, which is also the date by which changes to a council's representative structure as a result of review must be Gazetted to be effective for the periodic election

providing that a sitting member who is an unsuccessful candidate in a supplementary election for the office of mayor retains their original office, rather than losing it at the conclusion of the supplementary election, avoiding the need for a further supplementary election

dealing with the death of a successful candidate between the close of voting and the first council meeting in a similar way to the death of a candidate between the close of nominations and the close of voting, by redistributing votes for the deceased candidate to the candidate next in the order of the voter's preference – this only applies in the case of an election that was conducted to fill more than one vacancy.

A range of minor and technical amendments to the Local Government election process recommended by the Electoral Commissioner are included to overcome practical difficulties, formalise current practice, and ensure consistency. These include changes to the timeframes for particular stages in the election process, including the nomination period, the close of voting, and the period for conducting a recount.

It is proposed that the Electoral Commissioner, as Returning Officer, determine the forms needed for elections and their format, rather than prescribing them in regulations. This will allow the forms to be enhanced in response to feedback without the need to vary regulations. Amendments are also included that support the Electoral Commissioner's role in investigating and taking action on breaches of the electoral provisions.

Preparations for Local Government elections commence 12 months in advance. Members of Parliament have shown cooperation in the past in dealing with Local Government Bills quickly where it is necessary to avoid administrative disruption, and we are sure they will do so again so that the Bill can be dealt with by mid-year leaving adequate time for preparation for the 2006 Local Government elections.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *City of Adelaide Act 1998*

4—Amendment of section 4—Interpretation

The definition of ***relevant day*** is no longer required for the purposes of the Act.

5—Amendment of section 20—Constitution of Council

The main purpose of these amendments is to alter the relevant period that applies with respect to the operation of Chapter 3 of the *Local Government Act 1999* under section 20 of the Act so that it will now conclude at the time of the conclusion of the periodic election to determine the membership of the Council to be held in 2006.

6—Amendment of section 23—Code of conduct

This clause removes material that is now redundant.

7—Amendment of section 24—Allowances

An amendment under this clause will allow the regulations that apply with respect to the operation of section 24 of the Act to *fix* the rates that are to apply under this section. A consequential amendment must be made in relation to subsection (9).

8—Repeal of section 39

This amendment removes a section that is now redundant.

9—Amendment of Schedule 1

These amendments remove material that is now to be wholly dealt with under the *Local Government (Elections) Act 1999*.

Part 3—Amendment of *Local Government Act 1999*

10—Amendment of section 4—Interpretation

Subclause (1) is a consequential amendment.

Subclause (2) makes it clear that the relevant provisions under the Act with respect to acting in a particular position operate subject to any other section of the Act that makes express provision for another person to act in the relevant office (and, in this regard, see especially proposed new section 54(8)).

11—Amendment of section 12—Composition and wards

The period within which a council must complete a comprehensive review under section 12 of the Act is to be altered from 6 years to 8 years. A council will be required to initiate the preparation of a ***representation options paper*** for the purposes of the review. The paper will include an examination of the advantages and disadvantages of the various options that are available to the council with respect to the matters under review. The council will then, by public notice and by notice in a newspaper circulating within its area, inform the public of the preparation of the paper and invite submissions (for a period of at least 6 weeks). The council will then, at the conclusion of the public consultation period, proceed to the preparation of a council report relating to the

issues that have been raised, its responses and proposals, and the reasons for not proceeding with any change that has been under consideration.

12—Amendment of section 28—Public initiated submissions

This amendment will allow an alteration to a part of a council's boundary on the basis of an elector-initiated submission even if the council has, within the previous 2 years, been amalgamated, or been otherwise subject to change through a structural reform proposal.

13—Amendment of section 51—Principal member of council

The amendments made by this clause are consequential.

14—Amendment of section 54—Casual vacancies

Subclause (1) relates to casual vacancies. The effect of the amendment will be that the provision of the Act that provides that the office of a member becomes vacant if he or she stands for election to another office will not apply if the member is standing for election to a casual vacancy in the office of mayor (and is then unsuccessful), or if the member is standing for election to a casual vacancy and the conclusion of the relevant election falls on or after 1 January in an election year, or within 7 months before polling day for a general election (not being a periodic election).

15—Amendment of section 56—General election to be held in special case

This amendment is consistent with other provisions relating to casual vacancies.

16—Amendment of section 63—Code of conduct

New subsection (3a) will provide that the code of conduct to be observed by members of a council must be consistent with any principle or requirement prescribed by the regulations and include any mandatory provision prescribed by the regulations. Such a provision already appears as section 23(4) of the *City of Adelaide Act 1998*.

17—Amendment of section 76—Allowances

An amendment under this clause will allow the regulations that apply with respect to the operation of section 76 of the Act to *fix* the rates that are to apply under this section. A consequential amendment must be made in relation to subsection (10).

18—Insertion of new Part

A council will be required to prepare and adopt a training and development policy for its members. By virtue of the transitional provisions, a council will not be required to have such a policy until 1 July 2006.

19—Amendment of section 226—Moveable signs

This amendment will allow the provisions for State and Commonwealth electoral signs to apply also for signs that relate to a local government election.

20—Amendment of Schedule 2

This is a consequential amendment.

21—Amendment of Schedule 4

A council will be required to include in its annual report information about the training and development activities for members of the council during the relevant financial year.

22—Amendment of Schedule 5

This is a consequential amendment.

Part 4—Amendment of *Local Government (Elections) Act 1999*

23—Amendment of section 4—Preliminary

The amendment to the definition of ***voting material*** will ensure that all forms of voting papers are included within the ambit of the definition. This will then allow the Electoral Commissioner to determine the form of any kind of voting paper under proposed new section 92A.

24—Substitution of section 5

It is proposed that the term for council members will be 4 years. The periodic elections to determine the membership of councils will be held so as to close voting on the last business day before the second Saturday of November in every 4 years, beginning in November 2006. Voting will close at 5p.m. on the relevant day.

25—Amendment of section 6—Supplementary elections

The period before a periodic election in which casual vacancies are not to be filled is to now begin on 1 January of the year of the election, and that period for a general election (not being a periodic election) is to be 7 months.

26—Amendment of section 7—Failure of election in certain cases

The amendment in subclause (1) relates to the situation where a candidate withdraws his or her nomination on the ground of serious illness, or ceases to be qualified for election, after the close of voting but before the conclusion of the relevant election. In such a case, the election will not fail if the returning officer is satisfied that the candidate would not have been elected in any event on the basis of the votes cast.

The amendments in subclauses (2) and (3) relate to situations where a candidate dies while the electoral process is still underway. It is appropriate that the provisions that result in the election failing relate to the period that concludes at the close of voting. (Proposed new section 55A is relevant in a case involving the death of a candidate after the close of voting (and before the first meeting of the council) where the relevant election was fill 2 or more vacancies.)

27—Amendment of section 9—Council may hold polls

This is a consequential amendment.

28—Amendment of section 14—Qualifications for enrolment

An occupier of rateable land recorded in the council's assessment record is not to be enrolled on that basis if that occupation is for the purposes of residence. Rather, it is intended that the occupier should enroll under paragraph (a)(i) or (ii) as a resident.

29—Amendment of section 15—The voters roll

The closing date for a voters roll is to be fixed by the returning officer in accordance with the requirements of proposed new section 25(9).

30—Amendment of section 16—Entitlement to vote

The requirement that the person who may vote for a body corporate or group that has nominated a candidate must be the candidate himself or herself is to be removed. New subsection (4) of section 16 will require that a person voting on behalf of a body corporate or group must be a person of or above the age of majority.

31—Amendment of section 17—Entitlement to stand for election

This amendment will ensure that a person nominated by a body corporate or group as a candidate for election is a person who has attained the age of majority.

32—Substitution of section 18

The time for calling for nominations for an election must not be later than 14 days before the day on which nominations close.

33—Amendment of section 19—Manner in which nominations are made

The forms required for the purposes of an election will now be determined by the Electoral Commissioner under proposed new section 92A. New section 19(7) will require the returning officer to reject a nomination if it appears to the returning officer that the nominated candidate has already been nominated for another vacancy and that earlier nomination has not been withdrawn.

34—Amendment of section 22—Ability to withdraw a nomination

The forms required for the purposes of an election will now be determined by the Electoral Commissioner under proposed new section 92A.

35—Amendment of section 23—Close of nominations

Nominations for a periodic election will now close at 12 noon on the sixth Tuesday after the closing day fixed under section 15(7)(a).

36—Amendment of section 26—Notices

The period for giving notice of the nominations that have been made is to be extended by 2 days.

37—Amendment of section 29—Ballot papers

This amendment relates to the drawing of lots to determine the order on a ballot paper. This will now occur as soon as is reasonable practicable (rather than "immediately") after the close of nomination in the presence of 2 persons (rather than 2 "electors") as official witnesses. The 2 persons who act as the official witnesses must be of or above the age of majority.

38—Amendment of section 39—Issue of postal voting papers

A person who claims to be entitled to vote at an election although his or her name does not appear on the voters roll will be able to make an application for voting papers by post

until 5p.m. on the second day (rather than the fourth day) before polling day or personally until the close of voting (rather than 10a.m.) on polling day.

39—Amendment of section 40—Procedures to be followed for voting

This amendment will clarify that the reference to an electoral officer under section 40(1)(d) is a reference to an electoral officer for the relevant council.

40—Amendment of section 41—Voter may be assisted in certain circumstances

A person who acts as an assistant under section 41 of the Act will need to be a person who has been approved by the returning officer. It will be possible for the returning officer to give an approval in such manner as the returning officer thinks fit, and subject to such conditions as the returning officer thinks fit.

41—Amendment of section 42—Signature to electoral material

It will be necessary for the making of a mark instead of the provision of a signature to be witnessed by a person who provides his or her signature to verify the mark.

42—Amendment of section 43—Issue of fresh postal voting papers

This amendment provides relevant time-periods when a person is seeking to obtain fresh voting papers under section 43.

43—Amendment of section 47—Arranging postal papers

The scrutiny of votes will now begin on the day immediately following polling day (at a time determined by the returning officer) where polling is to close at 5p.m., rather than as soon as practicable after the close of voting. The current arrangements will continue to apply if polling closes at 12 noon.

44—Amendment of section 48—Method of counting and provisional declarations

This is a technical amendment to clarify the operation of section 48(4).

45—Amendment of section 49—Recounts

The period for a recount in an election is to be 72 hours (rather than 48 hours) after the making of the provisional declaration.

46—Amendment of section 51—Collation of certain information

The information that a returning officer incorporates into a return after the election will now need to be in the form of a return within 1 month after the conclusion of the election (rather than 10 days).

47—Amendment of section 53—Recounts

These are consequential amendments.

48—Insertion of section 55A

New section 55A applies to a situation where a successful candidate has died after the close of voting, but before the first meeting of the council, in an election to fill 2 or more vacancies. In such a case, the returning officer will determine who would have been the candidate to be elected assuming all votes cast for the person who has died were distributed to the candidate next in order of the voter's preference (and with the numbers indicating subsequent preferences being altered as well). The returning officer will then ascertain whether the person who becomes a successful candidate under this process is still willing to be elected (and is still eligible to be elected). If the person indicates that he or she is so willing (and the person is still eligible to be elected), the returning officer will declare this person to be the successful candidate.

49—Amendment of section 92—Electoral Commissioner may conduct investigations etc

Subclause (1) will make specific provision for the Electoral Commissioner to issue a formal reprimand to a person who, in the opinion of the Electoral Commissioner, has been guilty of a breach of the Act.

Subclause (2) sets out a scheme under which the Electoral Commissioner may seize anything that the Electoral Commissioner reasonably suspects has been used in, or may constitute evidence of, a contravention of the Act.

50—Insertion of section 92A

It is proposed that the Electoral Commissioner be authorised to determine the form of any voting material under the Act, and to make other determinations as to the forms to be used for the purposes of this Act.

51—Repeal of Schedule

The scheme under the Schedule to the Act is no longer to apply.

Schedule 1—Transitional provisions

This Schedule sets out the transitional provisions associated with the enactment of this measure.

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

INDUSTRIAL LAW REFORM (ENTERPRISE AND ECONOMIC DEVELOPMENT—LABOUR MARKET RELATIONS) BILL

Consideration in committee of the Legislative Council's amendments.

(Continued from 3 March. Page 1900.)

The Hon. M.J. WRIGHT: I indicate to the committee that the government is prepared to accept the amendments that have come down from the Legislative Council. In doing so, I will give a sense of what we have now before us. We have some 44 amendments, as follows:

- 19 Liberal amendments of which two are identical to those previously moved in the house;
- two Liberal amendments that were not moved in the house;
- four Democrat amendments;
- five amendments that either state the existing law or clarify matters;
- five amendments which, from the government's point of view, are compromises which to some extent water down the bill;
- three amendments from the Hon. Terry Cameron;
- three government amendments that do not fall into other categories that I have mentioned, but were principally done as clarifying;
- four amendments that provide for greater parliamentary scrutiny; and
- one amendment from the Hon. Nick Xenophon that does not fall into the other categories.

For the sake of clarity, I advise that suggestion no. 18 has been counted as being identical to a previous Liberal amendment and as clarifying that it has two distinct parts to it.

I do not intend to speak for a long period of time. The advice from the Clerk is that, by doing it this way, it gives the committee the opportunity to deal with these matters as it best sees fit. Obviously, I am receptive to the way the committee would like to explore these various suggestions that have come back to us.

In concluding, I think it would be fair to say that this has been a long and protracted debate. The opposition has made a number of points which have been successful in the Legislative Council and there have also, of course, been amendments moved by Independents, the Greens and the Democrats. People, including South Australian business, have told me that they want certainty and that they want this bill to be dealt with expeditiously. That is not to suggest that they support this bill because, clearly, the business community in the main has not supported elements of this bill, and I acknowledge that.

The debate has been long and drawn out; that is more than reasonable, and I acknowledge that that tends to be the nature of debates on industrial relations—whether this bill or any other bill, or whether brought forward by a Labor or a Liberal government. I think we have a bill that does some good

things; and I think we have a bill that, obviously, has been changed quite considerably. It has gone through an exhaustive but, I think, worthwhile process.

Having said that, I put to the committee that, although the government clearly has not got all of what it would have liked, we accept the suggestions that have come back to us. Predominantly, they weaken the bill and/or clarify it; but there is nothing that the government is unable to live with. I recommend to the committee that the suggestions of the Legislative Council, some 44 in total, be accepted.

The Hon. I.F. EVANS: If we have questions for the minister, at what point do we ask them?

The CHAIRMAN: As each amendment comes up.

The Hon. I.F. EVANS: As I understand it, we are moving a motion on each individual amendment and we can speak to and ask questions on each amendment.

The CHAIRMAN: Yes; but the committee should not canvass second reading type speeches, otherwise there is no point in having separate procedures. It must be relevant to the actual amendment made by the Legislative Council.

Amendment No. 1:

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

That the Legislative Council's amendment No. 1 be agreed to.

The Hon. I.F. EVANS: Minister, I am wondering what the government intends in relation to the tenure of commissioners, given that under this bill lifetime tenure will be available and given that the federal government is looking at taking over industrial relations. If that is the case, what impact, if any, will it have on the tenure of commissioners and will the government commit to not appointing any lifetime commissioners before coming back to the committee with advice as to the effect of that?

The Hon. M.J. WRIGHT: I do not want to be difficult; the member knows I am not that type of person. That is not related to any of the amendments that have come back to us.

The CHAIRMAN: I think there may be an amendment further on relating to tenure. In the spirit of cooperation, it is not strictly related to the title.

The Hon. I.F. EVANS: I know the minister is not difficult, and neither am I. However, there is a question of liability to the state if the government goes down the track of appointing commissioners for life, which is the government's intention. If the federal government takes over the industrial relations system, there is a question of what happens to those commissioners who are appointed to lifetime tenure with only 10 per cent of the state to cover. That becomes a question of liability to the state. The circumstances have changed, because the government has taken 3½ years to reach this position while the federal government has taken a matter of weeks to decide it will take over the industrial relations system from the states.

If the state government goes down the track of appointing commissioners for life and the federal government takes over the powers, there is a question of liability to the state. As a courtesy to the committee, the government needs to give some indication of what the impact may be. It was not part of the debate during the second reading in this place, because the federal government at that time had not indicated it was going to take over the industrial relations system nationally.

The Hon. M.J. WRIGHT: The shadow minister is doing the direct opposite to what you, sir, asked him to do. The shadow minister's questions may well be legitimate, but they are not legitimate questions for the committee; there is nothing in relation to this topic in the amendments from the Legislative Council. The shadow minister is bringing in new debate that is unrelated to the 44 amendments that have come back from the Legislative Council. If he does that, we could be here forever. This is not an opportunity to trawl through that type of information: it is an opportunity to go through the 44 amendments that have come back from the Legislative Council. To the best of my knowledge, and I stand to be corrected, in those 44 amendments there is nothing that relates to the tenure of commissioners.

The CHAIRMAN: The committee is considering the specific amendments. However, in the spirit of trying to facilitate cooperation, does the minister wish to respond to the member for Davenport?

The Hon. M.J. WRIGHT: I will do so, for the sake of the committee. Mr Chairman, you have provided the shadow minister with the opportunity (and I know he will not abuse it) to do so at any time on any issue. There are lots of ifs and buts, and we will obviously have to look at the federal legislation, if and when it comes through—it is probably more likely when, rather than if. It is very difficult for me to answer hypothetical questions when I do not know precisely what legislation the federal government will introduce. I also do not know how the states will react. There has been speculation as to what might come forward and how the states might react. I do not quite know how I can answer hypothetical questions that are in no way related to the 44 amendments that have come back from the Legislative Council. I am not saying that the shadow minister is not asking legitimate questions, but they are questions I would be asking in question time or during the estimates committees.

Motion carried.

Amendment No. 2:

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

That the Legislative Council's amendment No. 2 be agreed to.

Motion carried.

Amendment No. 3:

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

That the Legislative Council's amendment No. 3 be agreed to.

Mr HANNA: I want to ask the minister about the possible impact of the inclusion of this objective in the legislation. What possible ramifications could it have when the government, the Public Service, the commission or the court are coming to decisions?

The Hon. M.J. WRIGHT: I am reminded of what we said during the debate in the lower house, and which I repeat, namely, that this was not a bad thing but that we felt it was unnecessary. We referred to section 3(b), Objects of the Act, which provides:

to contribute to the economic prosperity and welfare of the people of South Australia;

The point we made in the House of Assembly was that this was not a bad thing in itself, but we opposed it at the time as we thought it unnecessary because of section 3(b) of the act. Having said that, the short answer to the member's question is: we do not think it will do any harm. Can I read from a previous debate?

The CHAIRMAN: The minister can clarify a point, but without revisiting the debate.

The Hon. M.J. WRIGHT: If need be, I can refer you to the *Hansard* during the dinner break, but there is probably no need.

Mr HANNA: Is the minister saying that this is otiose? I place on the record that the Greens are not against the promotion and facilitation of employment; I do not think

anybody in this place would be. Is it just a motherhood statement with little work to do?

The Hon. M.J. WRIGHT: Yes; that is correct. We do not think that this does any harm whatsoever.

Motion carried.

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

Amendments Nos 4 to 14:

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

That the Legislative Council's amendments Nos 4 to 14 be agreed to.

Motion carried.

Amendment No. 15:

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

That the Legislative Council's amendment No. 15 be agreed to.

The Hon. I.F. EVANS: The opposition believes that we should not be supporting this amendment. This is part of a deal done between the government and the Democrats. From memory, the Democrats wanted 12 months taxpayer-funded paid maternity leave. The government has generously swapped the payment of that amount to the employer and not necessarily set a period, leaving that to the discretion of the commission. The opposition opposes the introduction of paid maternity leave and, therefore, this amendment.

The committee divided on the motion:

AYES (18)

Bedford, F. E.	Caica, P.
Ciccarello, V.	Foley, K. O.
Geraghty, R. K.	Hill, J. D.
Key, S. W.	Koutsantonis, T.
Lomax-Smith, J. D.	O'Brien, M. F.
Rankine, J. M.	Rau, J. R.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Weatherill, J. W.
White, P. L.	Wright, M. J.(teller)

NOES (17)

Brown, D. C.	Buckby, M. R.
Evans, I. F.(teller)	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L. J.	Kotz, D. C.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	Meier, E. J.
Penfold, E. M.	Redmond, I. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

PAIR(S)

Rann, M. D.	Kerin, R. G.
Conlon, P. F.	Chapman, V. A.
Breuer, L. R.	McFetridge, D.
Atkinson, M. J.	Brokenshire, R. L.

Majority of 1 for the ayes.

Motion thus carried.

Amendment No. 16:

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

That the Legislative Council's amendment No. 16 be agreed to.

Motion carried.

Amendment No. 17:

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

That the Legislative Council's amendment No. 17 be agreed to.

Mr HANNA: I seek an explanation from the minister about the effect of each amendment.

The CHAIRMAN: The member for Mitchell says that he wants an explanation of amendment No. 17.

Mr HANNA: I was speaking to amendment No. 17 just then, sir.

Members interjecting:

The CHAIRMAN: Order! There is too much noise coming from my left.

Mr HANNA: I asked a question of the minister, sir.

The Hon. M.J. WRIGHT: I am not sure what I can do apart from read out this explanation to the honourable member, because I know that he will understand this as well as I do. An employer cannot be required, as part of any negotiations under this part, to produce any financial records relating to any business or undertaking of the employer. It is very straightforward. It was moved in the lower house, and we have discussed that. I think that it is identical to the amendment moved by the opposition in the House of Assembly relating to best endeavours bargaining. It has now come back to us as a suggested amendment from the Legislative Council. As the shadow minister correctly said, this amendment relates to best endeavours bargaining; and, as the member for Mitchell would be well aware, the clause speaks for itself.

Motion carried.

Amendment No. 18:

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

That the Legislative Council's amendment No. 18 be agreed to.

Mr HANNA: What is the effect of this amendment?

The Hon. M.J. WRIGHT: Again, this amendment was moved by the opposition. It widens an exception to the government's transmission of business proposal.

Motion carried.

Amendments Nos 20 to 26:

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

That the Legislative Council's amendments Nos 20 to 26 be agreed to.

Motion carried.

Amendment No. 27:

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

That the Legislative Council's amendment No. 27 be agreed to.

Mr HANNA: What will be the effect of this amendment? I understand that it will greatly restrict the ability of inspectors to see work records.

The Hon. M.J. WRIGHT: This amendment deletes the powers of inspectors to places other than workplaces as defined.

Mr HANNA: Where else would records be that inspectors might wish to go to see that the right thing is being done by an employer?

The Hon. M.J. WRIGHT: An employer's home where outworkers are not working.

The CHAIRMAN: I think that that can be read in conjunction with amendment No. 28.

Motion carried.

Amendment No. 28:

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

That the Legislative Council's amendment No. 28 be agreed to.

Motion carried.

Amendment No. 29:

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

That the Legislative Council's amendment No. 29 be agreed to.

Mr HANNA: What is the effect of leaving out clause 51?

The Hon. M.J. WRIGHT: These amendments moved by the opposition delete the liability of host employers for the unfair dismissal of labour hire workers.

Mr HANNA: Does that remove protection for those workers who have been allocated to an employer by a labour hire company, for example?

The Hon. M.J. WRIGHT: Those persons have no protection at the moment, so it does not remove any protections.

Mr HANNA: As I understand it, the bill did provide such protection. So the government is now agreeing that labour hire workers should have less protection than the intention of the government as set out in the bill.

The Hon. M.J. WRIGHT: As I said, we are not having less protection, certainly less than what was in the original bill, and we are acknowledging the intent of the parliament.

Motion carried.

Amendment No. 30:

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

That the Legislative Council's amendment No. 30 be agreed to.

Motion carried.

Amendment No. 31:

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

That the Legislative Council's amendment No. 31 be agreed to.

Mr HANNA: What is the effect of leaving out these subsections?

The Hon. M.J. WRIGHT: This one is consequential, as is No. 35 about the host employer.

Motion carried.

Amendment No. 32:

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

That the Legislative Council's amendment No. 32 be agreed to.

Mr HANNA: What are the obligations under section 58B or 58C, which the employer will be able to escape if the Labor government agrees to this amendment?

The Hon. M.J. WRIGHT: Amendment No. 32 requires the commission 'to have regard to', so it has greater protection for workers than does the current act.

Motion carried.

Amendment No. 33:

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

That the Legislative Council's amendment No. 33 be agreed to.

Motion carried.

Amendment No. 34:

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

That the Legislative Council's amendment No. 34 be agreed to.

Mr HANNA: Am I correct in understanding that, here, the government is agreeing to go backwards in terms of industrial relations reform by removing re-employment as a preferred remedy for unfair dismissal for those businesses where there are fewer than 50 workers?

The Hon. M.J. WRIGHT: No; that is not correct. This is a new initiative of this government for reinstatement to be the preferred remedy. However, it is the wish of the Legislative Council to put that 50 employees in as an exclusion. As I said, this is an initiative of this bill for reinstatement to be a preferred remedy.

Mr HANNA: Can the minister explain why an enterprise of, say, 20 to 50 employees should not be the subject of re-employment orders as a first priority if, in fact, there has been an unfair dismissal?

The Hon. M.J. WRIGHT: Our proposal was that it should be applied equally, but we are obviously recognising the will of the parliament.

Motion carried.

Amendment No. 35:

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

That the Legislative Council's amendment No. 35 be agreed to.

Mr HANNA: What is the effect of removing that subclause?

The Hon. M.J. WRIGHT: I referred to amendment No. 35 when the honourable member asked me about amendment No. 31. It is consequential on the host employers labour hire amendment.

Motion carried.

Amendment No. 36:

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

That the Legislative Council's amendment No. 36 be agreed to.

Mr HANNA: I ask the minister about the effect of leaving out clause 58.

The Hon. M.J. WRIGHT: This deletes the workplace surveillance provision which was moved by the member for Mitchell in the House of Assembly.

The committee divided on the motion:

AYES (35)

Bedford, F. E.	Brindal, M. K.
Brown, D. C.	Buckby, M. R.
Caica, P.	Ciccarello, V.
Evans, I. F.	Foley, K. O.
Geraghty, R. K.	Goldsworthy, R. M.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L. J.	Hill, J. D.
Key, S. W.	Kotz, D. C.
Koutsantonis, T.	Lomax-Smith, J. D.
Matthew, W. A.	Maywald, K. A.
McEwen, R. J.	Meier, E. J.
O'Brien, M. F.	Penfold, E. M.
Rankine, J. M.	Rau, J. R.
Redmond, I. M.	Snelling, J. J.
Stevens, L.	Thompson, M. G.
Venning, I. H.	Weatherill, J. W.
White, P. L.	Williams, M. R.
Wright, M. J. (teller)	

NOES (2)

Hanna, K. (teller)	Scalzi, G.

Majority of 33 for the ayes.

Motion thus carried.

Amendment No. 37:

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

That the Legislative Council's amendment No. 37 be agreed to.

Mr HANNA: This is a proposal which I have not had the chance to address, because it was brought forward in the Legislative Council. It refers to the problem that unions have when they seek to enlist membership in a site which currently has no members in their union. It seems to me to be fundamental that, if you are going to allow unions to operate in our system at all, you would give them a chance to speak to potential members. This amendment seeks to restrict just that. It is undemocratic. It is a deliberate attempt to curb the ability of unions to recruit. A number of employers would be only too delighted to take advantage of this provision to set up shops which are basically closed shops. That used to be the term applied by employers and the Tories to shops where only union workers could work; now, the term 'closed shop'

will be applied to places where there are no union members, and unions will not bloody well be allowed in. That is unfair and undemocratic. The Greens will not stand for it.

Question 'that the Legislative Council's amendment no. 37 be agreed to'—declared carried.

Mr HANNA: Divide!

While the division was being held:

The CHAIRMAN: There being only one member for the noes, the amendment is agreed to.

Motion carried.

Amendments Nos 38 to 40:

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

That the Legislative Council's amendments Nos 38 to 40 be agreed to.

Motion carried.

Amendment No. 41:

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

That the Legislative Council's amendment No. 41 be agreed to.

Mr HANNA: This is one of the more ridiculous provisions in the bill, making it an offence for union officials to swear at people when they come into the workplace to do their work. While I agree that temperate language is ideal in such circumstances, we all know that in a number of workplaces language that might be offensive in the broader community is commonplace and, I might say, not offensive in the context of the particular workplace. I have visited some building sites, for example, where virtually every second word might be considered offensive in the general public situation. However, it is stupid for this parliament to be making laws about trivialities. As long as the law is otherwise obeyed and there is no heavy-handedness about it, the odd 'bloody' or 'bastard' should pass without the risk of a criminal prosecution in the workplace. This is an extremely heavy-handed piece of legislation; it is shameful for the Labor Party to be supporting it, and I express my objection to it. It is going to be used for mischief, and it is going to be used specifically for mischief in respect of union officials. On their behalf I strongly object to it.

The Hon. I.F. EVANS: What was the penalty in relation to that offence? If someone does swear at a union official, what is the actual monetary penalty? I note that there is a future clause where if an employer swears there is a $5 000 penalty; I am just wondering whether it is the same.

The Hon. M.J. WRIGHT: The maximum penalty is $5 000.

The Hon. I.F. EVANS: It is the same, thank you.

Motion carried.

Amendment No. 42:

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

That the Legislative Council's amendment No. 42 be agreed to.

Mr HANNA: This provision, introduced by the Hon. Terry Cameron, imposes the obligation on unions to report their numbers of financial and non-financial members. That information becomes available to the public. Representation from the unions to me over the last couple of days has generally been to support the Labor government in agreeing to such impositions as this. Despite that lobbying, I still think it is wrong to single out unions for this sort of treatment. It is, presumably, done to expose stacking of numbers and so on but, in light of the support given to this position, apparently by the union movement itself, I will not take the matter further.

Motion carried.

Amendments Nos 43 and 44:

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

That the Legislative Council's amendments Nos 43 and 44 be agreed to.

Motion carried.

Amendment No. 45:

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

That the Legislative Council's amendment No. 45 be agreed to.

Mr HANNA: I simply make the comment about this amendment, brought in by the Hon. Nick Xenophon, that it is the converse of the earlier amendment I spoke about. Instead of creating an offence for union officials swearing in the workplace, this creates an offence for employers to swear at union representatives. It is more or less a tit for tat amendment but, as I have said, robust language ought to be expected in the workplace—and in some more than others. So long as people are not being violent, defamatory or heavy-handed I think we should just let people get on with the job. But the numbers in the House of Assembly are such that this will be agreed to, and I suppose it will be a useful earner for some of the lawyers in the area.

The Hon. M.J. WRIGHT: This may be my last opportunity to round up, if I may, and the shadow minister may choose to do so as well. I think I said in my opening remarks that this had been a long and extensive process. I would like to thank the opposition for the role it has played; it has been a robust debate and members opposite have made a lot of significant points. I also thank parliamentary counsel for all the work they have done in preparing both the draft bill and a consolidated bill.

I also thank Greg Stevens for the work that he undertook on behalf of the government when we first came to power, Workplace Services and all the people with whom the opposition and I have consulted. I know the shadow minister would want to acknowledge these people as well. It is not possible for me to go through them all individually, but I would like to thank the trade union movement and the business community. We have had a range of meetings over a considerable period of time, and I would like to thank all those organisations for their genuine participation in this debate. Obviously, throughout that debate the trade union movement and the business community have not necessarily agreed with all the government's positions, but this is a bit like shop trading in that it has tended to polarise people, and obviously there is a diverse range of opinions.

I should also mention, in particular, Trevor McRostie of Workplace Services who, as people may be aware, is not in good health at the moment. I would certainly like to acknowledge the work that he has undertaken for a considerable period of time. I wish he and his family all the very best through an extremely difficult situation, and I hope all goes well for Trevor. I would like to thank my staff—in particular, Ron Brine and Michael Ats—for all the work they have undertaken. This has been an exhaustive process. Obviously, we could not have got to this point without great support from those people.

Although this has been an emotive and challenging debate, we think there are some good reforms in this measure. We now have a responsibility to make it work. I look forward on behalf of the government to taking on that challenge. It is now our responsibility to ensure that that occurs. Michael Ats has really driven this. His dedication to the task one could not question. No-one could wish for a better ministerial adviser, irrespective of the side of the house on which you sit. We are

lucky to have him—we will not have him forever—and he has done a fantastic job.

The Hon. I.F. Evans interjecting:

The Hon. M.J. WRIGHT: He won't be moving for a while yet; there is a bit more to be done, but he has done a fantastic job. He can be extremely proud of this genuine reform for working-class mums and dads and their families.

The Hon. I.F. EVANS: Let me be the first to wish Michael Ats all the best in his campaign for the Senate. The opposition would also like to make some comments on the amendments and the bill generally. We have not called for a division on many of the amendments from the other place because we recognise that we do not have the numbers to change many of them. Some of the amendments are as we moved them, unsuccessfully, in this place, but they were adopted in the other place, and we welcome those. Others are a better form of poison: in other words, the amendments moved in the other place were not necessarily to our liking, but they were better than what the government proposed—a better halfway house is better than no improvement at all. So, we have not made a lot of comment on all the amendments during this debate.

We are pleased that we have been able to produce something of the order of 45 amendments to a bill of about 80 clauses and successfully knock out a whole range of government proposals including: the declaratory judgments for contractors provisions; the clauses in relation to unfair dismissals and the host employer provisions; the provisions in relation to arbitrated outcomes and best endeavours bargaining, which I labelled 'best of luck' bargaining; the provision that employers will not have to produce their financial documents as part of the best endeavours bargaining process; and the fact that unions cannot visit sites where they do not have any union members. So, the opposition is pleased to have been able to deliver some significant reform to what was a shocking bill and still is to a large extent an anti-business bill.

The South Australian public will still be able to have the pleasure of the government's policy; they will still be able to be charged a bargaining agent's fee of about $400 a year by the union movement as a result of the government's not adopting one of our amendments. Small businesses will still be able to be sued for unfair dismissal. We tried to get up an amendment in relation to unfair dismissals so that businesses with fewer than 20 employees would be exempt from the unfair dismissal provision for the first 12 months of a person's employment. That is still there.

We are disappointed that the upper house has included paid maternity leave. The corridor talk is that a few too many things got through the lower house, with the support of the member for Fisher, and that a deal was done with the Democrats that the government would accept paid maternity leave if some of those provisions were knocked out. It is unfortunate that the employer will ultimately be responsible for paid maternity leave. The Democrats wanted the taxpayer to be responsible for it, but it will now be the employer. I think that is one of the negatives in the bill.

At the end of the day, it has been a three-year process. We surveyed every small business in the state, at some considerable cost. We have argued their case in here, and we have managed to get 42 amendments to the 80-odd clauses. So, we have done our best; we realise that we cannot defeat the bill. As the minister has done, I thank all the business associations, the unions, the minister's staff and his officers, parliamentary counsel for putting up with my queries and for their advice from time to time, and certainly my colleagues for their support through what has been a fairly lengthy debate over many years. With those few comments, I assume the amendment will get through.

Mr HANNA: I am speaking to the Legislative Council amendments on behalf of the Greens. This needs to be put in context. If you go back far enough (and I referred to this in my second reading speech), the platform the Labor Party went to the election with in 2002 set the standard of reform fairly high, and the Labor Party promised to take up a number of issues. A number of those issues, for example, precarious employment (referring to the tenuous nature of employment for casual workers, especially young workers) were going to be the subject of reform. However, those matters were not even in the original bill put forward by the Labor government. In response to hostility from the business community, particularly Business SA, the bill was thoroughly watered down before it was brought into the parliament for debate. I moved a number of amendments in this place to protect the interests of workers, and I clearly established that the Greens' position in relation to workers' rights is somewhat more definite than that of the Labor Party. The Labor Party at that time did not support the amendments I put forward, therefore they were defeated.

In the upper house, some matters contained in the bill were taken out, and a number of matters which are contrary to the interests of workers were inserted into the bill. So, the bill has come back to us with a number of objectionable provisions. The disappointing thing at this point is that the Labor Party has agreed to so many of those unsatisfactory provisions. For example, the minimum standards for workers have been watered down even further; the commitment to international obligations in respect of workers' rights has been deleted from the legislation; and employers will not have to produce financial records during the bargaining period, so there is the temptation to conceal their true financial position when negotiating with unions or workers.

The rights of inspectors to go to non-traditional workplaces are heavily restricted. For example, if an inspector wants to check out the conditions of shearers in a shed attached to a farm house, or something of that nature, there may be difficulties in gaining access, and that is to be deplored. A seriously objectionable provision was the deletion of reference to host employers. A host employer is one for whom a worker does work, although they themselves are engaged by a labour hire company. The labour hire industry in a sense has been set up around the goal of avoiding workers compensation and dismissal laws so that workers can be cheated of entitlements they would otherwise get if they were a straight up employee of the employer concerned. The Labor Party has backed the deletion of obligations on such host employers.

There is also a restriction on the priority given to re-employment in cases of unfair dismissal. The Legislative Council insisted that it should not be the preferred remedy if the business had fewer than 50 workers. I suspect that that will cover most businesses in the state by a long shot and therefore it greatly waters down the bill and more people will lose their jobs, even though they have been unjustly or harshly dismissed.

I also regret seeing the deletion of the workplace surveillance provision, which I had proposed in this place. That, of course, was not a provision to dispense with workplace surveillance but merely to impose an obligation for a notice of a general nature to go to employees, indicating generally

the type of surveillance imposed in the workplace. It is regrettable that such a modest proposal was not only voted down in the Legislative Council but that that result was supported by the Labor Party in this place.

One of the most serious provisions put into the legislation in the upper house was the removal of the ability of unions to enter premises where there may be potential members. During the debate I highlighted the problem with this. Historically, it has been a problem for unions, and plenty of employers are willing to set up new sites on the basis that there will be no union members. This provision, now supported by the Labor Party, means that they will be able to exclude union officials seeking to recruit new members on such sites.

Finally, I make comment about the new offences in the legislation providing for the prosecution of union officials and employers who swear, for example, when a work site inspection is taking place by union representatives. Although I cannot condone swearing or offensive language in the workplace, we have to be realistic: we know it happens and that it is common place in many workplaces. It is not really the sort of thing that should be the subject of prosecution. These provisions are mischievous and will be used to inflame disputes and raise trivial matters into long running court cases. That is not in anyone's interest.

In conclusion, the performance by the Labor Party (and I mean that collectively without reference specifically to the minister, as I know he is not alone in this) has been extremely disappointing. The platform adopted by the Labor Party prior to the last election at the state conference is basically valueless. Perhaps as a document reflecting the idealism of a majority of Labor Party members it is of some value, but, clearly, when it comes to people who are more interested in having power, retaining power and winning elections than actually implementing policy—and, again, I am not singling out anyone here, apart from the Labor cabinet generally—then it is a disappointing result.

With those disappointing remarks I do acknowledge that some gain has been made. As I predicted we will not need to go to a conference between the Legislative Council and House of Assembly to further debate the issues. Based on the Labor government's record in relation to this legislation, my prediction is that we will not see any progressive industrial relations reform over the next five years. The Greens are sorry for that.

Motion carried.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (SAFEWORK SA) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 September. Page 51.)

The Hon. I.F. EVANS (Davenport): I am the lead speaker for the opposition on this bill, but I am not the shadow minister responsible; that is ably handled by my colleague in another place, the Hon. Angus Redford. I put on the record my congratulations to the Hon. Mr Redford for the excellent job he has done on this particular matter through the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation. He has done an excellent job on that committee; as have the members for Mitchell and Heysen.

An honourable member interjecting:

The Hon. I.F. EVANS: It is a voluntary committee, and one would have to wonder how it came about and why it remains so. The government has indicated it will not go into committee tonight. The house would be aware that the Occupational Safety, Rehabilitation and Compensation Committee of the parliament has reported extensively on this bill; and I refer to the seventh report, the SafeWork SA bill. Therefore, the house is reasonably well informed on this bill through the report that has been tabled. The committee's report into this bill has been subject to some debate through Private Members Business Bills/Committees/Regulations on that particular matter.

I wish to make some comments about WorkCover's treatment of the committee and, through the committee, the parliament in relation to this bill. I think it is regrettable that the Hon. Angus Redford had to go through what could only be described as a rather tortuous process to try to get access to WorkCover's information in relation to this bill. The Hon. Mr Redford had to go to the Ombudsman over an FOI application in relation to some documents that the honourable member wanted concerning this bill. In essence, the documents were WorkCover's view of this bill. WorkCover refused to release those documents under FOI, therefore effectively denying the parliamentary committee WorkCover's information and view on the effects of this bill. I think that is an unfortunate set of circumstances.

On 16 February 2005, Mr Redford made an excellent contribution, for those who want to read it at their leisure, and it outlines in detail the process he had to go through. However, in my view, for an authority such as WorkCover to deny the committee, and therefore the parliament, information that would inform the committee about legislation such as this, which is a direct attack on some functions of WorkCover (because some functions will be transferred from WorkCover to other agencies) is nothing short of a disgrace. To put Mr Redford through that process reflects poorly on WorkCover but, to his credit, he fought the process and eventually got the information he required, and I will refer to that information later in my contribution.

Essentially, this bill (which I will refer to as the SafeWork SA bill, or the SafeWork bill) is designed to create a body called SafeWork SA. Having established that authority, it then transfers a fair amount of responsibility from WorkCover (in particular, the responsibilities for occupational health and safety) over to a government agency that we all know as Workplace Services. The general view is that, in conjunction with another bill the government is floating (the WorkCover governance reform bill), there will be a negative impact on the administration of WorkCover and, indeed, occupational health and safety in South Australia. Ultimately, the effects of the bill will diminish the accountability of WorkCover and, indeed, the administration of occupational health and safety, by removing from WorkCover any capacity to control the cost of workplace accidents to improve health and safety outcomes. In addition, when both bills are taken together (not just this bill on its own), they will lessen the capacity to control WorkCover's income through the setting of levies.

The minority of the parliament's occupational health and safety committee believes that there was no evidence that moving from what is generally described in industry as a cooperative model of occupational health and safety between employers and employees to what will now be a very heavy-handed prosecution style model envisaged by the bill would improve occupational health and safety outcomes. When asked to show evidence that it would produce improvements in occupational health and safety, little or none was produced.

One of the first things the bill seeks to do is to remove occupational health and safety from WorkCover to the Department of Workplace Services, creating a new body called SafeWork SA. I have tabled 18 pages of amendments, and the minister will be pleased to know that, in reality, about 17 of those relate to one principle, namely, whether SafeWork SA should be called an authority or labelled an 'advisory committee'. Under the bill, it is not an authority. Its function is to advise the minister; it is not an authority in any sense of the word. We believe that it should be correctly labelled; therefore, we seek to replace the word 'authority' with the words 'advisory committee'. As I say, that principle makes up approximately 90 per cent of the amendments.

We believe that that is the correct name for the functions of this proposal to form SafeWork SA. The second issue I wish to address is the proposal to impose a duty on employers to keep information and records relating to training undertaken by employees. The committee asked how that would improve occupational health and safety outcomes. If you believe the government's rhetoric, this bill is all about improving occupational health and safety outcomes, so I think that the committee was correct in writing its report, taking its evidence and asking the witnesses how this measure is going to improve occupational health and safety outcomes.

The government has suggested that there be an increased duty on employers to keep information and records relating to the training undertaken by employees, and the committee asked what evidence there is that that will do anything to improve occupational health and safety. The Hon. Mr Redford advises that not one witness came forward to demonstrate any such improvement to occupational health and safety. If in a 2½-year process not one witness could suggest a benefit to occupational health and safety as a result of this measure, you would have to wonder why the imposition is being put on the business community at all. It will, of course, provide an opportunity for the poor, unsuspecting business person to be penalised by the inspectorate, which has been doubled or tripled in the time of this government, and this bill brings in a far more aggressive prosecution regime. That is just another little trip-wire for business to get caught up in, and you have to wonder for what purpose.

The third issue relates to the occupational health and safety requirements for training of occupational health and safety officers, particularly in relation to small businesses. The bill has a cut-off limit whereby it has no effect on businesses with 10 or fewer employees, I think is the figure. We would argue that it would be far more realistic to adopt the definition of small business being 20, so that it had no effect or a reduced effect on businesses with 20 or fewer employees. Twenty is adopted Australiawide by the Australian Bureau of Statistics as being a small business, and for uniformity purposes that seems to us a commonsense definition to take.

Within this bill there are extensions to the powers of inspectors in relation to the investigation of breaches. The Hon. Mr Redford advises that the committee received no justification from any witness as to why they need these increased powers. If the government was so committed to the inspectors needing these powers, then someone would have gone to the committee and said, 'Here is the justification for our needing these powers.' My understanding is that the minister gave evidence before the committee and, if I understand the Hon. Mr Redford accurately, no-one before the committee justified the reasons why the inspectors need these greater investigation-of-breaches powers.

A regime of expiation notices is introduced into the act. This allows inspectors to issue expiation notices for failure to comply with an improvement or prohibition notice. This principle of expiation notices was dealt with in the Stanley report, from memory, and there were arguments for and against in the report about expiation notices under the act. Some concerns were expressed not only by Stanley but also by the business community that this could become a fundraising regime rather than a regime focusing on occupational health and safety.

The model that has been adopted, as I understand it, from the committee's viewpoint (and I believe the bill reflects this) is that the expiation notices could be issued if there was non-compliance with an improvement or compliance notice. So, the business would be issued with a notice, they would have the opportunity to fix it and, if they did not fix it, then an expiation notice would apply. That is a step in the direction of bringing expiation notices into the act. However, it is a moderate step, given that there is an opportunity for the business to act on the improvement or compliance notice before it receives an expiation notice, which I suggest the government would argue would protect the business community more broadly from being a fundraising regime.

There are also issues in relation to the inspectors being able to issue compliance or improvement notices in relation to equipment that is not being used, and there are two arguments to this principle. The government will argue that, if an inspector sees equipment that, for instance, might normally have a guard on it (say, a saw) that is not being used, then it seems commonsense to apply a notice to that equipment. The business community would argue that there is a whole range of reasons why that should not apply more generally to equipment that is not being used, and we will come to that debate more fully during the committee stage.

We have moved some amendments that attempt to deal with the issue of bullying. Some in the committee made the comment that the issue of bullying is one of the more difficult issues that the committee had to deal with. We see that one of the flaws in the bill is that there is no attempt to define bullying. Our amendments seek to put some form of definition around the issue of bullying. We recognise it as a very difficult problem to deal with. We believe that the appropriate forum for the hearings about bullying is the Employee Ombudsman rather than the commission. We would argue that the Employee Ombudsman should look at it in the first instance, because the Employee Ombudsman is far more flexible than the commission. The Employee Ombudsman has been receiving a lot of complaints from within government itself. The Queen Elizabeth Hospital is quite famous in the Employee Ombudsman's office, as I understand it. The Employee Ombudsman has the opportunity to visit the work site quickly and deal with the matter in an even-handed way, and we think that that is probably a better result than the government's model of going to the commission once the inspector has dealt with it.

Therefore, the principles that we are adopting are that the Employee Ombudsman be delegated the powers of inspector in relation to workplace bullying; that the Employee Ombudsman be given the power to conciliate where a complaint of workplace bullying is made; that any remedies in that particular section of the act would not be in addition to remedies available under equal opportunity legislation; and that any remedies would not interfere with an employee's legitimate right to manage an employer's business, for example, a dismissal process or a promotional process. This

would be a significant change to the way in which bullying is handled currently, and we will also be arguing that the business community employees generally be put through a substantial and significant education regime.

I want to touch on the issue of moving occupational health and safety out of WorkCover and into Workplace Services. WorkCover commissioned the Bottomley report, which argued that to shift occupational health and safety out of WorkCover to SafeWork SA means that, basically, you would be shifting 100 employees (up to 300 employees) out of WorkCover. Depending how you analyse that in a financial sense, that means somewhere between $12 million and $14 million would be taken out of WorkCover. Whether or not you believe that is a good thing, the opposition raises this question: will moving 100 people and shifting $12 million to $14 million out of WorkCover and putting it under Workplace Services produce a better occupational health and safety result?

That should be the focus of the legislation if you believe the government's rhetoric. According to the Hon. Mr Redford, not one witness before the committee could demonstrate that you would get a better occupational health and safety outcome by taking this function out of WorkCover and putting it into Workplace Services. There is no evidence as to whether occupational health and safety would be improved by this structure. A number of risks were identified by the Bottomley report, such as the risk of not properly identifying employee entitlements and which agencies should pick them up—WorkCover or SafeWork SA.

Secondly, there was a risk in identifying the current or political legal liabilities. There was a risk that there would be a loss of key professional expertise from the agency. We understand that, already, some experienced personnel have indicated that they are not very happy with this measure and could be lost to the system; and, if that were to occur as a result of this change, that would be unfortunate. Also, there is a risk of transferring inappropriate staff, or staff might resign rather than be transferred. There is a risk, of course, with respect to the process of identifying and encouraging the transfers.

There is also a risk of the loss of the unit by ability. Some of the activities in WorkCover would be stripped of, say, seven-eighths of its activity. The other eighth does not become viable, so that unit is effectively lost to the system. It produces a number of risks which the government must consider in weighing up this matter. WorkCover did not necessarily release this report as early as it could have. In relation to this matter and WorkCover's approach, the committee states:

> Finally, the minority was extremely disappointed that the current WorkCover board chose not to present any evidence to the committee in relation to its view on either this bill or the WorkCover governance bill. Indeed, the board has and continues to deny the opposition access to any internal documents which might assist in determining what the current board's view is through the freedom of information process. Parliamentary committees are always reliant on advice from those who are emotionally directly involved and who will be charged with the future responsibility of administering the proposed legislation. At best, WorkCover's failure to present its view on the legislation can be described as a dereliction of its duty to this parliament or, at worst, a contempt of the parliamentary process.

That is the minority view of the committee in relation to WorkCover's dealings with this bill. I mentioned earlier in my comments that it was a disgrace that WorkCover did not make the information available to inform the committee properly about the impacts of this bill. However, we know that Mr Redford fought the FOI process, and eventually got out of the FOI process the fact that WorkCover had engaged a mob called Access Economics, from which I know the Treasurer loves to quote from time to time.

The Hon. K.O. Foley interjecting:

The Hon. I.F. EVANS: As the Treasurer said, 'Only when they suit us.' I am glad that is on the public record, and I thank the Treasurer for the interjection. If the Treasurer had released all the Access Economics information, some that does not suit him, then we would know that there are some problems with this bill for WorkCover. WorkCover knew this at the time, but for some unknown reason did not want to tell the committee. The foreword of the document states as follows:

> WorkCover has commissioned Access Economics to undertake a review of the costs associated with the de-merger of its business with the transfer of OH&S to the Department of Administrative Services.

Further, it states:

> Diseconomies of scale are to be expected from the merger of this kind and are evident in the estimates.

The minister might like to take note that we would be interested in his response to the second reading, and for him to explain to us what the diseconomies of scale are that Access Economics expect from the merger that are evident in the estimates. The report goes on:

> This is particularly the case for operating expenses. It appears that, in some areas where less than entire programs have been transferred, no operating expenses have been included.

Again, we ask the minister to respond at the conclusion of the second reading debate to that claim by Access Economics in regard to the operating expenses. The Access Economics report is also critical of the Bottomley report. For example, it states:

> Savings from resources portfolio are also minimal.

Again, we ask the minister to tell us what estimate Access Economics has. Was it savings from the resources portfolio? Access Economics then goes on to state:

> Similarly, the cost of workers' compensation in the new environment depends on funding mechanisms on which we currently have no information.

So, even Access Economics, which has asked to analyse this particular proposal, had no information. Access Economics had no information; the committee had no information, and the parliament has no information on this particular issue as we debate it tonight. Again, it states:

> Similarly, the cost of workers' compensation in the new environment depends on funding mechanisms on which we currently have no information. If Workplace Services require more than WorkCover's avoidable costs to run OH&S functions, there is likely to be an additional cost to industry.

Again, we would like the minister to explain to the house what the costs are, and whether Workplace Services requires more than WorkCover's avoidable costs to run the OH&S function. We would like some responses to that as part of the minister's response to second reading, or part of the committee stage. What is the amount that Workplace Services requires to run the OH&S function? What is WorkCover's avoidable cost not to run the OH&S function? We ask those questions because Access Economics says that there could be an increased cost to industry.

We already know that the government put up WorkCover levies on coming into government. It says that, if it keeps the WorkCover levies high for 10 years, WorkCover could be back on track. We understand that WorkCover is desperately

trying not to announce an unfunded liability figure approaching $700 million. If the government is going to change the structure of OH&S to put an extra cost on the business, as Access Economics claims, then the parliament needs to know that, so we asked the minister to come back with what is likely to be those costs I mentioned, and also what the likely cost to industry is.

Interestingly enough, because WorkCover did not release this information, because the committee did not know this information existed, and that the Access Economics report was questioning WorkCover's costs, and so on, and this whole proposal, when people gave evidence to the committee they did not know either. So the Housing Industry Association, Motor Trade Association, Business SA, etc., did not know that this information was available and there could have been a negative cost to business, so they did not make submissions on that point. I think that illustrates the problem the process has had (and we as an opposition have had) because of the arrogance with which WorkCover has treated the parliamentary committee process. It has denied information to not only the politicians and the committee but also those making submissions. I think that is disappointing, given the effort that the minister has put into promoting this bill. It has been 2½ or three years in the making, and it has been out for public consultation for 12 to 18 months. For WorkCover not to actively provide the information so the submissions and parliament could be informed I think reflects on WorkCover.

Another issue that Access Economics raised in its report is:

> In some ways the most interesting issue is whether the de-merger could have any adverse flow-on effects on workers' compensation claims through changed incentives.

We seek some clarification on that point from the minister during the committee stage or in response to his second reading, which I understand will probably be tomorrow or the week we next sit. Certainly, Mr Redford advises me that the committee was not advised at any stage during any evidence that the shifting of occupational health and safety out of WorkCover could potentially have flow-on effects on individual workers' compensation claims. That matter needs to be clarified so we are crystal clear as a parliament what we are doing in relation to this matter.

The final issue that Access Economics raised that we seek clarification on from the minister is:

> If synergies have been achieved within WorkCover, e.g. through information sharing, that have benefited claims management, the destruction of such synergies could increase WorkCover's risks.

So, again, we ask the minister to table any evidence from WorkCover that shows it will not increase WorkCover's risks. We also ask the minister to clarify whether he has requested and received advice from WorkCover in regard to all the concerns raised by Access Economics. If he has received responses from WorkCover, can the minister table them so we can consider them as part of the debate? We see the issues raised by Access Economics as fundamental to the question whether or not this system will be better.

We suspect that the government is doing this to some degree, at least, as a philosophical move. Michele Patterson was brought from New South Wales to drive occupational health and safety. The philosophy in that office is one of punishment, so the regime of occupational health and safety under this model will be very tough on business. There will not be the cooperative approach that exists at the moment: it will be very much a prosecution-style regime. We need to be convinced that this prosecution-style regime will actually deliver benefits to South Australia. Access Economics raises a whole range of questions which throw some significant doubt on the model that will be adopted. So we ask the minister to come back in due course with his responses to those matters raised by Access Economics.

I will quickly run through some of the key issues in the bill. The first issue is the removal of the occupational health and safety function from WorkCover to Workplace Services, and then the creation of SafeWork SA. SafeWork SA, in effect, will be nothing more than an advisory body. It is not an authority in any sense of the word. If people saw the Environment Protection Authority and the SafeWork authority, they would think that they would have similar powers and functions, but the reality is that they do not. SafeWork SA, for all intents and purposes, is a simple advisory model. There has been a lot of criticism from industry groups in relation to the model being proposed; this is the model of taking OH&S out of WorkCover and putting it all across under one agency. Some of the criticisms that have been raised with us are, for instance, that the exempt employers are concerned about the evaluation criteria for exempt status—that is, the occupational health and safety standards that exempt employers must comply with in order to preserve their exempt status. We seek assurance from the minister that those matters (the evaluation criteria) will not change under this regime.

Another criticism appears to be that there seems to be nothing to suggest that there would be a smooth transition of existing WorkCover programs to Workplace Services. We seek clarification from the minister on how those programs are going to be transferred. There is criticism of the dual and potentially conflicting responsibility of Workplace Services engaging with employers in a consultative and advisory fashion in relation to OH&S on one hand, and being the prosecutor on the other. Some people have raised criticism in relation to that. There is no requirement for the authority to meet a minimum number of times. There are doubts about whether the authority will be properly resourced and it is simply not clear whether Workplace Services would continue with WorkCover's current policy of OH&S and risk management or move to a strict compliance prosecution model. Some of the submissions raised that point. I think it is pretty clear that the government is moving towards a very heavy prosecution model, which I think the business community is well aware of.

Business SA argues that the executive director should be a non-voting chairperson and that only voting members should be the four employer and four employee representatives. The opposition agrees with that proposition; we have amendments on file to that effect. The Stanley report recommended that the SafeWork SA authority should have a small secretariat and a small budget. The bill does not allocate any resources to the authority for those particular purposes.

The next issue in the bill is the funding of SafeWork SA. How is it funded? It is funded through a levy transfer. The bill provides that a portion of the WorkCover levy can be used to improve occupational health and safety. The bill requires that a specified percentage will be specified and gazetted by the minister and paid to the department. The way we understand that working is that the businesses will pay their 3 or 4 per cent WorkCover levy and then a percentage of that will be creamed off the top at the minister's discretion and paid over to SafeWork SA. Of course, that means that it

will save the government paying for the administration of SafeWork SA. The employers will actually pay for the administration of SafeWork SA. There is a big question mark about the transparency of how much the levy is, how it is set, who is consulted, and all those sorts of issues that do not seem to be addressed in any great detail in the bill.

This proposal of a levy transfer has been met with pretty strong concerns from all the business groups whether they be Business SA, SAFF or the Self Insurers Association of South Australia. The bill does not provide for any consultation process or any definitions as to how the funds would be applied. Further, the money goes to the department as opposed to SafeWork SA, and I guess you would have to ask whether the department could then charge some sort of administration fee for handling the money, just as other agencies do. That needs to be clarified.

One of the other major issues is the disruption through the transfer of funds, property and staff from WorkCover to SafeWork SA and the reclassification of those staffers and public servants. The transitional provisions in the bill provide that the minister can transfer WorkCover staff, assets, rights or liabilities to the department, the Crown or the minister. Again, there is no requirement for consultation in the bill. The minister engaged Bottomley, of course. I think I might have said earlier that WorkCover engaged Bottomley, but I think it was the minister who engaged Bryan Bottomley and Associates. They suggest it is 100 staff out of the 300, and that will cost $12 million to $14 million per annum, which will be transferred from WorkCover. That means that, of the $45 million that WorkCover receives after the payment of claims, some 25 per cent per annum would be transferred to SafeWork SA. So, from a current work force of about 300 to 380, about 100 positions would be transferred to SafeWork SA. That is a huge disruption to an organisation.

Interestingly enough, as we speak, there has been no formal response by WorkCover to the due diligence report. If there has been, I ask the minister to table it, or to confirm that there has not been a formal response by WorkCover, and what the end cap might be on the remaining WorkCover functions.

I have already mentioned a lot of the issues about the risk of moving the staff over, staff being lost and embedded activities, and so on, being lost. The reports also suggested that amongst other items requiring further consideration was the OH&S audit function for the self-insured employees, which has a budget of some $1.3 million. Other issues included the audit assurance, which is an internal audit role, and the central marketing programs, both of which could be part of the new corporate infrastructure, and they have combined budgets of about $110 000.

All these issues were raised in a report by Access Economics that was commissioned by WorkCover. As I said earlier, this report found that there would be likely to be diseconomies of scale as a result of these measures and additional costs to the industry as a result. We need to be convinced by the government that this will not end up costing the employers—and, therefore, the state—more.

There is an increased obligation under one clause of the bill that deals with section 22 of the existing act. Employers and self-employed persons will have a duty to ensure that third parties are safe from injury and risk to health while other persons are at the workplace. This amends current section 22(2) of the act, which requires employers and self-employed persons to take reasonable care to avoid adversely affecting the health or safety of third parties through an act or omission. Stanley recommended that the term 'avoid adversely affecting the health and safety' be changed to 'ensure the health and safety'. Stanley argues that the current law is negative as opposed to placing positive actions and delegations on the employer.

The amendment, of course, goes somewhat further. It requires an employer or self-employer to ensure, as far as reasonably practicable, that third parties are safe from injury and health risks where the third party is at the workplace or where they are in 'a situation where he or she could be adversely affected through an act or omission occurring in connection with the work of the employer or the self-employed person'. While section 22 imposes penalties and can lead to prosecutions, it is just as important to note that it also can lead to the civil liability for tort of breach of statutory duty. This amendment is supported by Business SA. Not surprisingly, it is also supported by the Law Society. It is not clear whether or not this section could be used to avoid section 17C of the Wrongs Act, which relates to the duties of occupiers and owners of land to third parties.

There is also a further duty on employers to keep information and records relating to the OH&S training undertaken by employees. The bill requires an employer to keep information and records relating to the OH&S training of employees. It was argued by Stanley that there is currently a wide disparity across workplace and worker classifications in relation to record keeping.

Business SA believes that this proposed measure should be reviewed; the minority on the committee were not sure what Business SA meant by 'reviewed'. Other stakeholders are opposed to the measure, particularly the Farmers Federation, and they expressed concern about the cost of compliance and the imposition of criminal sanctions for non-compliance. Most business groups argued that the existing law was adequate and that, basically, there was no evidence to the contrary. No argument has been made by the government why there will be improved occupational health and safety outcomes by imposing this extra cost on small business. Again, we remain to be convinced about this measure.

Another section of the bill proposes compulsory training for OH&S officers, the prescription of persons who are entitled to take time off work to participate in OH&S training, the maintenance of their pay and also publication of guidelines. The bill makes a number of changes regarding the training relating to those provisions. It allows that a health and safety representative, a deputy or a member of the health and safety committee can take time off work as authorised by the regulations. Where an employer has 10 or less employees and does not have a supplementary levy, the representative is only entitled to take reasonable time off. I want to give the minister notice of a question so he can research it overnight: in relation to the supplementary levy, does that have to be charged at the time of the request, or is it an employer who has at any time had a supplementary levy? I would like that clarified in the minister's response or during the committee stage.

A person who undertakes OH&S training under this section is entitled to be paid and have their expenses reimbursed for things such as travel, meals, accommodation and the like. A health and safety representative is entitled to take such time off work as is reasonably necessary to perform their duties, and is entitled to pay and reasonable expenses. The bill also confirms the right of the health and safety representative to refer matters to a Workplace Services inspector. I am not quite sure why we need that provision in

there—it is a bit like having a provision to say that they can breathe—but it is in there.

Many stakeholders support the need for training,but there were criticisms of these particular measures. Certainly, the threshold of 10 employees was generally felt to be too low and everyone making submissions to us thought that 20 employees was a more realistic figure. The regulations relating to the amount of time off, expenses, etc., have not been seen and therefore we are taking the government on faith that they will be reasonable. There is no provision for credit to be given for existing OH&S programs provided by employers. There seems to be a lack of flexibility in the bill in relation to the OH&S training—for instance, the Association of Independent Schools wants courses to be industry-specific and taken only during school holidays. The election of health and safety representatives is currently undertaken without any consultation with the employers regarding the process of timing and, again, we would need to be convinced about how those measures, if adopted, would actually improve occupational health and safety outcomes.

There was a lot of concern in terms of the powers of officers in relation to the investigation of occupational health and safety breaches. The bill proposes to extend the powers of inspectors, with proposed inspections to include the power to obtain names and addresses, the power to require persons (including witnesses) to answer questions, the power to record interviews by video and other means, and the power to require answers to questions even if those answers might be incriminating.

We note that, where answers are to be given that might incriminate, they are not admissible as evidence. These extensions were generally opposed by the employer groups. SAFF argues that they should not have powers greater than the police, and the minister might want to confirm if the powers are greater than the police and, if so, why? The Self-Insured Association argues that persons being interviewed should be entitled to legal representation. Business SA argued that the proposed increase in powers is not justified, and points out that there is no provision for what happens if an inspector acts inappropriately.

The Stanley report, of course, noted that generally academics and employer groups were opposed to extending the powers of inspectors. Academics suggested that inspectors may benefit from extension of the scope of their training, while employers thought that the number of inspectors was too low in comparison with interstate jurisdictions.

In other words, the academics and employers were saying that if you had the right number of inspectors properly trained and they went out in a cooperative format (as they currently do) the need for increased powers is probably not justified. I mentioned earlier the improvement notices and prohibition notices and matters in relation to bullying. The other matter that I want to raise relates to the extension of time for prosecution. The government is seeking to extend the time in which prosecutions might be initiated by the state if the DPP—good old Elliot Ness—is satisfied that a prosecution could not reasonably be commenced during the relevant period due to a delay in the onset or manifestation of an injury or disease, a conditional defect of any kind, or any other relevant factor or circumstance.

Whilst we understand the need for such a provision—the onset of asbestosis would be an example of a long-latency disease, the onset of which would take time—it is our view that that decision should be made by the court rather than the DPP and that there should be submissions to an independent court to gain that extension. Again, we have amendments on file to that end. We have a series of amendments which address a lot of the concerns put to us by the various industry groups. I am sure that when the minister is briefed on them he will realise that there are four or five principles involved—not quite as horrific a workload as you might imagine.

Again I emphasise the opposition's extreme disappointment with the shabby nature with which WorkCover treated the committee in the provision of information. It is crystal clear to us from the documents that we now have, which were released under FOI at the request of the Ombudsman, that WorkCover has very serious concerns about this bill. The committee and the parliament through the committee have had no information from WorkCover in relation to those concerns; we have had to drag it out of them.

We hope the minister goes away and looks at all the issues that we have raised. If he does have any documents from WorkCover containing information which will give us some comfort that the issues raised by Access Economics and others will not occur, we would like to see those documents, because we are not convinced that WorkCover has properly consulted with the parliament on this issue. We think WorkCover has some major concerns with this issue, but for its own reasons has not come out strongly against it. We do not want to have this legislation go through only to regret it in future years because WorkCover did not properly inform the parliament. The opposition supports some clauses in the bill; it opposes some others—our amendments reflect that; and we look forward to the committee stage in due course.

Mrs REDMOND (Heysen): I want to a make a brief contribution on this bill. As the member for Davenport pointed out in his contribution, I was a member of the committee. We spent a lot of time examining this legislation, and, together with the Hon. Angus Redford, I am technically listed as the co-author of the minority report that came out of the committee. I thank the Hon. Angus Redford for the extensive work he did on the report. I did read it and I contributed in a relatively minor way. He was certainly the main author of the report, but he did not put my name on the report without my agreeing to it.

Of course, the member for Davenport has probably covered all the issues, but I want to put on the record some of the comments about this legislation with which I have some concerns. In general terms, I am not overly concerned with most of the legislation, but there are some provisions in the legislation, as proposed to the house, which are of some concern, and I will go through them quickly. Essentially, the main impact which troubles me is in relation to the money which will be taken from WorkCover (between $12 million and $14 million) and transferred into SafeWork SA and the staff (just over 100). The money is 25 per cent of its income, and I think the staff is more than 25 per cent of the number of positions. I think I heard the member for Davenport point out that the author of the due diligence report obtained by the minister warned that there was a potential that 'key embedded activities may be rendered ineffective in both organisations by virtue of that change'.

In setting up SafeWork SA, I also have the concern that the 11 members are basically subject to the control of the minister. Indeed, nine of the members are appointed by the minister. So, it seems to me that it will not be very much an independent organisation or not very much at arm's length. The functions of the board, though, are advisory in their nature; that is, it reviews and advises the minister on the

administration of the act, collects statistics, sponsors research in occupational health and safety, and provides a forum and develops prevention strategies. So, it is very much an advisory board, rather than a board that will control things. I have some concern about that whole structure and how it will work.

One of the main areas where I have a difficulty is that it seems to me that there is potentially a conflict in that the board charged with this consultative and advisory role is at the same time the prosecutorial arm of what it is going to do. We heard evidence before the committee, particularly the evidence of Mr Calligeros, who suggested that there was a fundamental difficulty. I foresee the same difficulty in having an organisation which is trying to perform those two functions: that is, on the one hand, being there to provide advice and assistance in relation to the prevention of accidents and investigations, finding out what happened in relation to accidents that have occurred and trying to prevent them from happening again and, on the other hand, proceeding to prosecute people over those same things.

It seems that there will be an inevitable conflict in relation to trying to fulfil both those functions successfully within the same organisation. There is a real difficulty about that aspect. I will not go through all the detail the member for Davenport covered, but a couple of other things were of concern: first, the creation of the offence which imposes a duty on employers and self-employed persons to ensure that third parties are safe from injury and risks to health while that other person is at the workplace. So it requires an employer to ensure, so far as is reasonably practicable, that third parties are safe from injury and health risks where the third party is at the workplace or in a situation where they could be adversely affected through something occurring in the workplace.

In the course of investigating this with various witnesses before the committee, the situation I was most frequently thinking of was one where there could be a building contractor engaged to undertake renovation work on a private home. The private home then becomes a workplace and, that having occurred, an obligation is placed on the contractor in relation to all persons who come visiting the workplace whilst they are engaged in their work there. I know that Mr Stanley in his review suggested that it was far better to make the onus a positive rather than a negative, but I think our minority report concluded that it will be harder to prosecute in any event a positive onus. If your onus is that the employer must ensure, so far as is reasonably practicable, that certain things occur, it then seems that, potentially, that is a much harder thing to regulate and prosecute.

The member for Davenport more than adequately covered the issue of the compulsory training of occupational health and safety officers and the need to keep records. The concerns here are about the costs of compliance. I have a general concern in relation to not just this but a range of matters where the compliance and box ticking become more important than the actual on-the-ground safety or management issue. I genuinely have a concern that, in making people keep records, you end up in a situation where people are checking to see that the people checking have ticked the appropriate boxes in their checking of the people who are supposed to be doing something. It is another step removed from what is happening on the ground instead of concentrating on the actual safety of workers in the workplace.

The cost of compliance is equally a problem in these other measures in relation to the allowance for people to take time off work for training. As I recall it, there is no provision for the recognition of internal training that the employer might already provide, and certainly some of the stakeholders who gave evidence to the committee suggested that it would be a mechanism for union-based training rather than achieving its proper object. I do not think there is any difficulty at all with the concept that we need to have occupational health and safety training in the workplace, and probably generally, as it is a good thing and most employers recognise it as a good thing, something that will help them in their workplace.

However, to impose these things about people having not only time to go to specified training courses but, where they have the health and safety representative for the workplace, having time off to attend to whatever duties come up, without knowing exactly how much that will mean, I can understand the employers being quite anxious about what that might end up costing them. The other aspect, of course, is the threshold of 10 employees. The minority of the committee felt that was too low a threshold. Generally, the figure taken in most other jurisdictions I have come across is that a small business is defined for these sorts of purposes as fewer than 20 employees.

In relation to the improvement notices and prohibition notices, I can understand why that is being put in, and, certainly, I have no difficulty with the idea of enabling inspectors to issue expiation notices if there has been a failure to comply with a notice. There is an issue about whether the plant and machinery are currently in use. It seems to me if an employer can establish that certain plant or a piece of machinery is not currently in use, it is not unreasonable to say, 'Well, you shouldn't be issuing any sort of expiation notice about that.' I think it can be quite onerous, if there is machinery that is not a danger to anyone because it is not being used (obviously, there would have to be significant penalties imposed if someone asserted that something was not in use but, then, it turned out that it was in use) it seems to me not unreasonable to say, 'You shouldn't be issuing expiation notices in relation to that plant and equipment.'

Finally, I want to address the issue of workplace bullying—which must be where I lost track of what the member for Davenport was talking about. It is clear from the evidence given to the committee that workplace bullying is an issue. The view that we have formed is that it needs to be defined; otherwise, potentially we could get situations where people could claim all sorts of things as workplace bullying. The original WorkCover Act was one of the most amended pieces of legislation this state has seen. Initially, there were a lot of amendments because of the stretching of concepts. Stress was coming up as a claim where someone did not like the way their boss said good morning to them or did not like the fact that their boss did not say good morning to say them. We had to amend the legislation to provide that stress has to be significant and not related merely to an administrative action or a reasonable reprimand, or something like that. The legislation had to be amended many times.

In the case of bullying, if we do not put into the legislation in the first place a nice, tight definition of what constitutes bullying then, potentially, we will go through the same circuit again and get to the point where someone who missed out on a promotion or had a few words with the boss concerning something totally irrelevant says it is bullying. I think it would be a clever idea to put in the definition. I notice the World Health Organisation defines it as 'repeated, unreasonable behaviour directed towards an employee or group of employees that creates a risk to health and safety'. It seems to me that is probably not a bad starting point for a definition.

Of course, several definitions were put into the report of the committee, because we did obtain some from other states and other jurisdictions; and there is quite a number of them from which we could choose. There is a real risk that we could end up attracting bullying complaints in areas which are not intended to be captured by this legislation.

With those few comments, essentially I do not disagree with the overall thrust of the legislation. I have not been able to attend this committee for the last few months, because I have had another conflicting engagement, but I have to say that, as the only unpaid standing committee of this parliament, it has probably put in more hours than many of the other standing committees. We consulted extensively on this bill and, indeed, it seemed to us that sometimes, because of our seeking evidence from various stakeholders, the level of consultation was quite a bit more than occurred in the stages that led to the introduction of the bill.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I thank the opposition for its support of the bill. In particular, I thank the shadow minister and the member for Heysen for their contribution. The member for Heysen has obviously considered the bill carefully, and I appreciate that. I know that she has served on the parliamentary committee, and I thank the committee for the work it has undertaken. The shadow minister has also studied the bill carefully and has asked a range of questions, some of which I will pick up in my second reading response and some of which will be picked up in committee.

I take the shadow minister's point that many of the 19 pages of amendments relate to one of the key amendments, namely, to change the name of the SafeWork Advisory Committee to 'an advisory committee'. I am happy to consider that, although I am not sure whether it has any merit. Some of the amendments that flow from that are obviously consequential, and the shadow minister has also referred to others. When I continue my remarks, I will provide some of the information sought by the shadow minister. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT DEBATE

The Hon. M.J. WRIGHT (Minister for Administrative Services): I move:

That the house do now adjourn.

Mr SCALZI (Hartley): I would like to continue the discussion that has taken place this week on skills shortages in the trades. Whilst many have focused on the shortages and have commented on the overemphasis of young people on going to university at the expense of the trades, I think it is important to put in context that not only the trades suffer skills shortages. We must address those shortages, and there is no question that it has been a focus of debate at national level. New technical colleges are being announced throughout Australia that focus on the importance of dealing with skills shortages.

I believe that we must not lose sight of the overall problem that there are shortages even in professions such as engineering. We are aware that there are shortages in the medical profession and in the teaching profession, and we have a severe shortage of male teachers in primary schools. The mismatch of demand and supply is not limited to the trades, but there is a problem even in university graduates. It is important that in the secondary school sector we try to encourage young people to think more widely about their choices for the future.

When we left school, the world of work was different. One progressed vertically, so if you started as a clerk in a bank you could expect in the future to be a bank manager. That is no longer the case. We can expect to change careers four or five times in our lifetime, so we must prepare young people to have the flexibility to be able to change but also to have a broad enough education, as has been noted many times, with skills in maths and science as well as the social sciences to make sure that, if there is a change in the career path, young people have the basic foundation from secondary schools to be able to adjust and change careers as the opportunities arise.

It is sad that we have a shortage of doctors, not just in general but in certain areas. We are all aware of the shortage of doctors in the southern suburbs and, indeed, in the country areas. We have a shortage of nurses. We currently have an inquiry, and the member for Torrens (an excellent member who makes valuable contributions on that committee) can tell us that, although we have increasing numbers of graduates at a tertiary level, more so than in the past, we still have a shortage of nurses.

Mrs Geraghty interjecting:

Mr SCALZI: I do not know if I can agree with everything that the member for Torrens says, but there is a problem in matching supply and demand, not only in the skills and trades but in the professions. Perhaps we should expose young people to what these professions entail before they make up their minds and choose a career. Perhaps there is too much obsession with entry scores, which do not always get students on the paths best suited to them. As far back as July 2002, *The Advertiser*, in an article entitled 'Mines and mineral resources', stated:

> 'The mining industry faces a critical shortage of geologists and engineers,' Robert Champion de Crespigny warns. The founder of the Normandy mining group and University of Adelaide Chancellor blames the lack of interest in pure sciences among secondary students for the shortfall.

We are not talking about trades and apprentices. Currently, we know there is a critical shortage of graduates in the mining industry. We are not matching supply and demand with qualified, tertiary-educated nurses. There is an increasing demand for aged care, and there are not always nurses available who want to go down that path. Perhaps we should expose young people by encouraging work experience at a young age, so that they know where it leads to. Education at the secondary level is very important; perhaps some of the school counsellors could become career counsellors. We must have information evenings for parents to make sure that they are also involved in making choices for their children, so that choices are made not only on tradition. We know that at this time we have more female graduate doctors than we have ever had.

Mrs Geraghty interjecting:

Mr SCALZI: I agree with the member for Torrens that that is a good thing. However, we know that women GPs might not want to work the same hours as male GPs because of family commitments, and so on. So, perhaps we need flexible working arrangements to make sure that we get the best out of our graduates. We have to think outside the square, and those sorts of things have to be looked at. How can we encourage more doctors to go into country areas? There is a severe shortage, and we are recruiting from overseas. Perhaps, with better research and understanding of

the needs of these professions, we can get a better match between demand and supply. For example, there is a shortage of pharmacists, and we must look at that, and we know that there is a shortage of hairdressers. So, the shortages are not just in the trade areas.

There are mismatches in the professions, such as pharmacists, engineers, doctors, nurses and, in some cases, there is even a shortage of lawyers. I could not believe that one article said that there was a shortage of lawyers. Perhaps there has been an over supply of lawyers in the Labor Party and that caused a shortage. I do not know; I am being flippant. There is no question that there are shortages in the professions. We must bear in mind that if a graduate makes the wrong choice it costs a lot to the community, so it is important that we make the right choices for the future.

Time expired.

At 9.49 p.m. the house adjourned until Thursday 10 March at 10.30 a.m.